

Preface

1. ***Author*** has felt when he ***qualified*** as Chartered Accountant (CA) in Year 1985 that ***legal provisions' interpretations*** are ***big challenge*** for legal professionals, govts' officials and public at large ***in India and outside India***.
2. ***Author*** has ***realized*** that ***something*** should ***be developed to resolve this challenge*** in India and outside India.
3. ***Author*** has ***started compiling*** Frequently Asked Questions (FAQs) on many subjects where his 100% ***answers are precisely based on Yes or No i.e. white or black nothing is grey***
4. ***Author*** has ***compiled approximately 150 +(plus) research papers / books with 25 thousand + (plus) pages*** on many prevailing subjects / acts in India and outside India.
5. ***Author's 1st paper book*** is now ***being published*** under head FAQs on Enforcement Directorate (ED) ***where 571 FAQs are replied*** based on Yes or No i.e. white or black nothing is grey
6. ***This book*** is also ***containing***
 - (i) *Foreign Exchange Management Act (FEMA) 1999 and rules / regulations*
 - (ii) *Prevention of Money Laundering Act (PMLA) 2002 and rules / regulations*
 - (iii) *Fugitive Economic Offenders Act (FEOA) 2018 and rules / regulations*
7. ***This book*** is ***published with Sai Kripa and dedicated*** to my father (late) ***Mr. M.R. Agarwal***, Mother ***Mrs. R.D. Agarwal***, wife ***Mrs. Snigdha Agarwal***, daughter ***Ms. Soumya Agarwal***, daughter ***Ms. Sanya Agarwal*** and dedicated team headed by ***Rajat Kumar***
- ***I trust that you will be enriched by reading this book***

With best wishes,
CA. Satish Agarwal
B. Com (Hons.) FCA

satishagarwal307@yahoo.com
+91-9811081957
www.femainindia.com

Author's Profile

Mr. Satish Agarwal (FCA) is heading M/s Satish S Agarwal & Co. Chartered Accountants since 1985 with a team of dynamic young professionals serving clients from various business sectors including public listed companies and government undertakings. Firm was also registered with PCAOB (USA) for undertaking audits and other work of US GAAP.

He is regularly advising on several matters to Institute of Chartered Accountant of India (ICAI) and also to Ministry of Commerce (MoC) for Foreign Trade Agreements (FTAs) and World Trade Organization (WTO) for securing India's best interests.

He is continuously advising on Foreign Investments (FIs) in India and also on Overseas Direct Investments (ODIs) outside India.

He is known for his expertise in incorporating companies in most of countries across the world.

He has written around 150 +(plus) Research papers / books containing 25 thousand +(plus) pages available "freely" on certain portals like:

https://taxguru.in/author/satishagarwal307_1957

Or

www.femainindia.com

Few out of abovementioned Research papers / books are as under:

- 1. Book on Enforcement Directorate (ED) in India- (Book with 617 pages)***
- 2. Director of Revenue Intelligence (DRI) in India***
- 3. Central Bureau of Investigation (CBI) in India***
- 4. National Investigation Agency (NIA) in India***
- 5. Serious Fraud Investigation Office (SFIO) in India***
- 6. Financial Intelligence Unit (FIU-IND) in India***
- 7. Central Vigilance Commission (CVC) in India***
- 8. Narcotics Control Bureau (NCB) in India***
- 9. Research & Analysis Wing (R&AW) in India***
- 10. Economic Offence Wing (EOW) in India***
- 11. Intelligence Bureau (IB) in India***
- 12. Director General of Income Tax Criminal Investigation (DGITCI) in India***
- 13. National Company Law Tribunal (NCLT) in India***
- 14. Security Exchange Board of India (SEBI) in India***
- 15. Prevention of Corruption (PC) Act, 1988 in India***

16. *Foreign Assets Investigation Unit (FAIU) in India*
17. *Book on International Financial Services Center (IFSC) in India (Book with 290 pages)*
18. *Replacement of Indian Penal Code (IPC) Criminal Procedure (CP) & Evidence Act (EA) in India*
19. *Undisclosed Foreign Income & Asset (UFIA)-Black Money Act, 2015*
20. *Statutory provisions for General Anti Avoidance Rule (GAAR) in India*
21. *Reserve Bank of India (RBI) Act, 1934*
22. *Foreign Exchange Management Act (FEMA) 1999 in India*
23. *Benami Transactions (Prohibition) Amendment Act, 2016 in India*
24. *Advance Pricing Agreements (APAs) in India*
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44. *Annual Information Statement (AIS) in India*
45. *Investments by Non-Residents (NRIs) in India*
46. *Guidance for Doing Business in United States of America (USA)*
47. *Corporate Tax (CT) Law in UAE*
48. *Acquisition & Transfer for Immovable Properties by Non-Residents (NRs) in India*
49. *Foreign Company's Registration in India*
50. *Auditor Checks and Reporting for Indian Companies in India*
51. *Companies Auditor Report Order (CARO) 2020 in India*
52. *Tax Audit Report (TAR) + Accounting Standard (ASs) in India*
53. *World Trade Organisation (WTO) & Benefits for India*
54. *Deposits by Corporate in India*
55. *Expatriates + Foreign Citizens in India*
56. *Book on Foreign Investments (FIs) by Non-Residents of India (Non-RoI) (Book with 346 pages)*



101 FAQs on Prevention of Corruption (PC) Act, 1988 in India

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101 FAQs on Prevention of Corruption (PC) Act, 1988 in India

(A) Meaning for PC Act, 1988

1. For **Introduction** on PC Act, 1988

- (i) PC Act, 1988 is **enacted** by parliament **for combating corruptions** in government offices + **public sector** entities + **institutions** those are working with govt.'s aids (all).
- (ii) PC Act, 1988 is **consolidating** + amending 100% **existing laws** for Prevention of Corruptions + also for **other matters** connected therewith (all)
- (iii) PC Act, 1988 is consisting **5 chapters** spreading in **31 sections**
- (iv) ● Central **Government** has power to **appoint** special **judges** of special courts **for investigating** + also trying **certain offences** committed by public servants like:
 - (a) 100% **offences committed** by public servants + also **punishable** under PC Act, 1988 (both)
 - (b) 100% **conspiracies** to commit + also **attempt to commit** offences specified under PC Act, 1988 (both).
- PC Act, 1988 is **not allowing time barred provisions** **therefore** public servants are carrying risk **for prosecuting them** till their last breath

2. For **Background** of PC Act, 1988

- (i) Initially Indian Penal Code (IPC) 1860 was **dealing with briberies** + also **corruptions** (both) committed by public servants **before** insertion of **PC Act, 1988**
- (ii) PC Act, **1947** was enacted **for dealing with briberies** + also **corruptions** (both) committed by public servants **after** India's **independence in 1947**



- (iii) PC Act, 1947 was 1st time amended by Criminal Law Amendment (CLA) Act, 1952
- (iv) PC Act, 1947 was 2nd time amended by Anti-Corruption Laws Amendment (ALAA) Act 1964
- (v) Abovementioned 2 amendments in PC Act, 1947 was made in 1952 + also 1964 (both) based on recommendations received from Santhanam Committee.
- (vi) PC Act, 1947 is basis for enacting PC Act, 1988
- (vii) PC Act, 1988 is enacted for combating corruptions in govt. offices + public sector entities + also institutions those are working with govt.'s aids / supports (all).
- (viii) PC Act, 1988 is enacted for prosecuting persons those are assisting to criminals in perpetrating briberies + also corruptions offences (both)

3. For Differences between PC Act, 1947 and PC Act, 1988

- (i) Now definitions broadened for public duty + also public servant (both) in PC Act, 1988 in comparison to PC Act, 1947
- (ii) Now transferred burden of proof from prosecutor to accused person for committing offence in PC Act, 1988 in comparison to PC Act, 1947
- (iii) Now Investigation Officers (IOs) are required to be minimum rank of DCP in PC Act, 1988 in comparison to PC Act, 1947
- (iv) Now definitions broadened for employees of Central govt. + Union Territories (UTs) + Public Sector Banks (PSBs) + University Grants Commission (UGC) + Vice-chancellors + Academics + also etc. (all) in PC Act, 1988 in comparison to PC Act, 1947
- (v) Now definitions broadened for briberies + misappropriations of property + acquiring monetary advantages + assets disproportionate to known source of incomes + also etc. (all) in PC Act, 1988 in comparison to PC Act, 1947.



4. For Giving undue advantage by public servant (Section 7)

- (i) Public servant is *not* permitted to take undue advantages over and above his legal remuneration
- (ii) Public servants are liable for imprisonment for minimum 3 years and maximum 7 years + also liable for fine (both)

5. For Taking undue advantage by any person (Section 7A)

- (i) Any person is *not* permitted for taking undue advantages by influencing public servant through illegal means + also corrupt means (both)
- (ii) Any person is liable for imprisonment minimum 3 years and maximum 7 years + also liable for fine (both)

6. For Public servant's criminal misconduct (Section 13)

- (i) Public servant is *not* permitted for criminal misconduct
- (ii) Public servant is liable for imprisonment minimum 4 year and maximum 10 years + also liable for fine (both)

7. For Amendments made in 2013 in PC Act, 1988

- (i) Now bribe giver is punishable offence under PC Act, 1988
- (ii) Now public servant is *not* punishable under PC Act, 1988 when he has already reported for compelling him to accept bribe to law enforcement agency within 7 days
- (iii) Now public servant is punishable for illicit enrichment through disproportionate assets to his known source of incomes which is treated criminal misconduct under PC Act, 1988
- (iv) Now public servant is punishable for fraudulent misappropriation of property which is treated criminal misconduct under PC Act, 1988
- (v) (a) Now prior approval from Central govt. or State govt. or other public



authority (any) is required for conducting investigations against public servant

(b) Abovementioned approval is not required when public servant has already been arrested on spot for taking bribe

8. For Amendments made in 2018 in PC Act, 1988

- (i) Now bribery is treated specific offence + also direct offence (both)*
- (ii) Now bribe taker is liable for imprisonment minimum 3 years and maximum 7 years + also liable for fine (both)*
- (iii) Now bribe giver is liable for imprisonment maximum 7 years + also liable for fine (both)*
- (iv) Now definitions broadened for criminal misconduct where misappropriation of property + also possession of disproportionate assets (both) are included*
- (v) Now CBI is not permitted to start investigation for prosecuting public servant without approval from Central govt. or State govt. or other public authority (any)*
- (vi) Now abovementioned approval is not required when public servant has already been arrested on spot for taking bribe*
- (vii) Now undue advantages are to be established for taking bribe by public servant*
- (viii) (a) Now trial for bribes + also corruptions are to be completed within 2 years*
(b) Now abovementioned trials are permitted to be completed within 4 years when reasons are recorded in writing for exceeding 2 years.
- (ix) (a) Now bribe giver commercial organizations are liable for punishment or prosecution (any)*
(b) Now bribe giver charitable institutions are not liable for punishment or prosecution (any) under head commercial organizations
- (x) Now powers + procedures are prescribed for attaching + also forfeiting of public servant's property (all).*



(B) Frequently Asked Questions (FAQs) for PC Act, 1988

9. What are **Objects for introducing PC Act, 1988** ?

- PC Act, 1988 is **applicable from** September 09, 1988 over and above Indian Penal Code (IPC) 1860 **for effectively implementing** Anti-Corruption **legislations** through **widening** its scope + also **tightening** provisions **to improve** further statute's **effectiveness** (both)

10. What are **Employers for investigating under PC Act, 1988** ?

- **Central govts.** + state govts. + Union Territories (UTs) govts. + also institutions those are taking financial aids from govt. (all) are **permitted for investigations** against offences under PC Act, 1988 **through** designated **police officers not below** rank of DCP

11. When are **Bribe giver not to be prosecuted** ?

- Bribe giver is eligible for **not to be prosecuted** **when** he has already **informed to** enforcement **agency** that govt. servant is pressurising to pay bribe.

12. Who are **Authorities for complaining against public servant** ?

- (i) **Anti-corruption** branch of local Central Bureau of Investigation (CBI) for complaining against **Central govt.'s employees** (public servant)
- (ii) **Lokayukta** or Vigilance commission **for** complaining against **State govt.'s employees** (public servant)

13. What are **Bribes** ?

- (i) **When** public servant is **accepting** bribe **for performing** official **duties like** accepting bribe for **issuing** driving **licenses** or allowing to encroach public land (any)
- (ii) **When** public servant is **soliciting** or receiving illegal **undue advantages**
- (iii) **When** public servant is **receiving** bribe as motive or reward **for doing work in future**
- (iv) **When** public servant is **receiving** anything **over and above** his legal **remuneration**



- (v) When public servant is demanding bribe beside further not actually received.
- (vi) When public servant is receiving bribe in cash or in kind (any)

14. What are Corruptions ?

- Corruption by public servant is to include any 1 out of 3 categories like:
 - (i) When public servant is accepting bribe + also playing role as abettor for taking undue advantages (both)
 - (ii) When public servant is abusing his official position for taking undue advantages
 - (iii) When public servant is possessing disproportionate assets over and above his known source of incomes

15. What are Official position's abuses ?

- (i) Abuse of official position is to include mis-using or using his official position for undue advantages in cash or in kind (any)
- (ii) Abuse of official position is bigger than bribery's offence
- (iii) Abuse of official position is to include corrupt or illegal means (any).
- (iv) Abuse of official position is to include taking monetary advantages or valuables for himself or other person (any).
- (v) Abuse of official position is to include act which is causing wrongful loss to govt. for monetary advantages to allow any benefit to 3rd party.
- (vi) Abuse of official position is to include issuing contracts to bidder at higher rate

16. What are Disproportionate assets ?

- (i) Generally large numbers of public servants are involved in corrupt activities on regular basis.
- (ii) Generally its difficult to catch public servants on spot while accepting bribe without extensive surveillance in official systems.



- (iii) Generally bribed monies are being converted into movable + also immovable (both) assets
- (iv) Therefore govt. is required to detect public servants those are having disproportionate assets over and above their known source of incomes.

17. Who are Deemed public servants ?

- (i) Public servant is to include chairman + members + also employees (all) belongings to service commission or service board (any).
- (ii) Public servant is to include other public authority who is conducting examinations like professor or lecturer (any).
- (iii) Public servant is to include office bearers + also employees (both) belongings to educational or scientific or social or cultural or other institutions those are receiving aids / grants from Central govt. or State govt. or other public authority (any).

18. What are Other statutes relevant for PC Act, 1988 ?

- (i) Indian Penal Code (IPC) Act 1860 (Now Bharatiya Nyaya Sanhita (BNS) 2023)
- (ii) Criminal Law Amendment (CLA) Ordinance Act 1944
- (iii) Delhi Special Police Establishment (DSPE) Act 1946
- (iv) Prohibition of Benami Property Transactions (PBPT) Act, 1988
- (v) Prevention of Money Laundering Act (PMLA) 2002
- (vi) Right to Information (RoI) Act 2005
- (vii) Lokpal and Lokayukta (LL) Act 2013
- (viii) Whistle Blowers Protection (WBP) Act, 2011

19. What are Govt. agencies relevant for PC Act, 1988 ?

- (i) Central Bureau of Investigation (CBI)
- (ii) Central Vigilance Commission (CVC)
- (iii) State Anti-Corruption Bureau (SACB)
- (iv) Enforcement Directorate (ED)



20. What are *Nature of cases* relevant for PC Act, 1988 ?

- (i) *Trapping's cases*
- (ii) *Disproportionate asset's cases*
- (iii) *Abusing of official position's cases*

21. What are *Triable cases by special judge* under PC Act, 1988 ?

- (i) *Bribery cases*
- (ii) *Corruption cases*
- (iii) *Conspiracy's cases*
- (iv) *Abetment's cases*
- (v) *Attempt's cases*
- (vi) *Other related offence's cases*

22. What are *Circumstances for applicability on private individuals (Section 8)* ?

- (i) 100% (*wholly*) PC Act, 1988 is *applicable on public* individuals (public servants)
- (ii) Not 100% (*partially*) PC Act 1988 is *applicable on private* individual (not public servants) like:
 - Section 8 of PC Act, 1988 is *applicable* on private individuals *when* they are *asking* bribes / *gratifications* from any person *for influencing* public servant
- (iii) Private individual is *liable for imprisonment* maximum *7 years* or fine or imprisonment + fine *both*
- (iv) Section 8 of PC Act, 1988 is *applicable* on private individuals *when* they are *asking* bribes / *gratifications* from any person *based on their closeness* with public servants *beside actually not influencing* him like:
 - (a) *Relatives* of public servants
 - (b) *Acquaintances* of public servants
 - (c) *Friends* of public servants



23. What are *Procedures for investigating + prosecuting public servants* ?

- (i) *Certain govt.'s agencies are permitted for investigating + also prosecuting (both) when not involving in money laundering like:*
 - (a) *Central Vigilance Commission (CVC)*
 - (b) *Central Bureau of Investigation (CBI)*
 - (c) *State Anti-Corruption Bureau (State ACB)*
- (ii) *Certain govt.'s agencies are permitted for investigating + also prosecuting (both) when involving in money laundering like:*
 - (a) *Enforcement Directorate (ED)*
 - (b) *Financial Intelligence Unit- India (FIU-IND)*
- (iii) *CBI + State's ACBs are investigating under PC Act, 1988 + IPC, 1860 for bribes / gratifications + also corruptions (all) matters when offences are committed by public servants*
- (v) *CBI is investigating when offences are committed by Central govt.'s employees + also UT's employees (both)*
- (vi) (a) *State's ACBs are investigating when offences are committed by State govt.'s employees*
(b) *CBI is also permitted for investigating when state govt. has referred where offences are committed by State govt.'s employees*
- (vi) *CVC is monitoring investigations being carried by govt. agencies for bribes / gratifications + also corruptions (both) matters.*
- (vii) (a) *CVC is permitted for recommending matters to designated Central Vigilance Officer (CVO) of each department*
Or
(b) *CVC is permitted for recommending matters to CBI*
- (viii) *CVC + also CVO (both) are permitted for advising disciplinary actions against public servants*



- (ix) Abovementioned investigation agencies are required to take prior approval from Central govt. or State govt. or other public authority (any) for prosecuting against offence committed by public servants.
- (x) Govt.'s prosecutors are required to handle prosecution proceedings through Special Judge in Special Courts.

24. What are Constitutional provisions for PC Act, 1988 ?

- (i) Codified laws are additionally providing statutory + also legal provisions (both) for corruptions in India.
- (ii) Writ Jurisdiction's provisions are available in Constitution of India (Supreme law).
- (iii) Office of Comptroller and Auditor General (CAG) is established for controlling money + also economic (both) offences.
- (iv) Certain agencies are working at Central govt. + also State govt. (both) levels over and above CAG like:
 - (a) Central Vigilance Commission (CVC)
 - (b) Committee on Parliament Accounts (CPA)
 - (c) Central Bureau of Investigation (CBI)
 - (d) State Anti-Corruption Bureau (State ACB)
- (v) Supreme court is custodian for protecting basic rights referred in Part III of Constitution of India
- (vi) Fundamental rights are available against State govt.'s powers.
- (vii) States are defined under Article 12 of Constitution of India
- (viii) Certain writs are available by Article 32 + also 226 of Constitution of India (both)
- (ix) Certain opportunities are available for filing Public Interest Litigation (PIL) like:
 - (a) Writ of Habeas corpus
 - (b) Writ of Mandamus



- (c) Writ of *Prohibition*
- (d) Writ of *Certiorari*
- (e) Writ of *Quo-Warranto*
- (x) (a) Abovementioned *PILs* are *having influence* + also authority (both) *under various domains*.
- (b) *PILs* are *powers available* in hands of judiciary *for restricting administrative discretionary powers*.
- (xi) Constitution of India is providing *guarantee for right to justice to 100% Residents of India (RoI)*.
- (xii) Constitution of India has *established federal govts. like Central govts. at Central level + also State govts. at state level (both)*.
- (xiii) *Crimes* are *state govt.'s subject beside law and order* are *listed concurrently*.
- (xiv) Constitution of India has *taken several measures for combating corruptions* in Indian society.
- (xv) *Article 311* of Constitution of India + also *judicial reform process (both)* have made best efforts *for combating corruption* in Indian society.



(C) Indian Courts's decisions

25. For Vasant Rao Guhe Vs. State of M.P. (2017) Supreme court

- Supreme court has pronounced that *investigating agencies* are required to *prove beyond reasonable doubt* that public servant had financial *resources* or properties (any) *over and above* his *known source* of incomes for prosecuting against committing *offence by him* under PC Act, 1988.

26. For Amrit Lal Vs. State of Punjab (2016) Punjab-Haryana High Court

- Punjab-Haryana High Court has pronounced that public servants are *entitled for giving benefit of doubt* therefore it's *presumed* that he has *not committed offence* under section 7 of PC Act, 1988 *when evidences* for demanding bribe *were not validated* due to lack of verification. *Hence demanding bribe* is necessary condition *for prosecuting* public servants.

27. For Satyanarayana Murthy Vs. District Inspector of Police (2015) Supreme court

- Supreme court has pronounced that *use of corrupt* or illegal means or abusing official position *for obtaining valuable things* or financial advantages (any) is *not* automatically *treated offence* until proven with proof *for demanding bribe beside cash seized* from public servant in accordance to section 7 or 13(1)(d) of PC Act, 1988

28. For Bhupinder Singh Sikka Vs. CBI (2011) Delhi High Court

- Delhi High Court has pronounced that "public" *insurance company's employees* are *liable for prosecution* against committing offence. *Hence* abovementioned employees are treated *public servant* under PC Act, 1988 *when* public insurance company is established under act of Parliament.

29. For Parkash Singh Badal Vs. State of Punjab and Ors (2006) Supreme court

- Supreme court has pronounced that *public servants* are *liable for prosecution* against committing offence *in accordance* to section 8 or 9 of PC Act, 1988 (any) *when* they are receiving compensation *for persuading another public servant* to perform or to refrain from performing official act (any)



30. For Subhash Parbat Sonvane Vs. State of Gujarat (2002) Supreme court

- Supreme court has pronounced that *public servants* are *liable for prosecution* against committing offence *in accordance* to section 7 or 13(1)(d) of PC Act, 1988 (any) against *receiving valuable things* or financial advantageous *for abusing* his *official position* through dishonest or illegal means for another person *without* any *consideration* in public interest.

31. For P. Nallamal Vs. State (TN) (1999) Supreme court

- Supreme court has pronounced that *abettors* are “also” to *be prosecuted for supporting to acquire* disproportionate *assets* by public servant under PC Act, 1988
- Supreme court has further pronounced that 100% *public servants* are legally required (bound) *to disclose* their nature of *incomes to employers* like Central *govt.* or State *govt.* or other *public authority* (any) otherwise *non-disclosure to be treated as disproportionate assets* over and above known source of incomes.

32. For Habibulla Khan Vs. State of Orissa (1995) Cuttack High Court

- Cuttack High Court has pronounced that MLAs of state assembly are *liable for prosecution* against committing offence. *Hence* MLAs are *treated public servants* therefore *approval* is required *from* Central *govt.* or State *govt.* or other *public authority* (any) *before prosecuting him* under section 19(1) of PC Act, 1988.

33. For K. Veera Swami Vs. Union of India (1991) Supreme court

- Supreme court has pronounced that *possessing assets* by public servants *over and above* their *known source of incomes* are to be *treated* assets acquired through *illegitimate means* therefore they are liable for prosecution against committing offence under PC Act, 1988



34. For M. Karunanidhi Vs. Union of India (1979) Supreme court

- Supreme court has pronounced that **Prime Minister** + Ministers + Chief Ministers + MPs + MLAs + also etc. (all) are **treated public servants** as they are receiving salaries / remunerations **for providing their services** in accordance to section **2(C)** of PC Act, 1988 **similar to** section **21(12)** of Indian Penal Code **(IPC)** 1860.



(D) Preliminary (Chapter -I)

35. For Details (Section 1)

- Chapter-I is containing *certain details* like:

- (i) Details for *title*
- (ii) Details for *territorial extent*
- (iii) Details for *basic definitions* like:
 - (a) *Public* servant
 - (b) *Undue* advantage

36. For Act's applicability (Section 1)

- PC Act, 1988 is applicable to *whole of India* including J&K + to 100% Indian *citizens* located in India + also *located outside India* (all)

● Definitions (Section 2) ●

37. For Election (Section 2(a))

- To include *all kinds of elections* under Indian laws *for selecting members* for *certain* govt. or authorities (any) like:
 - (i) Members of *Parliament*
 - (ii) Members of *Legislature*
 - (iii) Members of *Local authority*
 - (iv) Members of *Other public authority*

38. For Prescribed (Section 2(aa))

- To include *100% rules* + also *expressions* (both) made for PC Act, 1988

39. For Public Duty (Section 2(b))

- To include *100% duties for discharging* any work relating to govt. + public or community (both) are having *interest*



40. For *State* (Section 2(b))

- To include 100% corporations as *established under certain acts* like:
 - (i) Established under *Central Acts*
 - (ii) Established under *Provincial Acts*
 - (iii) Established under *State Acts*
 - (iv) Established under *Authority* owned or controlled or aided *by govt.*
 - (v) Established under *Authority* owned or controlled or aided *by govt. company* as *defined* under section 2(45) of Companies Act (*CA*) 2013



● **Public Servant (Section 2(c))** ●

41. **For Govts.' employees (Section 2(c)(i))**

● To include **certain employees working in govts.** like:

- (i) 100% employees working **in govt.'s service**
- (ii) 100% employees working **based on govt.'s pay**
- (iii) 100% employees working **based on govt.'s remuneration** like fee or commission (any) **for performing public duties.**

42. **For Local authorities' employees (Section 2(c)(ii))**

● To include **certain employees working in local authorities** like:

- (i) 100% employees working **in local authority's service**
- (ii) 100% employees working **based on local authority's pay**

43. **For Corporations' employees (Section 2(c)(iii))**

● To include **certain employees working in corporations** like:

- (i) 100% employees working **in corporations** established **by Central govt.**
- (ii) 100% employees working **in corporations** established **by State govt.**
- (iii) 100% employees working **in corporations** established **by Authority** owned or control or aided **by govt.** (any)
- (iv) 100% employees working **in corporations** established **by Body** owned or control or aided **by govt.** (any)
- (v) 100% employees working **in govt. company** as **defined** under section 2(45) of CA, 2013

44. **For Courts' employees (Section 2(c)(iv))**

● To include **certain employees** like:

- (i) 100% employees working as **judges for discharging adjudicatory functions**
- (ii) 100% law's empowered employees working **for discharging adjudicatory functions** through himself or member of Body of Persons (BoPs) **any**



45. For Court's authorized persons (Section 2(c)(v))

- To include *certain persons authorized by courts* like:
 - (i) 100% authorized persons working as *administration of justice*
 - (ii) 100% authorized persons working as *official liquidators*
 - (iii) 100% authorized persons working as *official receivers*
 - (iv) 100% authorized persons working as *official commissioners*

46. For Arbitrators' persons (Section 2(c)(vi))

- To include *certain persons working as arbitrators + etc.* like:
 - (i) 100% persons working for passing *decision on behalf of court of justice*
 - (ii) 100% persons working for issuing *report on behalf of court of justice*
 - (iii) 100% persons working for passing *decision on behalf of competent public authority*
 - (iv) 100% persons working for issuing *report on behalf of competent public authority*

47. For Elections' employees (Section 2(c)(vii))

- To include *certain employees for elections' services* like:
 - (i) 100% employees working for *preparing* electoral roll or conduct election
 - (ii) 100% employees working for *publishing* electoral roll or conduct election
 - (iii) 100% employees working for *maintaining* electoral roll or conduct election
 - (iv) 100% employees working for *revising* electoral roll or conduct election

48. For Public employees (Section 2(c)(viii))

- To include 100% *employees* authorized *for performing* public duties

49. For Co-operative societies' employees (Section 2(c)(ix))

- To include *certain employees of registered co-operative societies* like:
 - (i) 100% employees working for registered co-operative societies *engaged in agriculture + industries + trade + also banking (all)*
+ (plus)
 - (ii) Also *receiving financial aids from certain govts.* or public authorities "both" like:



- (a) Receiving financial aids from *Central govt.*
- (b) Receiving financial aids from *State govt.*
- (c) Receiving financial aids from *Corporation* established by *Central govt.* or Provincial or State govt. or *Authority* or Body *owned* or controlled or *aided* by govt. or govt. *company* (any) *defined* under section 2(45) of CA, 2013

50. For *Service commissions'* employees (Section 2(c)(x))

- To include *certain persons* of service commission or service *board* + also *members of selection committee* appointed by commission or board (both) like:
 - (i) *Chairman* of service commission or service board
 - (ii) *Members* of service commission or service board
 - (iii) *Employees* of service commission or service board
 - (iv) *Members* of selection committee for conducting examination or making selection on behalf of Commission or *Board* (any)

51. For *University's* employees (Section 2(c)(xi))

- To include *certain person* of any university + also any other person (both) like:
 - (i) *Vice-chancellor* of university
 - (ii) *Members of governing body* of university
 - (iii) *Professors* of university
 - (iv) *Readers* of university
 - (v) *Other teachers* of university
 - (vi) *Employers* of university
 - (vii) *Other persons* whose *services* are being *availed* by university + also by other public authority (both) for holding or conducting (any) *examinations*



52. For *Institutions'* employees (Section 2(c)(xii))

- To include *officer bearers* + also *employees* (both) of *certain* institutions those are *receiving* financial *aids* / grants *from* Central *govt.* or State *govt.* or other *public authority* (any) like:
 - (i) *Education* institutions
 - (ii) *Scientific* institutions
 - (iii) *Social* institutions
 - (iv) *Cultural* institutions
 - (v) *Other* institutions

53. For *Undue advantage* (Section 2(d))

- To include *enjoyments* + also pleasures (both) *other than legal remunerations* like:
 - (i) Abovementioned enjoyments + pleasures are to *include in cash* + also *in kinds* (all)
 - (ii) Abovementioned *legal remunerations* are to *include certain* receipts like:
 - (a) Remunerations *received in cash* by employees (public servants)
 - (b) Remunerations *received in kind* by employees (public servants)
 - (iii) Abovementioned *employees* (public servants) are to *include directly* or indirectly *appointed* by *govt.* (any).

(E) Special Judges (Chapter -II)

54. For **Appointments + qualifications** (Section 3)

- (i) Central + also State (both) **govt.**'s are empowered **to appoint** special Judges for special courts through Notification in Official Gazette **for trials** 100% **punishable offences** like **conspiracy to commit** + attempt to commit + also abetment (all **offences** specified under PC Act, 1988.
- (ii) Special judge's **qualification** should be **equivalent to**:
 - (a) **Session judge** under Code of Criminal Procedure (**CCP**) 1973
 - (b) **Additional** session judge under CCP 1973
 - (c) **Assistant** session judge under CCP 1973

55. For **Triable cases** (Section 4)

- (i) **Special judges** are "only" permitted **for trial against** punishable **offences** referred under section **3(1)** of PC Act, 1988
- (ii) **Special judges** are "also" permitted **for trial against** punishable **offences** referred under "other than" PC Act, 1988 **when** accused is to be **charged through same trial** under Cr.P.C Act 1898
- (iii) **Special judges** are required **to record reasons** in writing **for not completing trials** within timeline specified
- (iv) **Special judges** are **permitted to extend timeline** for completing trials through recording reasons in writing
- (v) **Abovementioned 1 time extension** is permitted **for maximum 6 months**
- (vi) **Abovementioned multiple times extensions** are permitted **for maximum 4 years** in aggregate
- (vii) **Special judges** are **recommended** to hold **daily trials**



56. For **General** trials powers (Section 5)

- (i) Special judges are empowered for general trial **against offences** committed by public servants **without trial**
- (ii) **However** special judges are required **to follow procedures** prescribed by CCP, 1973 (2 of 1974) **for trial of warrant's** cases as available for Magistrates
- (iii) Special judges are **empowered for pardon to main accused** or other person who was directly or indirectly connected with offence **when he** has **made 100%** (full) **true disclosure** about 100% circumstances within his knowledge relating to offence **similar to prescribed** under section **308(1) to (5)** of CCP, 1973 (2 of 1974) + also **pardon is deemed to be tendered** under section **307** of CCP, 1973 (both)
- (iv) (a) Special judges are empowered **to apply provisions** of CCP, 1973 (2 of 1974) **during trial** proceedings before him **when** provisions under PC Act 1988 are **not inconsistent** with each other
 - (b) Also **trial** proceedings of special judge shall be **deemed** to be **court of session**
 - (c) Also person **conducting** prosecution **trial** before special judge shall be **deemed** to be public **prosecutor**
- (v) (a) **Provisions** under section **326 + also 475** (both) of CCP, 1973 (2 of 1974) shall be **applied** during trial proceedings **before special judge**
 - (b) Also special **judge** shall be **deemed** to be **Magistrate**
- (vi) Special judge is empowered **to pass order for imprisonment** as punishment of offence
- (vii) Special judge is empowered **to exercise 100% powers + also functions** (both) **exercisable by District judge** under Criminal Law Amendment Ordinance (**CLAO**) 1944

57. For **Summary** trials powers (Section 6)

- (i) **Special judges** are **empowered** for summary trial **against offences** committed by public servant **specified** under section **3(1)** of PC Act, 1988 **relating to contravention** of any special order **referred** under sec. **12A(1)** of Essential Commodities Act, 1955



- (ii) *Special judges are not empowered to pass order under summary trial when imprisonment period is exceeding 1 year*
- (iii) *Special judges are empowered to carry summary trial in accordance to procedure prescribed by CCP, 1973 for warrant cases' trial by Magistrates when imprisonment is likely to be exceeded by 1 year or summary trial is insufficient to cover offence committed by public servant*
- (iv) *Convicted persons are not permitted to file appeal against order pass under summary trials when imprisonment is not exceeding 1 month + also fine is not exceeding 2 thousand (both)*



(F) Offences + Penalties (Chapter -III)

58. For **Giving undue advantage** by public servant (Section 7)

- 100% public servants are **not** permitted for giving undue advantages against bribes like:
 - (i) (a) 100% public servants are **not** permitted for obtaining or accepting or attempting to obtain (any) undue advantage against not properly performing public duties
 - (b) Also **not** permitted to act dishonestly by himself or through other public servants (any)
 - (ii) (a) 100% public servants are **not** permitted for obtaining or accepting or attempting to obtain undue advantage for improper or dishonest performance of public duties (any)
 - (b) Also **not** permitted for stopping to perform public duty by himself or other public servants (any)
 - (iii) (a) 100% public servants are **not** permitted for performing or inducing other public servants to perform improperly or dishonestly of public duties (any)
 - (b) Also **not** permitted for stopping performance of public duties against anticipation undue advantages
 - (c) Public servants are liable for imprisonment for minimum 3 years and maximum 7 years + also liable for fine (both).

● Explanation-1 ●

- Giving undue advantages are to include certain actions + also not improper public duties' performance (both) like:
 - (i) Obtaining undue advantages
 - (ii) Accepting undue advantages
 - (iii) Attempting to obtain undue advantages



● Explanation-2 ●

- Giving undue advantages are to include certain circumstances like:
 - (i) When public servant is obtaining or accepting or attempting to obtain undue advantages (any)
 - (ii) Abovementioned undue advantages may be for himself or for other persons (any)
 - (iii) Abovementioned undue advantages may be by abusing his public servant' position or by using his influence over other public servants or by other corrupt or illegal means (any)

● Explanation-3 ●

- Giving undue advantages are to include certain modes like:
 - (i) When public servant is obtaining or accepting or attempting to obtain undue advantages (any) directly
 - (ii) When public servant is obtaining or accepting or attempting to obtain undue advantages (any) indirectly

59. For Taking undue advantage by any person (Section 7A)

- (i) Any person is not permitted for accepting or obtaining or attempting to obtain undue advantages for himself or other person through corrupt or illegal means or exercising his personal influence to perform public duties improperly or dishonesty or stopping from exercising public duties to be carried by public servant or by other public servants (any)
- (ii) Abovementioned any person is liable for imprisonment minimum 3 years and maximum 7 years + also liable for fine (both).

60. For Giving undue advantages by any person (Section 8)

- (i) Any person is not permitted for giving or promising to give undue advantages to other persons with certain intentions like:



- (a) For **inducing** public servants **to perform** public duties **improperly**
- (b) For **rewarding** public servants **for performing** public duties **improperly**
- (ii) Abovementioned any person is **liable for imprisonment** maximum **7 years** or fine + imprisonment + fine **both**
- (iii) (a) Abovementioned any person is **not liable for imprisonment** + also **fine** (both) **when** he is **compelled** to give undue advantages

But

 (b) He has **reported** matter **to** law enforcement **authority** or investigating **agency** within **7 days** from date of **compelling** to give undue advantages.
- (iv) Commercial **organization** is **liable for fine** **when** **offence** for giving undue advantages is **committed by** Commercial **organization**
- (v) Abovementioned **offence** for giving undue advantages is also to include **when** **given directly** or **through 3rd party** (any)
- (vi) Abovementioned any person is **not liable for imprisonment** + also for **fine** (both) **when** he has **promised** to give undue advantages to other persons **in order to** **assist** law enforcement **authority** or investigation agency during offence's investigation **after** he has already **informed to** enforcement **authority** or investigation agency (any)

61. For **Taking undue advantages** by commercial organization (Section 9)

- (i) **Commercial organization** is **punishable with fine** for taking undue advantages from public servants **when** **taken through person associated** with commercial organization like:
 - (a) For **obtaining** + also **retaining business** (both) for commercial organization
 - (b) For **obtaining** + also **retaining advantages** (both) **in conducting business** for commercial organization



- (ii) Commercial organization is *not punishable with fine* *when able to prove* that it had *followed* adequate *procedures* in accordance to compliances prescribed *for preventing* to take undue *advantages* from public servants

62. For **Commercial organization's nature (Section 9(1))**

- *Commercial organizations* are *to include certain entities* as *referred* in section 8 of PC Act, 1988 like:
 - (i) Commercial organizations are to include *bodies* as *incorporated in India* + also *carrying business* in India or *outside India* (both)
 - (ii) Commercial organizations are to include *bodies* as *incorporated outside India* + also *carrying business* in India (both)
 - (iii) Commercial organizations are to include *partnership firms* + Association of Persons (*AoPs*) *formed* in India + *carrying business* in India or *outside India* (both)
 - (iv) Commercial organizations are to include *partnership firms* + Association of Persons (*AoPs*) *formed outside India* + also *carrying business* in India (all)

63. For **Commercial organization's businesses (Section 9(3)(b))**

- Commercial organization's businesses are *to include certain natures* like:
 - (i) Carrying *trading businesses*
 - (ii) Carrying *professional activities*
 - (iii) Providing *service activities*

64. For **Commercial organization's associated persons (Section 9(3)(c))**

- *Commercial organization's* associated person are *to include certain individuals* like :
 - (i) Persons those are *performing services on behalf* of commercial organization
 - (ii) Abovementioned persons are *required to give promise* or to give undue *advantages* as *referred offence* under section 9(1) of PC Act, 1988.
 - (iii) Associate persons are *to include certain employees* or agents or subsidiaries of commercial organizations (any) who is *performing services on behalf* of commercial organization



65. For Cognizable offence (Section 9(4))

- To include *certain offences* are cognizable as *referred* in section 7A + 8 + also 9 (all) *beside anything* is contained in CCP, 1973 (2 of 1974)

66. For Central govt.'s guidelines (Section 9(5))

- Central govt. is empowered to *prescribe* necessary *guidelines* for preventing commercial organization's associated persons *from giving undue advantages* to public servants *in consultation* with concerned *stakeholders* + also departments (both).

67. For Offence's responsibility (Section 10)

- Commercial organization's *director* or manager or secretary or other officer shall be *responsible* *when* offence is *committed in connivance* of him under section 9 of PC Act, 1988.
- Abovementioned *offence* should *be proved in* special court under PC Act, 1988
- Abovementioned responsible *person* is *liable for imprisonment* minimum 3 years and maximum 7 years + also liable *for fine* (both)
- Word *director* shall be *replaced* with *partner* for partnership firm

68. For Undue advantages without considerations (Section 11)

- Public servants are *not permitted for taking* undue advantages without consideration + also *inadequate* consideration (both) *from any person*.
- Public servant liable for *imprisonment* minimum 6 months and maximum 5 years + also liable *for fine* (both)

69. For Abetting of offence (Section 12)

- Every person is *liable* under PC Act, 1988 for abetting of offence *beside offence* is *not committed* in consequence of abetment
- Abovementioned person is *liable for imprisonment* minimum 3 years and maximum 7 years + also liable *for fine* (both)



70. For Criminal misconduct (Section 13)

- Public servants are liable for committing offence of criminal misconduct in certain circumstances like:
 - (i) When public servants are dishonestly or fraudulently misappropriating or otherwise converting property entrusted to him or property under his control as public servant (any) for his own use
 - (ii) When public servants are intentionally enriches himself illicitly during period of his office
 - (iii) Public servants are liable for imprisonment minimum 4 years and maximum 10 years + also liable for fine (both) against committing criminal misconduct

71. For Habitual offender (Section 14)

- Public servant being habitual offender is liable for imprisonment minimum 5 years and maximum 10 years + also liable for fine (both) against 2nd time committing offence under PC Act, 1988

72. For Attempting to commit offence (Section 15)

- Any person is liable for imprisonment minimum 2 years and maximum 5 years + also liable for fine (both) against attempting to commit offence under section 13(1)(a) of PC Act, 1988

73. For Fixing fine' considerations (Section 16)

- Special court is empowered for fixing fine against offence committed under section 7 + 8 + 9 + 10 + 11 + 13(2) + 14 + also 15 (all) based on certain criteria's like:
 - (i) Quantum of amount involved in committing offence
 - (ii) Value of property involved in committing offence
 - (iii) (a) Pecuniary resources involved in committing offence
Or
(b) Pecuniary property involved in committing offence under section 13(1)(b) of PC Act, 1988 when accused person is unable to give satisfactory reply



(G) Investigations against offences (Chapter – IV)

74. For **Authorized persons** (Section 17)

- Authorized persons permitted *to investigate* + also *to arrest without warrant* (both) against offences committed under PC Act, 1988 are required *not* be police officer *below certain rank* like:
 - (i) Inspector of Police (IP) under Delhi Special Police Establishment (DSPE) *in Delhi metropolitan area*
 - (ii) Assistant Commissioner of Police (ACP) *in other metropolitan areas* notified under section 8(1) of CCP, 1973 like:
 - (a) *Mumbai* metropolitan area
 - (b) *Calcutta* metropolitan area
 - (c) *Madras* metropolitan area
 - (d) *Ahmedabad* metropolitan area
 - (e) *Bengaluru* metropolitan area
 - (f) *Hyderabad* metropolitan area
 - (g) *Pune* metropolitan area
 - (h) *Other* metropolitan area
 - (iii) Deputy Superintendent of Police (DSP) *in other than* abovementioned areas *without order from* Metropolitan Magistrate (MM) or 1st class Magistrate
 - (iv) *However* police officer *not below rank of* Superintendent of Police (SP) is permitted *for investigating* offence committed under section 13(1)(b) of PC Act, 1988.

75. For **Arrest by police officer** (Section 17A)

- (i) Police officer is *not* permitted *to conduct enquiry* or inquiry or investigation *against* alleged offences by public servants for discharging his official duties *without* prior *approval from* Central or State govt. (any) like:



- (a) When public servant is employed for conducting affairs of Central govt.
- (b) When public servant is employed for conducting affairs of State govt.
- (ii) However abovementioned approval is not required for arresting public servant when he is caught on spot against accepting or attempting to accept undue advantage for himself or for other person (any).
- (iii) Central or State govt. (any) is required to convey its decision within minimum 3 months and maximum 1 year after recording reasons in writing under section 17A of PC Act, 1988.

76. For J&K + Ladakh Union Territories (Section 17B)

- (i) J&K + also Ladakh (both) govts. are required to establish Anti-Corruption Bureau (ACB) through notification in official gazette for investigating offences under PC Act, 1988
- (ii) Abovementioned ACB is permitted to have certain necessary employees like:
 - (a) 1 Director
 - (b) More than 1 officers
 - (c) More than 1 sub-ordinates
- (iii) ACB's officers are required to be qualified equivalent to prescribed by J&K govt.
- (iv) ACB's director + officers + sub-ordinates are permitted to hold offices + also to obey terms and conditions (all) to be determined by J&K govt.

77. For Property attachment's powers (Section 17C)

- (i) DSP of ACB is permitted for attaching property under investigation when he has reason to belief that same property is acquired by public servant through taking undue advantage as constituted criminal misconduct under section of 5 of PC Act, 1988
- (iii) Abovementioned ACB is required to take prior approval in writing from ACB's director for property's attachment



- (iv) Abovementioned ACB is permitted to issue order that property shall not be transferred or otherwise dealt without prior approval from him when property's attachment is not practical
- (v) Abovementioned ACB is permitted to issue order without FIR for maximum 90 days that property shall not be transferred or otherwise dealt (any) when he has reason to belief
- (vi) Abovementioned attachment is to include temporarily assuming custody + possession + also property's control (all)
- (vii) Abovementioned ACB is required to inform Central govt. or State govt. within 48 hours from property's seizure or attachment (any) + also to submit report about circumstances (both)
- (viii) (a) Abovementioned Central govt. or State govt. is permitted to confirm or revoke property's seizure or attachment (any) within maximum 30 days
- (b) Also required to provide opportunity of being heard to abovementioned ACB + to public servant (both) before confirming property's seizure or attachment (any) under section 17C of PC Act, 1988
- (c) Also required to ensure for property's safety + protection (both)
- (ix) Abovementioned property's attachment shall be deemed produced before Central govt. or State govt. (any) when ACB has notified his report + also placed it (both).
- (x) Aggrieved person is permitted to apply to Central govt. or State govt. when he is aggrieved with order made under section 17(C)(1) for granting permission to transfer or otherwise deal with property (any).
- (xi) Abovementioned Central govt. or State govt. is permitted to grant permission or refuse to grant permission (any) to aggrieved person.



78. For Appeal against order (Section 17D (1) + (2))

- (i) Aggrieved person is permitted to prefer appeal to special judge at special court within 1 month from date of receipt of order passed by Central govt. or State govt. (any) under section 17C (3) + also 17C (5) both
- (ii) Abovementioned court is permitted to confirm or to revoke or to pass other necessary order for property's attachment or seizure (any) within 60 days from date of receipt of appeal.
- (iii) Abovementioned court is permitted to pass order for property's forfeitures when property's attachment or seizure (any) made under section 17C beside public servant is not prosecuted by same court for offence committed under PC Act, 1988

79. For Competent court's powers (Section 17D (3))

- (i) Special court is to treated competent court to pass property's attachment or seizure order (any).
- (ii) (a) Abovementioned court is permitted for selling perishable property
(b) Also to apply net proceeds received from selling perishable property in accordance with Section 459 of CCP, 1973 (2 of 1974)
- (iii) Abovementioned court is permitted to nominate govt.'s officer + also to specify terms and conditions (both) for performing administrator's functions relating to attached property or seized property (any)

80. For Show Cause Notice (SCN) (Section 17E)

- (i) (a) Special court is not permitted to pass order under section 17D(2) of PC Act, 1988 against attached or seized property's forfeitures without issuing SCN to aggrieved person
(b) Also to provide opportunity for making representation in writing within reasonable time specified in SCN
(c) Also to give reasonable opportunity of being heard to aggrieved person



- (ii) *Aggrieved* person is permitted *to establish that he has acquired* attached or seized property *through bona-fide mode without* having *knowledge* that property was acquired by public servant through committing offence under PC Act, 1988

81. **For Appeal to High court (Section 17F)**

- (i) *Aggrieved* person is permitted *to file appeal to High court* within *1 month* from receipt of Special Court's order under section *17D* of PC Act, 1988
- (ii) (a) *High court* is permitted *to allow property's return* to aggrieved person *when* Special Court's *order* passed under section *17D* of PC Act, 1988 is *modified* or *cancelled* (any)
- (b) Also permitted *to allow* to aggrieved person reasonable *interest* from date of property's attachment or seizure (any) *when property is forfeited* (sold)

82. **For Forfeiture versus punishment (Section 17G)**

- Public servant is *not permitted* for avoiding *from punishment beside* forfeiture's order has been *passed* under PC Act, 1988
- Abovementioned *order* is *passed by notification* no. S.O. *1123(E)* dated *(18-3-2020)* of J&K Reorganization (Adaptation of Central Laws) Order, 2020

83. **For Powers to inspect bankers' books (Section 18)**

- (i) Investigating Officer *(10)* is permitted *to investigate* bankers' books *when* he has reasons to suspect *for committing offence* by public servant + also he *considered* necessary *to inspect* bankers' books under section *17* of PC Act, 1988 (both)
- (ii) Abovementioned *officer* is permitted *to investigate public servant's* bankers books + also *other persons'* banker books those are suspected *for holding bank accounts* on behalf of public servant (both).
- (iii) Abovementioned *officer* is permitted *to take* certified *copies* for relevant *entries* + also *documents* from banks (both)



- (iv) *Bankers are required to assist abovementioned officer for exercising his powers available under section 18 of PC Act, 1988*
- (v) *Abovementioned officer should not be below rank of Superintendent of Police (SP) except specifically authorized by above rank of SP*
- (vi) *Bank + also bankers' books (both) are defined under Bankers' Books Evidence Act, 1891 (18 of 1891).*



(H) Attachment and Forfeiture of Property (Chapter – IVA)

84. For Provisions of attachment (Section 18A)

- (i) Provisions of certain other Acts + Ordinances (both) for attachments + administrations of attached property + execution of attachment orders or confiscation of money or property (all) are applicable against committing offence by public servants under PC Act, 1988 like:
 - (a) Provisions for attachments are applicable under Prevention of Money Laundering Act (PMLA) 2002 (15 of 2003)
 - (b) Provisions for attachments are applicable under Criminal Law Amendment Ordinance (CLAO) 1944 (Ord. 38 of 1944)
- (ii) District judge under Criminal Law Amendment Ordinance, 1944 (Ord. 38 of 1944) shall be deemed special judge for special court under PC Act, 1988

(I) Sanction for prosecution + other miscellaneous provisions (Chapter – V)

85. For Approvals against prosecutions (Section 19)

- (i) Special courts are *not permitted to take cognizance* against offence punishable under section 7 + 11 + 13 + also 15 of PC Act, 1988 (all) *without prior approval from other public authority when public servant is employed other than Central or State govt. for committing offence* as referred under Lokpal and Lokayukt Act, 2013
- (iii) Also Special Courts are *not permitted to take cognizance without prior approval from Central govt. when public servant is employed in Central govt.*
- (iv) Also Special Courts are *not permitted to take cognizance without prior approval from State govt. when public servant is employed in State govt.*
- (v) (a) *ACB's IO "only" is permitted to take prior approval from State govt. for taking cognizance against punishable offence by public servant under PC Act, 1988*
- (b) *Hence other than ACB's IO is not permitted to take prior approval from State govt.*
- (v) *ACB's IO is not permitted to take prior approval from State govt. like:*
 - (a) *When he has already filed complaint in special court for alleged offence where public servant is likely to be prosecuted*
 - (b) *When court has not already dismissed complaint filed under section 203 of CCP, 1973 + also already directed complainant to take approval (both) for prosecuting public servant*
- (vi) *Central govt. or state govt. or other public authority (any) is not permitted to give approval when request for approval is received from ACB's IO for prosecuting public servant without giving opportunity of being heard to him*
- (vii) *Central govt. or state govt. or other public authority (any) is required to give approval within maximum 3 months from date of receipt of request for approval*



- (viii) (a) *Central govt. or state govt. or other public authority (any) is required to take legal consultation when considered necessary after recording reasons in writing*
- (b) *Abovementioned is permitted to take 1 additional month for giving approval when legal consultation is already requested.*
- (c) *Hence abovementioned is required to give approval within maximum 4 (3+1) months*
- (ix) *Central govt. is permitted to prescribe guidelines as considered necessary for giving approval.*

86. For Public servant (Section 19(1))

- *Public servant is to include certain persons like:*
 - (i) *Person who has ceased to hold present office after offence was committed*
 - (ii) *Person who has ceased to hold other than present office after offence was committed*

87. For Prosecution's approval (Section 19(2))

- (i) *Central govt. or State govt. or other public authority (any) is empowered to provide approval under section 19(1) of PC Act, 1988 for initiating prosecution proceedings against public servant when same has power to remove public servant from his office at the time of committing offence by him.*
- (ii) *Hence Central govt. or State govt. or other public authority (any) is not permitted to provide approval when same has not power to remove public servant.*

88. For Special court's powers (Section 19(3))

- (i) *Appellate authority is not permitted to reverse or alter finding or sentence or order (any) passed by special court except appellate authority has opinion that special court has failed in providing justice*
- (ii) *Special court is not permitted to stay proceedings under PC Act, 1988 based on error or omission or irregularity (any) for allowing approval by Central govt. or State govt. or other public authority (any)*



- (iii) Special court is not permitted to stay proceedings under PC Act, 1988 based on other grounds + also revisions (both) when interim order is passed after inquiry or trial or appeal or other proceedings (any)

89. For Undue advantage's presumption (Section 20)

- (i) Undue advantage is "always" presumed except contrary proved that public servant has accepted or obtained or attempted to obtain undue advantage (any) being motive or reward for performing public duty or performing public duty improperly or dishonestly by himself or through other public servants (any) under section 7 PC Act, 1988.
- (ii) Abovementioned undue advantage should be obtained without consideration or with inadequate consideration (any) under section 11 of PC Act, 1988.
- (iii) Abovementioned presumption should be applied during trial for offence punishable under section 7 or section 11 (any) under PC Act, 1988.

90. For Defense's witness (Section 21)

- (i) Public servant is permitted to give evidence on oath to disproof for charges made against him except in certain circumstances like:
- (a) He shall not be treated as witness except on his own request
 - (b) He is permitted for not giving evidence
 - (c) Hence prosecutor is not permitted to comment or to presume against public servant when he has not given evidence during trial
 - (d) He is not required to answer any question for offence other than he is already charged
- (ii) Public servant is permitted to give evidence to demonstrate that is not guilty
- (iii) Public servant is permitted to establish his good character against defence for offence during prosecution's trial



91. For CCP, 1973's application (Section 22)

- Certain provisions of CCP, 1973 (2 of 1974) are applicable during proceedings against offences punishable under PC Act, 1973 like:
 - (i) Provisions of section 243(1) under CCP, 1973 are applicable against offences punishable under PC Act, 1988 when public servant is required to give in writing within specified time allowed by special court like:
 - (a) List of persons (if any) to whom he is proposing to examine as his Witness
 - (b) List of documents (if any) on which he is proposing to rely as his support
 - (ii) Provisions of section 309(2) under CCP, 1973 (2 of 1974) are applicable against offences punishable under PC Act, 1988 that proceedings shall not be adjourned or postponed based on application by any party during proceedings under section 397 of CCP, 1973 (2 of 1974)
 - (iii) Provisions of section 317(2) under CCP, 1973 (2 of 1974) are applicable against offences punishable under PC Act, 1988 that special judge of special court is permitted to proceed with inquiry or trial in absence of accused or his pleader + also to record evidence of any witness subject to right of accused to recall witness for cross-examination when he has considered necessary with reasons in writing
 - (iv) Provisions of section 397(1) under CCP, 1973 (2 of 1974) are applicable against offences punishable under PC Act, 1988 that special judge of special court is not permitted for calling proceeding's records when application is made by party of proceedings during trial in certain circumstances like:
 - (a) Special judge is not permitted without giving opportunity to other party + also to give reasons for calling records (both)
 - (b) Special judge is permitted to carry trial proceedings based on certified copies when he is satisfied.



92. For Charges' particulars (Section 23)

- Special judge of special court is required to maintain certain particulars against charges punishable under section 13(1)(a) of PC Act, 1988 like:
 - (i) Particulars for property involved in committing offence by public servant
 - (ii) Particulars for starting date involved in committing offence by public servant
 - (iii) Particulars for charges framed in committing offence by public servant as referred in section 219 of CCP Act, 1973 (2 of 1974)
- Abovementioned timeline should not be exceeded 1 year.

93. For Bribe giver's statement (Section 24)

- Now provisions under section 24 are omitted through Prevention of Corruption (Amendment) Act, 2018 (16 of 2018) dated July 26, 2018 relating to bribe giver's statement is not 100% (wholly) important for public servant's prosecution against offence committed under PC Act, 1988.

94. For Applicability to Military (Section 25)

- (i) Provisions of PC Act, 1988 are not applicable to Military + also etc. (both) like:
 - (a) To all courts + also all authorities (both) under Army Act, 1950 (45 of 1950)
 - (b) To all courts + also all authorities (both) under Air Force Act, 1950 (46 of 1950)
 - (c) To all courts + also all authorities (both) under Navy Act, 1957 (62 of 1957)
 - (d) To all courts + also all authorities (both) under Border Security Force (BSF) Act, 1968 (47 of 1968)
 - (e) To all courts + also authorities (both) under Coast Guard Act, 1978 (30 of 1978)
 - (f) To all courts + also all authorities (both) under National Security Guard (NSG) Act, 1986 (47 of 1986)
- (ii) In view of above special judge of special court shall be deemed court for ordinary criminal justice



95. For Special judge's appointment (Section 26)

- (i) 100% special judges already appointment under section 46 of Criminal Law Amendment (CLA) Act, 1952 shall be deemed special judge for special court appointed under section 3 of PC Act, 1988
- (ii) 100% pending proceedings before commencement shall be continued in accordance with provisions of PC Act, 1988

96. For Appeals + revisions (Section 27)

- States' High Courts are permitted for exercising powers against appeals + also revisions (both) under PC Act, 1988 in accordance with CCP, 1973 (2 of 1974)

97. For Applicability to other acts (Section 28)

- (i) Provisions of PC Act, 1988 are applicable in addition to other Indian acts
- (ii) Public servant is liable for provisions of PC Act, 1988 + also provisions of other Indian acts whenever applicable (both)
- (iii) Hence public servant is not exempted from provisions of other Indian acts whenever applicable beside provisions of PC Act, 1988 are exclusively applicable on him

98. For Criminal Law Amendment Ordinance, 1944 (Section 29)

- (i) Words State govt. have been substituted with State govt. or Central govt. as case may be under section 3(1)(a) + 9(1) + 10(a) + 11(1) + also 13(1) all
- (ii) Words 3 months have been substituted with 1 year under section 10(a)
- (iii) Paragraph 1 in schedule has been omitted
- (iv) (a) Words local authority have been substituted with corporation established by or under Central Act or Provincial Act or State Act or authority or body owned or controlled or aided by govt. or by govt. company as defined under section 2(45) of Companies Act (CA) 2013
- (b) Words or authority have been substituted with corporation or body or govt. company or society.



- (v) Words *offence punishable* under Prevention of Corruption Act, 1988 have been *substituted* under paragraph 4A of schedule
- (vi) Words and figures items 2, 3 and 4 have been *substituted* words, figures and *letter* items 2, 3, 4 and 4A

99. For *Power to make rules* (Section 29A)

- (i) *Central govt.* is empowered to make rules *for carrying provisions* of PC Act, 1988 through notification in Official Gazette
- (ii) Abovementioned *rules* shall be made *without prejudice to generality* of foregoing power for *certain* matters like:
 - (a) Guidelines for *commercial organizations* under section 9 of PC Act, 1988
 - (b) Guidelines for *prosecution's sanctions* under section 19(1) of PC Act, 1988
 - (c) Guidelines for *other matters* as may be required or *prescribed* (any).
- (iii) 100% *rules* made under PC Act, 1988 are to *be laid before both House* of Parliament for *30 days*

100. For *Repeal + Saving* (Section 30)

- (i) *PC Act, 1988 + also CLA Act, 1952* (both) are hereby *repealed*
- (ii) Abovementioned *repeal + also saving* (both) are to be *repealed without prejudice to application* of section 6 of General Clause Act, 1897 (10 of 1897)
- (iii) Abovementioned *repeal + also saving* (both) are *not to be inconsistent with* provisions of *PC Act, 1988*

101. For *Omitted certain provisions of Act 45 of 1860* (Section 31)

- *Omitted on September 03, 2001*



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CA. Satish Agarwal

B.com (Hons.) FCA

Practicing Chartered Accountant Since 1985

+919811081957

9/14 (First Floor) East Patel Nagar, New Delhi- 110008

Email: satishagarwal307@yahoo.com

Website: www.femainindia.com

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