

RMM LAW COLLEGE SAHARSA

CODE OF CRIMINAL PROCEDURE

IIIrd Part

Paper -3

**TOPIC- PROVISIONS AS TO
ACCUSED PERSONS OF**

**Topic- LIMITATION FOR TAKING COGNIZANCE OF
CERTAIN OFFENCE**

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470. Exclusion of time in certain cases.

(1) In computing the period of limitation, the time during which any person has been prosecuting with due diligence another prosecution, whether in a Court of first instance or in a Court of appeal or revision, against the offender, shall be excluded:

Provided that no such exclusion shall be made unless the prosecution relates to the same facts and is prosecuted in good faith in a Court which from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

(2) Where the institution of the prosecution in respect of an offence has been stayed by an injunction or order, then, in computing the period of limitation, the period of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded.

(3) Where notice of prosecution for an offence has been given, or where, under any law for the time being in force, the previous consent or sanction of the

Government or any other authority is required for the institution of any prosecution for an offence, than, in computing the period of limitation, the period of such notice or, as the case may be, the time required for obtaining such consent or sanction shall be excluded.

Explanation.—In computing the time required for obtaining the consent or sanction of the Government or any other authority, the date on which the application was made for obtaining the consent or sanction and the date of receipt of the order of the Government or other authority shall both be excluded.

- (4) In computing the period of limitation, the time during which the offender—
- (a) has been absent from the India or from any territory outside India which is under the administration of the Central Government, or
 - (b) has avoided arrest by absconding or concealing himself, shall be excluded.

471. Exclusion of date on which Court is closed.

Where the period of limitation expires on a day when the Court is closed, the Court may take cognizance on the day on which the Court reopens.

Explanation.—A Court shall be deemed to be closed on any day within the meaning of this section, if, during its normal working hours, it remains closed on that day.

472. Continuing offence.

In the case of a continuing offence, a fresh period of limitation shall begin to run at every moment of the time during which the offence continues.

473. Extension of period of limitation in certain cases.

Notwithstanding anything contained in the foregoing provisions of this Chapter, any Court may make cognizance of an offence after the expiry of the period of limitations, if it is satisfied on the

facts and in the circumstances of the case that the delay has been properly explained or that it is necessary so to do in the interests of justice.

COMMENTS

(i) It is not necessary to decide whether the extension of period of limitation under section 473 must precede of taking of cognizance of the offence; Srinivas Pal v. Union Territory of Arunachal Pradesh (Now State), 1988 Cr LJ 1803: AIR 1988 SC 1729.

(ii) Whenever a Magistrate invokes the provision and condones the delay the order of Magistrate must indicate that he was satisfied on the facts and circumstances of case that the delay has been properly explained and necessary to condone delay; State of Himachal Pradesh v. Tara Dutta, AIR 2000 SC 297