Differences and Short Notes

Summons Case and Warrant Case

As per **Section 2(w)**, "summons-case" means a case relating to an offence, and not being a warrant-case and as per **Section 2 (x)**, "warrant-case" means a case relating to an offence punishable with death, imprisonment for life or imprisonment for a term exceeding two years. Cr P C classifies an offence as either cognizable or non-cognizable, and a trial procedure as summons case or warrant case. Thus, the terms summons case and warrant case is in reference to the procedure adopted for the trial of the case. Thus, the difference between the two can be seen from the point of view of their trial procedures as highlighted below -

Summons Case	**Warrant case**
Cr P C prescribes only one procedure for all summons cases, whether instituted upon a police report or otherwise.	Cr PC prescribes two procedures for the trial of a warrant case my magistrate - one for case instituted upon a police report and one for case instituted otherwise than on a police report.
No charge needs to be framed only the particulars of the offence need to be conveyed to the accused.	A charge needs to be framed against the accused.
As per S. 252, if the accused pleads guilty, the magistrate must record the plea of the accused and may, in his discretion, convict him on such plea.	As per S. 241, After the charge is framed, the accused may plead guilty and the magistrate may convict him on his discretion.
Accused my plead guilty by post without appearing before the magistrate.	Accused must appear personally.
The accused may be acquitted, if the complainant is absent or if the complainant dies.	Magistrate can discharge the accused if complainant is absent, or no charge is framed, or if the offence is compoundable and non cognizable.
The complainant may, with the permission of the court, withdraw the complaint against the accused.	The complainant may, with the permission of the court, withdraw the remaining charges against an accused, if he is charged with

	several offences and convicted on one or more of them.
When a warrant case is tried as a summons case and if the accused is acquitted under S. 255, the acquittal will only amount to discharge.	When a summons case is tried as a warrant case and if the accused is discharged under S 245, the discharge will amount to acquittal.
Trial of a warrant case as a summons case it is a serious irregularity and the trial is vitiated if the accused has been prejudiced.	Trial of a summons case as a warrant case is an irregularity which is curable under Section 465.
A summons case cannot have charges that require a warrant case.	A warrant case may contain charges that reflect a summons case.
Accused gets only one opportunity.	Accused may get more than one opportunity to cross-examine the prosecution witness.
	A charge under a warrant case cannot be split up into its constituents for trial under summons case.
No such power to the magistrate in summons case.	After convicting the accused, the magistrate may take evidence regarding previous conviction not admitted by the accused.
All cases which are not punishable by death, imprisonment for life, or for more than two years are summons cases.	All cases which are punishable by death, imprisonment for life, or for more than two years are warrant cases.
Conversion As per **Section 259**, a summons case can be converted into a warrant case if the case relates to an offence that entails more than 6 months of imprisonment as punishment and the judge feels that in the interest of justice it the case should be tried as a warrant case.	A warrant case cannot be converted into a summons case.

It is important to note that the question whether a summons or a warrant should be

issued in the case is not related to whether the case is a summons case or a warrant case.

Compoundable and Non Compoundable Offences - Some offences largely affect only the victim and no considerable harm is considered to be done to the society. In such offences, if the offender and victim compromise, there is no need to waste court's time in conducting a trial. The process of reaching a compromise is called Compounding. Conceptually, such offences, in which a compromise can be done and a trial can be avoided, are called Compoundable offence. Rests of the offences are non-compoundable. Technically, offences classified as Compoundable by **Section 320** of Cr P C are compoundable. Section 320 specifies two kinds of Compoundable offences - one where permission of court is required before compounding can be done for example, voluntarily causing grievous hurt, Theft, criminal breach of trust, assault on a woman with intention to outrage her modesty, etc. and one where permission of the court is not required for example, causing hurt, adultery, defamation, etc. As per S. 320(3), if the abetment of an offence is an offence and if the offence is compoundable then abetment is also compoundable.

Only the person, who is specified in the classification tables in Section 320, has the right to compound the offence. The person is usually the victim. The offender cannot demand compounding as a right.

However, when an offender has been committed to trial or when he has been convicted and his appeal is pending, compounding can only be done with the leave of the court to which he is committed or to which the trial is pending. If an offender is liable for enhanced punishment or a different punishment on account of a previous conviction, compounding cannot be done. High Court and Court of Session may, under their power of revision in Section 401, can allow any person to compound any compoundable offence.

When an offence is compounded, it is equivalent to an acquittal.

Compoundable Offence Section 320	**Non Compoundable Offence**
Offences classified as compoundable by S. 320 of CrPC	Rest of the offences
Offence mostly affects a private party.	Private party as well as society both is considerably affected by

	the offence.
The victim and the offender may reach compromise with or without the permission of the court depending on the offence.	No compromise is allowed. Even court does not have the power to compound the offence.
Upon compromise, the offender is acquitted without any trial.	Full trial is held and acquittal or conviction is given as per the evidence.

In **Bhima Singh vs State of UP, AIR 1974, SC** held that when an offence is compoundable with the permission of the court, such permission may be granted by SC while an appeal is made against the conviction provided the parties have settled the matter amicably.

In **Ram Lal vs State of J&K, 1999, SC** held that when an offence is declared non-compoundable by law, it cannot be compounded even with the permission of the court. However, the court may take the compromise into account while delivering judgment.

The case of **B S Joshi vs State of Haryana, AIR 2003** is interesting in this regard. The case was about the matter related to Section 498A, which is non-compoundable offence. In this case, the parties reached a compromise but the High Court refused to quash the FIR, on the ground that the offence is non-compoundable. However, SC held that in the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code, such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulate and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised. It further observed that in this case, the parties were not asking for compounding the offence but for quashing the FIR. It observed that since because of the amicable settlement, there is no chance of conviction and in such a case the court has the power to quash the proceeding.

Information and Complaint

Information	Complaint
No legal definition. It is used in its regular English meaning.	As per **Section 2(d)**, a complaint means any allegation made orally or in writing to a magistrate, with a view to his taking action under this code (CrPC), that some person, whether known or unknown, has committed an offence, but does not include a police report.
No action from the magistrate is expected.	The purpose of complaint is that the magistrate takes action on it and provides relief.
No cognizance is taken.	Magistrate takes cognizance of the offence as per Section 190.
It may include information about commission of offences, apprehension about breach of peace, and presence of absconder and suspected persons to police officers or magistrate. Thus, information may not necessarily about an offence.	It is always about commission of an offence.

Sufficient grounds for commitment and Sufficient grounds for conviction

Sufficient grounds for commitment	Sufficient grounds for conviction
When a magistrate takes cognizance of an offence under Section 190 (upon receipt of a complaint or otherwise), he examines the complaint in accordance with Section 200 by examining the facts and the witnesses. If he finds that the complaint is with merits, the case is deemed committed for trial and the magistrate issues the process under Section 204. If the offence is exclusively triable by Court of	Upon holding the trial, if the court is satisfied with the evidence provided by the prosecutor that the accused is guilty of the alleged offence, he convicts the offender.

Session, the magistrate commits the case to Court of Session under Section 209.	
At this stage it is not considered whether the grounds are sufficient for conviction.	The evidence must prove the guilt of the accused without any doubt.

Discharge and Acquittal

Discharge	**Acquittal**
Session Trial As per **Section 227**, if, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.	**Session Trial** If after evaluating the evidence given by the prosecute, the judge considers that there is no evidence that the accused has committed the offence, the judge acquits the offender under **Section 232**. However, if the offender is not acquitted under Section 232, he is permitted to give his defense and evidence. After hearing the arguments of both the parties, the court may acquit of convict the person under **Section 235**.
Warrant Trial By Magistrate As per **Section 239**, if, upon considering the police report and the documents sent with it under section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.	**Warrant Trial By Magistrate** As per Section 248, if, in any case under this Chapter in which a charge has been framed, the Magistrate finds the accused not guilty, he shall record an order of acquittal.
Discharge does not mean that the accused has not committed the offence. It just means that	Acquittal means that the accused has been held innocent.

there is not enough evidence to proceed with the trial.	
If further evidence is gathered later on, the accused may be tried again.	The accused cannot be tried again for the same offence once he has been acquitted.

Cognizable offence and Non-cognizable offence

Cognizable offence	**Non Cognizable offence**
Defined in Section 2(c) - "cognizable offence" means an offence for which, and "cognizable case" means a case in which, a police officer may, in accordance with the First Schedule or under any other law for the time being in force, arrest without warrant. Examples - Murder, Dowry death, grevious hurt, theft.	Defined in Section 2(l) - "non-cognizable offence" means an offence for which, and "non-cognizable case" means a case in which, a police officer has no authority to arrest without warrant. Example - keeping a lottery office,voluntarily causing hurt, dishonest misappropriation of property.
Police has to record information about a cognizable offence in writing as per Section 154.	As per Section 155, Police has to enter information in register prescribed for it and refer the informant to a magistrate.
Police can start investigation without the order of a magistrate.	Police officer cannot investigate the case without the order of a magistrate.
In general, cognizable offences are of serious nature which involve imprisonment of more than three years. However, there is no such precise rule. To be cognizable, an offence must be declared so by the law defining that offence. Several offences which carry less prison term such as rioting (2 yrs) have been declared cognizable, while several with bigger prison term such as False Evidence (7 yrs) or Rape by a man with his	

own wife of not less than 12 yrs have been declared non-cognizable.	

First Information Report

The name FIR is given to the information given by any person about a cognizable offence and recorded by the police in accordance with **Section 154**. As per this section, every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf.

SC in the case of **State of Bombay vs Rusy Mistry, AIR 1960,** defined FIR as so - A FIR means the information, by whomsoever given, to the officer in charge of a police station in relation to the commission of a cognizable offence and which is first in point of time and on the strength of which the investigation into that offence is commenced.

Thus, FIR is nothing but information of the nature of a complaint or accusation about a cognizable offence given by any person to the police so that the police can start investigation. When a person reports any information about a cognizable offence to the police, the police is bound to register a case and proceed with investigation. However, for police to investigate the matter, the offence must be a cognizable offence. The police is not allowed to investigate a non-cognizable offence without an order from a magistrate. So, once the duty officer is certain that the offence alleged to have been committed is a cognizable offence, he directs the complainant to put his statement in writing. In the presence of the complainant, the duty officer shall complete all the columns in the FIR register with the information given by the complainant. He shall then read out all the contents of the FIR registered to the complainant. Once the complainant is certain that all the details

have been correctly written, he should sign the FIR.

FIR merely contains the facts of the offence as known by the informant. The FIR is a statement by the complainant of an alleged offence. The informant is not required to prove his allegations in any manner at the police station. It is the job of the police to ascertain facts, verify details and substantiate the charges or otherwise.

However, the facts must not be vague. The facts must divulge at least some concrete information about the offence committed. In case of **Tapinder Singh vs State, 1972**, SC held that when a telephone message did not disclose the names of the accused nor did it disclose the commission of a cognizable offence, it cannot be called a FIR.

In case of **State of UP vs R K Shrivastava, 1989**, SC held that if the allegations made in an FIR do not constitute a cognizable offence, the criminal proceeding instituted on the basis of the FIR should be quashed.

Sometimes multiple persons may report the same incident and in such situation the police must use commonsense and record one statement as FIR. Usually, the statement that contains enough information to allow the police to proceed with investigation is recorded as FIR.

Evidentiary Value of FIR

A FIR is not substantive evidence that is, it is not evidence of the facts which it mentions. However, it is very important since it conveys the earliest information about the occurrence of an offence and it can be used to corroborate the information under Section 157 of Indian Evidence Act or to contradict him under Section 145 of Indian Evidence Act, if the informant is called as a witness in a trial. It is considered that FIR has a better corroborative value if it is recorded before there is time and opportunity to embellish or before the memory of the information becomes hazy. There must be a reasonable cause for the delay. For example, in case of **Harpal Singh vs State of HP, 1981,** involving rape, the FIR was registered after 10 days. It was held that the delay was reasonable because it involved considerable matter of honor for the family and that required time for the family to decide whether to take the matter to court or not. As FIR can also be used

in cross examination of the informant.
However, if the FIR is made by the accused himself, it cannot be used against him because of Section 25 of Evidence act which forbids any confession made to the police to be used against the accused.

A FIR can also be used as a dying declaration under Section 32 of Indian Evidence Act.

Summary Trial
1. A kind of fast track proceeding where a case is resolved in one sitting.
2. Meant for petty offenses, to reduce the burden of court

S. 260 - When a case involving the following offenses comes to CJM, MM, and JMFC for hearing, they have the discretionary power to decide whether they want to try the case summarily or not. There are 9 such offences -
any offence that does not have death, life imprisonment or imprisonment of more than 2 yrs as punishment, theft, lurking house trespass, receiving stolen property, assisting in concealment of stolen property, abetment of the offences covered under this section, attempt of these offences.
If at any point in while trying the matter in this manner, if the court thinks that it is undesirable to try the case summarily, it shall recall any witnesses who may have been examined and proceed to re-hear the case in the manner provided in this code (i.e. as a summons trial or warrant trial)

S. 261 - High Court may give power to Judicial Magistrate Second class to try offences involving imprisonment of less than 6 months summarily.

S. 262 - Sentence of imprisonment of more than 3 months cannot be passed in a summary trial and the procedure adopted in a summary trial will be same as the procedure adopted in a Summons case except the following changes

S. 263 - The judge must record the following particulars in the prescribed format -

serial number of the case, date of offence, date of complaint, name of complainant, name, age, address, parentage of accused, offence complained and offence proved, plea of the accused and his examination, findings, sentence, and date of termination of the proceeding.

S. 264 - If the accused does not plead guilty, the judge must record the substance of the evidence and give reasons for the judgment.

S. 265 - Every such record and judgment shall be in the language of the court.