

# PRESENTATION

## Section 107, 145 Code of Criminal Procedure (CrPC)

For induction course of MCS batch 2021

Date: 20<sup>th</sup> September, 2021; Time: 1:30 pm to 2:30 pm session)

By:

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# Magistrates

- There are 3 types of Magistrates;
  1. Executive Magistrates
  2. Judicial Magistrates
  3. Special Judicial Magistrates

**Executive  
Magistrate**

An Executive Magistrate is an Officer of the Executive Branch who is invested with Specific power both under CrPc and IPC. The powers conferred under CrPc are Sections 107-110, 133, 144, 145 CrPC etc.

**Judicial  
Magistrate**

A Judicial Magistrates has the power to try Criminal Cases and Civil Cases.

**Special  
Judicial  
Magistrate**

The High Court on the request of the Central or State Govt. may confer upon any person all or any of the powers of a Judicial Magistrate of the First Class or Second Class. Such person shall hold or have held any post under the Govt. and shall have the qualifications and experience in relation to the legal affairs as prescribed by the High Court.

## **Section 107 CrPC**

Security for keeping the Peace and Good Behaviour.

- When an Executive Magistrate receives information that a person is likely to commit breach of peace or disturb public tranquillity in any way, he can issue Show Cause as to why he should not be ordered to execute a bond with or without sureties for keeping peace for such a period, not exceeding 1 (one) year or as the Magistrate thinks fit.

## Ingredients:

- Apprehension that there is a likelihood of wrongful act.
- Wrongful act may breach public peace/ tranquillity
- If there is sufficient ground for proceeding.

# Order Sheet

Sl/No	Date of Order	ORDER	Sign of Magistrate/ Court
	20-09-2021	<p>Case record (C/r) received on endorsement from the District Magistrate, WGH Dist. Seen and perused C/r and documents attached/ enclosed. Seen also non FIR report U/S 107 CrPc by O/C Phulbari PS wherein, it appears that some local youths have threatened some non tribal vendors/ hawkers from carrying out trade/business in Phulbari Market Area, and that there is apprehension of the situation further escalating which could result in breach of Public Peace/ tranquillity.</p> <p>Therefore, the persons named in the report are to submit written statements and show cause as to why proceedings of 107 CrPC should not be drawn against them and that they be made sign a bond for keeping peace with surety of Rs. 1000/- only.</p> <p>The written statement is to be submitted on or before ___/___ /2021 positivity.</p> <p>Fix _____for appearance of the parties Mark copy to both parties for compliance through SP, WGH Dist., Tura</p>	

## **Section 145 in CrPC**

- Whenever an Executive Magistrate is satisfied from a report of police officer or upon other information that there is a dispute likely to cause breach of the peace concerning any land or water or the boundaries thereof, within his local jurisdiction, he shall make an order in writing, stating grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, on a specified date and time, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute.

- For the purpose of this section, the expression “land or water” includes buildings, markets, fisheries, crops or other produce of land, and the rents or profits of such property.
- A copy of the order shall be served in the manner provide by this Code. A least one copy shall be published by being affixed to some conspicuous place at or near the subject of dispute.
- The Magistrate shall then, without reference to the merits or the claims of any of the parties to a right to possess the subject of dispute, peruse the statements so put in, hear the parties, receive all such evidence as may be produced by them, take such further evidence, if any, as he/she thinks necessary, and if, possible, decide whether any and which of the parties was, at the date of the order made him/her under point 1.



# Important Points

- If the Magistrate decides that one of the parties be treated as being, in such possession of the said subject, he/she issue an order declaring such party to be entitled to possession thereof until evicted therefrom in due course of the law, and forbidding all disturbance of such possession until such eviction; if the party has been forcibly and wrongfully dispossessed, possession may be restored.

- When any party to any such proceeding dies, the Magistrate may cause the legal representative of the deceased party to be made a party to the proceeding and shall there upon continue the inquiry.
- If the Magistrate is of the opinion that any crop or other produce of the property, the subject of the dispute in a proceeding under this section pending before him, is subject to speedy and natural decay, he may make an order for the proper custody or sale of such property, and, upon the completion of the inquiry, shall make such order for the disposal of such property, or the sale-proceeds thereof, as he/she thinks fit.  
(Zimma)
- Attachment- barring both parties from entering the disputed area.

# Order Sheet

Sl/No	Date of Order	ORDER	Sign of Magistrate/ Court
	20-09-2021	<p>Case record received on endorsement from Sd. District Magistrate, East Khasi Hills District. seen and perused case record alongwith documents/papers attached seen also non FIR report U/S 145 CrPc submitted by incharge Mawdiangdiang outpost wherein he has reported that there is a dispute between two parties over a piece of land located in _____</p> <p>_____village bounded by _____north,</p> <p>_____south, _____east,</p> <p>_____west. That the dispute is likely to cause breach of public peace/tranquility and whereas from the report it appears that there is sufficient reason for apprehension of breach of public tranquility. Therefore, both parties are to submit written statement and S/c as to why proceedings under section 145 CrPC should not be drawn-up against them. The written statements should be submitted on or before _____</p> <p>_____positively. Fix _____for appearance of the parties</p> <p>Mark copy of this order to all concerned through Superintendent of Police, West Garo Hills District for compliance.</p>	

THANK YOU