

## E Lectures.

9<sup>th</sup> Semester (Code of Criminal Procedure)

### Unit -III :-

CONDITIONS REQUISITE FOR INITIATION OF PROCEEDINGS.

#### **SECTION 190.Cognizance of offences by Magistrates.**

(1) Subject to the provisions of this Chapter, any Magistrate of the first class, and any Magistrate of the second class specially empowered in this behalf under sub-section (2), may take cognizance of any offence- (a) upon receiving a complaint of facts which constitute such offence ; (b) upon a police report of such facts; (c) upon information received from any person other than a police officer, or upon his own knowledge, that such offence has been committed. (2) The Chief Judicial Magistrate may empower any Magistrate of the second class to take cognizance under sub-section (1) of such offences as are within his competence to inquire into or try.

(Note:- the word cognizance is of great importance and has to be understood well as a student and as a professional in the field of law whether in the capacity of a lawyer or a judge because this term forms the very essence of the entire provision of law. The word cognizance is defined in the Wharton's Law Lexicon, 14<sup>th</sup> edition, as 'the hearing of a thing judicially'. It has been held that the cognizance therefore has a reference to the hearing and to the determination of the case in connection with the commission of an offence and not merely to a magistrate's learning that some offence has been committed and his ordering that the matter be investigated. The criminal proceedings are not instituted until the magistrate has taken cognizance of an offence alleged under one or other of the clauses of sub section (1) of this section. The mere presentation of a challan by the police under section 173 in a magistrates court or the mere presentation of a complaint by a private individual does not constitute the institution of criminal proceedings. Thus the power to take cognizance on a complaint is not unguided. The magistrate verifies the complaint; he can refer it to the police investigation, he can take evidence himself. The section authorizes the magistrate to take cognizance

under any one of the three clauses. But for taking cognizance the magistrate requires something more. The magistrate must apply his mind to the facts of the case and decide on a course of action in furtherance of such application of mind for the purpose of further proceedings with the matter in accordance with the subsequent provisions of the code. Thus it also has to be kept in mind that cognizance and commencement of the proceedings are not synonymous in their connotation. Cognizance is something prior to, and does not necessarily mean, the commencement of the judicial proceedings against anyone. The expression 'to take cognizance' has not been defined in the code nor does the code prescribe any special form of taking cognizance. The word cognizance is however used in the code to indicate the point when the magistrate takes judicial notice of an offence. It is a word of indefinite import and is perhaps not always used in exactly the same sense. Thus it would mean applying one's mind to the facts stated in the report and then proceeding further in the matter under the relevant provisions of the code. In its broad and literal sense it means taking notice of an offence and would include the intention of initiating judicial proceedings against the offender in respect of that offence or taking steps to see whether there is any basis for initiating judicial proceedings. At the stage of taking cognizance the magistrate has simply to be satisfy whether the allegations against the accused prima facie make out a case for trial or not and nothing beyond that. On receiving a complaint the magistrate may come to a conclusion that there is no ground for proceeding with the case and in that case the complaint is to be dismissed under section 203. If however he finds that there is a case for proceeding with the complaint he takes cognizance under this section But if he is unable to come to either of these conclusions he may either order an enquiry under section 202 or an investigation under section 156(3).]

### **SECTION 191. Transfer on application of the accused.**

When a Magistrate takes cognizance of an offence under clause(c) of sub-section (1) of section 190, the accused shall, before any evidence is taken, be informed that he is entitled to have the case inquired into or tried by another Magistrate, and if the accused or any of the accused, if there be more than one, objects to further proceedings before the Magistrate taking cognizance, the

case shall be transferred to such other Magistrate as may be specified by the Chief Judicial Magistrate in this behalf.

**SECTION 192. Making over of cases to Magistrates.**

(1) Any Chief Judicial Magistrate may, after taking cognizance of an offence, make over the case for inquiry or trial to any competent Magistrate subordinate to him. (2) Any Magistrate of the first class empowered in this behalf by the Chief Judicial Magistrate may, after taking cognizance of an offence, make over the case for inquiry or trial to such other competent Magistrate as the Chief Judicial Magistrate may, by general or special order, specify, and thereupon such Magistrate may hold the inquiry or trial.

**SECTION 193. Cognizance of offences by Courts of Session.**

Except as otherwise expressly provided by this Code or by any other law for the time being in force, no Court of Session shall take cognizance of any offence as a Court of original jurisdiction unless the case has been committed to it by a Magistrate under this Code.

**SECTION 194. Additional and Assistant Sessions Judges to try cases made over to them.** An Additional Sessions Judge or Assistant Sessions Judge shall try such cases as the Sessions Judge of the division may, by general or special order, make over to him for trial or as the High Court may, by special order, direct him to try.

**SECTION 195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence.**

(1) No Court shall take cognizance- (a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860), or (ii) of any abetment of, or attempt to commit, such offence, or (iii) of any criminal conspiracy to commit such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate; (b) (i) of any offence punishable under any of the following sections of the Indian Penal Code (45 of 1860),

(namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or (ii) of any offence described in section 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court, or (iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub- clause (i) or sub-clause (ii), except on the complaint in writing of that Court, or of some other Court to which that Court is subordinate. (2) Where a complaint has been made by a public servant under clause(a) of sub-section (1) any authority to which he is administratively subordinate may order the withdrawal of the complaint and send a copy of such order to the Court ; and upon its receipt by the Court, no further proceedings shall be taken on the complaint: Provided that no such withdrawal shall be ordered if the trial in the Court of first instance has been concluded. (3) In clause (b) of sub-section (1), the term "Court" means a Civil, Revenue or Criminal Court, and includes a tribunal constituted by or under a Central, Provincial or State Act if declared by that Act to be a Court for the purposes of this section. (4) For the purposes of clause (b) of sub-section (1), a Court shall be deemed to be subordinate to the Court to which appeals ordinarily lie from the appealable decrees or sentences of such former Court, or in the case of a Civil Court from whose decrees no appeal ordinarily lies, to the principal Court having ordinary original civil jurisdiction within whose local jurisdiction such Civil Court in situate: Provided that- (a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction shall be the Court to which such Court shall be deemed to be subordinate; (b) where appeals lie to a Civil and also to a Revenue Court, such Court shall be deemed to be subordinate to the Civil or Revenue Court according to the nature of the case or proceeding in connection with which the offence is alleged to have been committed.

**SECTION 196. Prosecution for offences against the State and for criminal conspiracy to commit such offence.**

(1) No Court shall take cognizance of- (a) any offence punishable under Chapter VI or under section 153A, of Indian Penal Code, or 2[Section 295 A or sub section (1) of section 505] of the Indian Penal Code (45 of 1860) or (b) a criminal conspiracy to commit such offence, or (c) any such abetment, as is described in section 108A of the Indian Penal Code (45 of 1860), except with the previous sanction of the Central Government or of the State Government.

2(1A) No Court shall take cognizance of- (a) any offence punishable under section 153B or sub-section (2) or sub-section (3) of section 505 of the Indian Penal Code (45 of 1860), or (b) a criminal conspiracy to commit such offence, except with the previous sanction of the Central Government or of the State Government or of the District Magistrate.] (2) No Court shall take cognizance of the offence of any criminal conspiracy punishable under section 120B of the Indian Penal code (45 of 1860), other than a criminal conspiracy to commit 1\*[an offence] punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, unless the State Government or the District Magistrate has consented in writing to the initiation of the proceedings : Provided that where the criminal conspiracy is one to which the provisions of section 195 apply, no such consent shall be necessary. (3) The Central Government or the State Government may, before according sanction 2[under sub-section (1) or sub-section (1A) and the District Magistrate may, before according sanction under sub-section (1A) and the State Government or the District Magistrate may, before giving consent under sub-section (2), order a preliminary investigation by a police officer not being below rank of Inspector, in which case such police officer shall have the powers referred to in sub-section (3) of section 155.

### **SECTION 197. Prosecution of Judges and public servants.**

(1) When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction- (a) in the case

of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government; (b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government: 1 [Provided that where the alleged offence was committed by a person referred to in clause (b) during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in a State, clause (b) will apply as if for the expression "State Government" occurring therein, the expression "Central Government" were substituted. (2) No Court shall take cognizance of any offence alleged to have been committed by any member of the Armed Forces of the Union while acting or purporting to act in the discharge of his official duty, except with the previous sanction of the Central Government. (3) The State Government may, by notification, direct that the provisions of sub-section (2) shall apply to such class or category of the members of the Forces charged with the maintenance of public order as may be specified therein, wherever they may be serving, and thereupon the provisions of that sub-section will apply as if for the expression "Central Government" occurring therein, the expression "State Government" were substituted. 1(3A) Notwithstanding anything contained in sub-section (3), no court shall take cognizance of any offence, alleged to have been committed by any member of the Forces charged with the maintenance of public order in a State while acting or purporting to act in the discharge of his official duty during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force therein, except with the previous sanction of the Central Government. (3B) Notwithstanding anything to the contrary contained in this Code or any other law, it is hereby declared that any sanction accorded by the State Government or any cognizance taken by a court upon such sanction, during the period commencing on the 20th day of August, 1991 and ending with the date immediately preceding the date on which the Code of Criminal Procedure (Amendment) Act, 1991, receives the assent of the President, with respect to an offence alleged to have been committed during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in the State, shall be invalid and it shall be

competent for the Central Government in such matter to accord sanction and for the court to take cognizance thereon.] (4) The Central Government or the State Government, as the case may be, may determine the person by whom, the manner in which, and the offence or offences for which, the prosecution of such Judge, Magistrate or public servant is to be conducted, and may specify the Court before which the trial is to be held.

### **SECTION 198. Prosecution for offences against marriage.**

(1) No Court shall take cognizance of an offence punishable under Chapter XX of the Indian Penal Code (45 of 1860) except upon a complaint made by some person aggrieved by the offence: Provided that- (a) Where such person is under the age of eighteen years or is an idiot or a lunatic, or is from sickness or infirmity unable to make a complaint, or is a woman who, according to the local customs and manners, ought not to be compelled to appear in public, some other person may, with the leave of the Court, make a complaint on his or her behalf; (b) where such person is the husband and he is serving in any of the Armed Forces of the Union under conditions which are certified by his Commanding Officer as precluding him from obtaining leave of absence to enable him to make a complaint in person, some other person authorised by the husband in accordance with the provisions of sub-section (4) may make a complaint on his behalf; (c) where the person aggrieved by an offence punishable under 1[section 494 or section 495] of the Indian Penal Code (45 of 1860) is the wife, complaint may be made on her behalf by her father, mother, brother, sister, son or daughter or by her father's or mother's brother or sister 2[, or, with the leave of the Court, by any other person related to her by blood, marriage or adoption]. (2) For the purposes of sub-section (1), no person other than the husband of the woman shall be deemed to be aggrieved by any offence punishable under section 497 or section 498 of the said Code: Provided that in the absence of the husband, some person who had care of the woman on his behalf at the time when such offence was committed may, with the leave of the Court, make a complaint on his behalf. (3) When in any case falling under clause (a) of the proviso to subsection (1), the complaint is sought to be made on behalf of a person under the age of eighteen years or of a lunatic by a person who has not been appointed or declared by a competent

authority to be the guardian of the person of the minor or lunatic, and the Court is satisfied that there is a guardian so appointed or declared, the Court shall, before granting the application for leave, cause notice to be given to such guardian and give him a reasonable opportunity of being heard. (4) The authorisation referred to in clause (b) of the proviso to subsection (1), shall be in writing, shall be signed or otherwise attested by the husband, shall contain a statement to the effect that he has been informed of the allegations upon which the complaint is to be founded, shall be countersigned by his Commanding Officer, and shall be accompanied by a certificate signed by that Officer to the effect that leave of absence for the purpose of making a complaint in person cannot for the time being be granted to the husband. (5) Any document purporting to be such an authorisation and complying with the provisions of sub-section (4), and any document purporting to be a certificate required by that sub-section shall, unless the contrary is proved, be presumed to be genuine and shall be received in evidence. (6) No Court shall take cognizance of an offence under section 376 of the Indian Penal Code, where such offence consists of sexual intercourse between a man with his own wife, the wife being under fifteen years of age, if more than one year has elapsed from the date of the commission of the offence. (7) The provisions of this section apply to the abetment of, or attempt to commit, an offence as they apply to the offence.

### **SECTION 198A. Prosecution of offences under section 498A of the Indian Penal Code.**

No Court shall take cognizance of an Offence Punishable section 498A of the Indian Penal Code except upon a police report of facts which constitute such offence or Upon a complaint made by the person aggrieved by the offence or by her father, mother, brother, sister or by her father's or mother's brother or sister or, with the leave of the Court, by any other person related to her by blood, marriage or adoption.

### **SECTION 199. Prosecution for defamation.**

(1) No Court shall take cognizance of an offence punishable under Chapter XXI of the Indian Penal Code (45 of 1860) except upon a complaint made by some

person aggrieved by the offence: Provided that where such person is under the age of eighteen years, or is an idiot or a lunatic, or is from sickness or infirmity unable to make a complaint, or is a woman who, according to the local customs and manners, ought not to be compelled to appear in public, some other person may, with the leave of the Court make a complaint on his or her behalf. (2) Notwithstanding anything contained in this Code, when any offence falling under Chapter XXI of the Indian Penal Code (45 of 1860) is alleged to have been committed against a person who at the time of such commission, is the President of India, the Vice-President of India, the Governor of a State, the Administrator of a Union territory or a Minister of the Union or of a State or of a Union territory, or any other public servant employed in connection with the affairs of the Union or of a State in respect of his conduct in the discharge of his public functions a Court of Session may take cognizance of such offence, without the case being committed to it, upon a complaint in writing made by the Public Prosecutor. (3) Every complaint referred to in sub-section (2) shall set forth the facts which constitute the offence alleged, the nature of such offence and such other particulars as are reasonably sufficient to give notice to the caused of the offence alleged to have been committed by him (4) No complaint Under sub-section (2) shall be made by the Public Prosecutor except with the previous sanction- (a) of the State Government, in the case of a person who is or has been the Governor of that State or a Minister of that Government ; (b) of the State Government, in the case of any other public servant employed in connection with the affairs of the State; (c) of the Central Government, in any other case. (5) No Court of Session shall take cognizance of an offence under sub-section (2) unless the complaint is made within six months from the date on which the offence is alleged to have been committed. (6) Nothing in this section shall affect the right of the person against whom the offence is alleged to have been committed, to make a complaint in respect of that offence before a Magistrate having jurisdiction or the power of such Magistrate to take cognizance of the offence upon such complaint

## **SECTION 200 Examination of complainant.**

A Magistrate taking cognizance of an offence on complaint shall examine upon oath the complainant and the witnesses present, if any, and the substance of such examination shall be reduced to writing and shall be signed by the complainant and the witnesses, and also by the Magistrate : Provided that, when the complaint is made in writing, the Magistrate need not examine the complainant and the witnesses- (a) if a public servant acting or- purporting to act in the discharge of his official duties or a Court has made the complaint ; or (b) if the Magistrate makes over the case for inquiry or trial to another Magistrate under section 192 : Provided further that if the Magistrate makes over the case to another Magistrate under section 192 after examining the complainant and the witnesses, the latter Magistrate need not re-examine them.

(Note:- that the object of this examination is to see that the members of the public are not unnecessarily harassed by false and frivolous accusations. To avoid this mischief, the magistrate before he issues a process and summons a person accused of an offence, should satisfy himself of the truth or falsehood of the complaint and then see if the matter in the complaint requires inquiry by a court of law.)

## **SECTION 201. Procedure by Magistrate not competent to take cognizance of the case.**

If the complaint is made to a Magistrate who is not competent to take cognizance of the offence, he shall,- (a) if the complaint is in writing, return it for presentation to the proper Court with an endorsement to that effect; (b) if the complaint is not in writing, direct the complainant to the proper Court. .

## **SECTION 202. Postponement of issue of process.**

(1) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance or which has been made over to him under section 192, may, if he thinks fit, postpone the issue of process against the accused, and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the

purpose of deciding whether or not there is sufficient ground for proceeding: Provided that no such direction for investigation shall be made,-- (a) where it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session ; or (b) where the complaint has not been made by a Court, unless the complainant and the witnesses present (if any) have been examined on oath under section 200. (2) In an inquiry under sub-section (1), the Magistrate may, if he thinks fit, take evidence of witnesses on oath : Provided that if it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session, he shall call upon the complainant to produce all his witnesses and examine them on oath. (3) If an investigation under sub-section (1) is made by a person not being a police officer, he shall have for that investigation all the powers conferred by this Code on an officer-incharge of a police station except the power to arrest without warrant.

(Note:- this section contains yet another check to prevent false and vexatious complaints being filed. The section makes it clear that a magistrate is not bound to issue process immediately a complaint is filed before him. If he has a doubt about the truth of the complaint, it gives him power to postpone the issue of process if he thinks fit and either inquire into the case himself or direct an investigation by a police officer or such other person as the he thinks fit for the purpose of ascertaining whether or not there is sufficient ground for proceeding. In addition to the scrutiny of the complaint the section provides an opportunity to the magistrate to find out what material there is to support the allegations made in the complaint.)

### **SECTION 203.Dismissal of complaint.**

If, after considering the statements on oath (if any) of the complainant and of the witnesses and the result of the inquiry or investigation (if any) under section 202, the Magistrate is of opinion that there is no sufficient ground for proceeding, he shall dismiss the complaint, and in every such case he shall briefly record his reasons for so doing,

### **SECTION 204.Issue of process.**

(1) If in the opinion of a Magistrate taking cognizance of an offence there is sufficient ground for proceeding, and the case appears to be- (a) a summons-case, he shall issue his summons for the attendance of the accused, or (b) a warrant-case, he may issue a warrant, or, if he thinks fit, a summons, for causing the accused to be brought or to appear 906 at a certain time before such Magistrate or (if he has no jurisdiction himself) some other Magistrate having jurisdiction. (2) No summons or warrant shall be issued against the accused under sub-section (1) until a list of the prosecution witnesses has been filed. (3) In a proceeding instituted upon a complaint made in writing every summons or warrant issued under sub-section (1) shall be accompanied by a copy of such complaint. (4) When by any law for the time being in force any process-fees or other fees are payable, no process shall be issued until the fees are paid and, if such fees are not paid within a reasonable time, the Magistrate may dismiss the complaint. (5) Nothing in this section shall be deemed to affect the provisions of section 87

**SECTION . 205. Magistrate may dispense with personal attendance of accused.**

(1) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused and permit him to appear by his pleader. (2) But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in the manner hereinbefore provided.

**SECTION 206. Special summons in cases of petty offence.**

(1) If, in the opinion of a Magistrate taking cognizance of a petty offence, the case may be summarily disposed of under section 260, the Magistrate shall, except where he is, for reasons to be recorded in writing of a contrary opinion, issue summons to the accused requiring him either to appear in person or by pleader before the Magistrate on a specified date, or if he desires to plead guilty to the charge without appearing before the Magistrate, to transmit before the specified date, by post or by messenger to the Magistrate, the said plea in writing and the amount of fine specified in the summons or if he

desires to appear by pleader and to plead guilty to the charge through such pleader, to authorise, in writing, the pleader to plead guilty to the charge on his behalf and to pay the fine through such pleader: Provided that the amount of the fine specified in such summons shall not exceed one hundred rupees.

(2) For the purposes of this section, "petty offence" means any offence punishable only with fine not exceeding one thousand rupees, but does not include any offence so punishable under the Motor Vehicles Act, 1939 (4 of 1939), or under any other law which provides for convicting the accused person in his absence on a plea of guilty, 1[(3) The State Government may, by notification, specially empower any Magistrate to exercise the powers conferred by sub-section (1) in relation to any offence which is compoundable under section 320 or any offence punishable with imprisonment for a term not exceeding three months, or with fine, or with both where the Magistrate is of opinion that, having regard to the facts and circumstances of the case, the imposition of fine only would meet the ends of justice.]

### **SECTION 207. Supply to the accused of copy of police report and other documents.**

. In any case where the proceeding has been instituted on a police report, the Magistrate shall without delay furnish to the accused, free of cost, a copy of each of the following: - (i) the police report; (ii) the first information report recorded under section 154; (iii) the statements recorded under sub-section (3) of section 161 of all persons whom the prosecution proposes to examine as its witnesses, excluding therefrom any part in regard to which a request for such exclusion has been made by the police officer under sub-section (6) of section 173 ; (iv) the confessions and statements, if any, recorded under section 164; (v) any other document or relevant extract thereof forwarded to the Magistrate with the police report under sub- section (5) of section 173: Provided that the Magistrate may, after perusing any such part of a statement as is referred to in clause (iii) and considering the reasons given by the police officer for the request, direct that a copy of that part of the statement or of such portion thereof as the Magistrate thinks proper, shall be furnished to the

accused : Provided further that if the Magistrate is satisfied that any document referred to in clause (v) is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in Court.

**SECTION 208. Supply of copies of statements and documents to accused in other cases triable by Court of Session.**

. Where, in a case instituted otherwise than on a police report, it appears to the Magistrate issuing process under section 204 that the offence is triable exclusively by the Court of Session, the Magistrate shall without delay furnish to the accused, free of cost, a copy of each of the following: - (i) the statements recorded under section 200 or section 202, of all persons examined by the Magistrate (ii) the statements and confessions, if any, recorded under section 161 or section 164 ; (iii) any documents produced before the Magistrate on which the prosecution proposes to rely : Provided that if the Magistrate is satisfied that any such document is voluminous, he shall, instead of furnishing the accused with a copy thereof, direct that he will only be allowed to inspect it either personally or through pleader in Court.

**SECTION 209. Commitment of case to Court of Session when offence is triable exclusively by it.**

When in a case instituted on a police report or otherwise, the accused appears or is brought before the Magistrate and it appears to the Magistrate that the offence is triable exclusively by the Court of Session, he shall- 1\*[(a) commit, after complying with the provisions of section 207 or section 208, as the case may be, the case to the Court of Session, and subject to the provisions of this Code relating to bail, remand the accused to custody until such commitment has been made;] (b) subject to the provisions of this Code relating to bail, remand the accused to custody during, and until the conclusion of, the trial ; (c) send to that Court the record of the case and the documents and articles, if any, which are to be produced in evidence ; (d) notify the Public Prosecutor of the commitment of the case to the Court of Session.

**SECTION . 210. Procedure to be followed when there is a complaint case and police investigation in respect of the same offence.**

(1) When in a case instituted otherwise than on a police report (hereinafter referred to as a complaint case), it is made to appear to the Magistrate, during the course of the inquiry or trial held by him, that an investigation by the police is in progress in relation to the offence which is the subject-matter of the inquiry or trial held by him, the Magistrate shall stay the proceedings of such inquiry or trial and call for a report on the matter from the police officer conducting the investigation. (2) If a report is made by the investigating police officer under section 173 and on such report cognizance of any offence is taken by the Magistrate against any person who is an accused in the complaint case, the Magistrate shall inquire into or try together the complaint case the case arising out of the police report as if both the cases were instituted on a police report. (3) If the police report does not relate to any accused in the complaint case or if the Magistrate does not take cognizance of any offence on the police report, he shall proceed with the inquiry or trial, which was stayed by him, in accordance with the provisions of this Code.