



Regular¹ Legal Updates & Points

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<p>[1]</p>	<p>Word/ Doctrine / Maxims of the Day: Ab Initio: Ab initio is a Latin term which means 'from the beginning' or 'since inception'. It is derived from the Latin 'ab' ("from") and 'initio', ("beginning"). <i>For examples:</i> The agreement should be declared void <i>ab initio</i> as contravening law of the land; He is the member of this group <i>ab initio</i>. Section 11 of the Indian Contract Act, 1872, implies that a contract entered into with the minor is void <i>ab initio</i>.</p>
<p>[2]</p>	<p>Question (?) / Issue for Discussion of the Day: The Indian Constitution has provisions for holding joint sessions of the two houses of the Parliament. Enumerate the occasions when this would normally happen and also the occasions when it cannot, with reasons thereof.</p>
<p>[3]</p>	<p>Law / Bill of the Day: THE NEGOTIABLE INSTRUMENT ACT, 1881: Section 138 of the Negotiable Instrument Act, 1881 creates, dishonour of cheques on the ground of insufficiency of funds, a statutory offence. Even if a dishonour of cheque is a criminal offence, it is not required to prove the <i>mens rea</i> as any other criminal offence. Section 138 creates a <i>strict liability</i> for dishonour of cheque. This Section explains the essentials, exceptions, and punishment in the case of dishonour of cheque. A dishonour of cheque is punishable with imprisonment for a term which may be extended to two years, or with fine which may extend to twice the amount of the cheque, or with both. However, the Cheque must have been presented to the bank within a period of three months from the date on which it is drawn or within the period of its validity, whichever is earlier. Further, the payee or the holder in due course of the cheque must make a demand for the payment of the said amount of money by giving a written notice to the drawer of the cheque, within thirty days of the receipt of information by him from the bank regarding the return of the cheque as unpaid. Furthermore, the drawer of such cheque fails to make the payment of the said</p>

¹ . Earlier, it was published as "Daily Legal Updates and Points"



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	amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within 15 days of the receipt of the said notice.
[4]	<p>Memorable Case Laws:</p> <p>(1) Bachan Singh Vs State of Punjab (1980): <i>BACHAN SINGH'S CASE</i> is a well-known landmark judgment credited for developing the jurisprudence pertaining to the death penalty. It examined whether the death penalty was in consonance with the provisions of the Indian Constitution. The court expounded the principle of Rarest of Rare case in Bachan Singh Case. Court said life imprisonment is the rule and Death Penalty / Capital Punishment is exception. Only in rarest of rare cases capital punishment can be awarded to convict of murder. In this case, the Court dismissed the challenge to the constitutionality of Section 302 of the IPC in so far as it prescribes the death sentence, as well as, the constitutionality of Section 354(3) of the CrPC, 1973 was rejected.</p> <p>(2) Mithu Vs. State of Punjab (1983): In the case of <i>MITHU SINGH</i>, the mandatory death sentence under Section 303 of Indian Penal Code, 1860 was declared unconstitutional. This Section states that any criminal who has been sentenced to life imprisonment, committed a murder while in custody would be sentenced to death. An interpretation of this Section can be that the culprit is beyond reformation and does not deserve to live.</p>
[5]	<p>Memorable Points (IEA): Memorable points² as to Criminal Procedure Code, 1973 (Cr.P.C.) are as under —</p> <p>(1) The term 'complaint' is defined under Section _____ of Cr.P.C?— Section 2(d).</p> <p>(2) Section _____ of the Cr.P.C. casts a duty upon officers employed in connection with the affairs of the village and every person residing in a village shall make certain report to the nearest Magistrate or to the officer in charge of the police station— Section 40</p> <p>(3) As per Section ____ of the Cr.P.C., when any person is arrested and interrogated by the police, he shall be entitled to meet an advocate of his choice during interrogation, though not throughout interrogation— Section 41-D.</p>

². The readers please be informed that total **83 points** (the Indian Penal Code, 1860) , **84 points** () and **93 memorable points** of the Indian Penal Code, 1860; CPC, 1908 and Indian Evidence Act, 1872 have been respectively covered under previous issues of "Daily Legal Updates & Points" now known as "Regular Legal Updates and Points".



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- (4) As per Section ____ of the Criminal Procedure Code, 1973 the person arrested shall not be subjected to more restraint than is necessary to prevent his escape— **Section 49.**
- (5) As per Section ____ of the Code of Criminal Procedure, 1973, it shall be the duty of the person having the custody of an accused to take reasonable care of the health and safety of the accused— **Section 55-A [Ins. by Act 5 of 2009, s. 9 (w.e.f. 31-12-2009)]**
- (6) Under Section 125 of the Cr.P.C., an application for the monthly allowance for the interim maintenance and expenses of proceeding shall, as far as possible, be disposed of within ____ days from the date of the service of notice of the application to the parties— **60 days.**
- (7) When an offence is tried by the High Court otherwise than under section 407, it shall, in the trial of the offence, observe the same procedure as a ____ would observe if it were trying the case— **Court of Sessions (Refer Section 474 of the Cr.P.C.) .**

- [6] **Memorable Points (Misc.):** Memorable points under Indian Constitution and various miscellaneous important Acts are as under (total **360 points already covered under previous issues of "Daily Updates"**)—
- (1) **Constitution of India, 1950:** All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the Fundamental Rights, shall, to the extent of such inconsistency, be ____— **Void.** (Refer Article 13(1) of the Constitution of India).
- (2) **Code of Civil Procedure: True/ False:** The CPC, 1908 is the successor of C.P.C. 1882— **True**
- (3) **Indian Evidence Act, 1872: True/ False:** In absence of law and practice for the time being relating to civil and criminal procedure, the order in which witnesses are produced and examined shall be regulated by the discretion of the Court— **True (Refer Section 133 of IEA, 1872).**
- (4) **Indian Penal Code, 1860:** As per Section ____ whoever commits house-breaking after sunset and before sunrise, is said to commit "house-breaking by night"— **Section 446.**



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	<p>(5) Transfer of Property Act, 1882: Section _____ of the T.P.A, 1882 deals with the determination of lease—Section 111.</p> <p>(6) Indian Contract Act, 1872: As per Section _____ of the Indian Contract Act, 1872, all agreements are contracts if they are made by the free consent of parties competent to contract, for a lawful consideration and with a lawful object, and are not hereby expressly declared to be void—Section 10.</p> <p>(7) Partnership Act, 1932: Section _____ of the Partnership Act, 1932 deals with the modes of Public Notice as to registered partnership firm—Section 72</p> <p>(8) Sale of Goods Act, 1930: True/ False: Whether a stipulation in a contract of sale is a condition or a warranty depends in each case on the construction of the contract. A stipulation may be a condition, though called a warranty in the contract—True (Refer Section 12 of the SOGA,1930)</p> <p>(9) Specific Relief Act, 1963: Under the Specific Relief Act, 1963, every duty enforceable by law is called—Obligation (Refer Section 2(1) of the SRA, 1963)</p> <p>(10) Negotiable Instrument Act, 1881: When a promissory note, bill of exchange or cheque is transferred to any person, so as to constitute that person the holder thereof, the instrument is said to be—Negotiated. (Refer Section 14 of the NI Act, 1881)</p>
[7]	<p>G. K. / Current Affairs:</p> <p>(1) Which Article of Indian Constitution mandates presenting a statement of estimated receipts and expenditures of the Government for one financial year? —Article 112.</p> <p>(2) Within their respective spheres, the union and the state legislatures are made supreme and they should not encroach on the sphere reserved for other. This concept is known as Doctrine of —Pith and Substance.</p> <p>(3) What is the rank of Union Cabinet Secretary in the table of Precedence in India?—11th</p> <p>(4) For the first time, in which of the following General elections, voting right by the youths at the age of 18 years was exercised?—1989 [Voting right by the youths at the age of 18 years was exercised for the first time in the General Election of 1989.]</p> <p>(5) What is the correct chronological order of the creation of Assam, Nagaland, Goa and Mizoram?—Assam, Nagaland, Mizoram and Goa.</p>

Thanking You!