

**CrPC S. 190 - Magistrate, in exercise of its power under Section 190 Cr.P.C., can refuse to take cognizance if the material on record warrants so - The Magistrate must, in such a case, be satisfied that the complaint, case diary, statements of the witnesses recorded under Sections 161 and 164 Cr.P.C., if any, do not make out any offence - At this stage, the Magistrate performs a judicial function - However, he cannot appreciate the evidence on record and reach a conclusion as to which evidence is acceptable, or can be relied upon. Thus, at this stage appreciation of evidence is impermissible - The Magistrate is not competent to weigh the evidence and the balance of probability in the case.**

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