

Types of Trials in the Criminal Procedure Code, 1973

Introduction

The only best thing that is gifted to us by the Britishers is the "Law and Legal System". Especially the Criminal Justice system and the legislations. The Code of Criminal Procedure deals with various procedures in a criminal proceeding. One of which is the Trial system under Criminal Procedure Code.

What is Trial?

The word "**trial**" is not defined anywhere in the Criminal Procedure Code, however, it means a commonly understood stage of trial which begins **after framing the charge and ends with the conviction or acquittal**.

In simple words, trial can be defined as a formal examination of evidence by a judge, typically before a jury, in order to decide guilt in a case of criminal or civil proceedings.^[1]

Types of Trial in Indian Legal System

The trial of the accused in the Indian Criminal Law is divided through the punishments of the said committed offence. The Trial of the accused for the offence committed by him is divided into four types.

Session Trial– If the offence committed is punishable with more than seven years of imprisonment or Life imprisonment or Death, the trial is to be conducted in a Sessions court after being committed or forwarded to the court by a magistrate.^[2]

Warrant Trial– Warrant case includes offence punishable with the death penalty, imprisonment for life and imprisonment exceeding two years. A trial in a warrant case begins either by filing an FIR in a Police Station or by filing it before a Magistrate.^[3]

Summon Trial– If the offence committed is punishable with less than two years of imprisonment, it is taken as a summons case. In respect of this offence, it is

not necessary to frame charges. Summon is issued by the Magistrate to the accused under **section 204(1) (a)** of Cr.P.C, 1973. "Summon case" means a case relating to an offence, not being a warrant case. The procedure to deal with such matter provided in **section 251 to 259** of Cr.P.C, 1973 which is not as serious/formal as other trials (Session trial, warrant case instituted on the police report and warrant cases instituted otherwise than on police report).^[4]

Summary Trial– Those trials in which cases are disposed of speedily with a simple procedure to follow and recording of such trials are done summarily. In this trial only small cases are taken in hand and complicated cases are reserved for summon and warrant trials. Legal Provisions for summary trial are given under **Section 260-265** of Cr.P.C, 1973.

Legal Provisions for the Trials in Criminal Procedure Code

1. **Sec 225-237** deal with trial of warrant cases by a **Court of Session**.
2. **Sec 238-250** deal with trial of **warrant cases by magistrates**.
3. **Sections 251-259** provides procedure for **trial of summons cases by magistrates**.
4. **Sections 260-265** make provisions relating to **summary trials**.

Procedure in different types of Criminal Trials

Procedure of Court of Session in Criminal Trial

Chapter XVIII of Cr.P.C. starting with **Section 225** and ending with **section 237** deals with provisions governing the trial before a Court of Session.

The court of Sessions has to go through three stages of the Trial:

First stage of Trial

In the Court of Session, every trial is to be conducted by a Public Prosecutor (**Section 225**). The Court of Session is not only accountable in taking

cognizance of the offences under Section 199; it can also take cognizance of any matter pertaining to the offence of grievous nature. To be more clear and concise, the court of session is a court at District level providing its service only for more grave and serious matters. The accused is brought before the court for the proof of his guilt. The first and the foremost work of the prosecutor are to propose the evidence in the court to prove the guilt of the accused (**Section 226**).

*In **Banwari v. State of Uttar Pradesh**, their Lordships of the Supreme Court have also clearly observed that Section 239 lays down (see page 1201) that the Sessions Court has no power under the Code of Criminal Procedure to drop any charges under which the accused has been committed for trial. He can, in the exercise of the powers under Section 226 of the Code of Criminal Procedure, frame a charge, or add to or otherwise alter the charge as the case may be, in cases where a person is committed for trial without a charge or with an imperfect or erroneous charge.*^[5]

If after the consideration of the evidence and the submission of the accused, the judge considers that there is no sufficient ground for proceeding against the accused, he shall discharge the accused along with the reason for doing so (**Section 227**).

If in case after consideration the court believes that there is ground for presuming that the accused has committed an offence which is triable by the court then the court shall frame in writing a charge against the accused of the offence but if not exclusively triable by the court of session then after framing of charge, the case is transferred to Chief Judicial Magistrate or any Judicial Magistrate of the first class.

The framed charges are to be read aloud and clear in front of the accused with an easy understandable language and the accused is asked if he pleads guilty for the abovementioned charges or not (**Section 228**).

Second Stage Of Trial

If the accused is well versed with framed charges and pleads guilty for the same then the Judge shall record his plea and convict him but all depends on the discretion of the Judge. Under **Section 229**, the Judge has the power of discretion to convict the accused but it is desirable that the accused is not straight way convicted. The proper course would be to call upon the prosecution to prove its case by adducing evidence.

If the accused refuses to plead under section 229 then the Judge shall fix a date for prosecution examination of witnesses, production of any document etc (**Section 230**).

On the fixed date the Judge shall examine the witnesses, evidence may be produced in support of the prosecution.

Third Stage of Trial

If after examining the accused and evidence given by the Prosecution, the Judge considers that there is no evidence that the accused committed the offence; the Judge shall acquit the accused (**Section 232**).

If the evidence given by the prosecution clearly justify the court in framing of charges and denial of acquittal of the accused then the defense counsel shall adduce evidence in support of his client. Even accused can apply for the issue of any process for the attendance of any witness or the production of any document or thing but it should not give a wrong impression to the court of defeating the ends of Justice (**Section 233**).

After hearing both sides, when the issue arises for giving a Closing statement that **Section 314** of the Act apply and the Closing statement is given by defense under **Section 234** and under **Section 235** by the prosecution side.

By keeping in mind all the evidence the judge should make the final Judgment.

Procedure in Warrant Trial

Chapter XIX of Cr.P.C starting with **Section 238** and ending with **Section 250** deals with the provisions governing the warrant trial.

For the trial of warrants cases by Magistrate, procedures are prescribed. One is adopted by Magistrate in cases instituted on police reports, (Sections 238 to 243 Cr.P.C. and 248 to 250 of Cr.P.C.) and other is for cases instituted otherwise than police reports. (Sections 244 to 247 of Cr.P.C. and 248 to 250, 275 Cr.P.C.)

Police case

First stage of trial

With the compliance of Section 207, the magistrate must satisfy himself that he has been supplied with all the necessary documents with charge sheet (**Section 238**). If after consideration of the charge sheet filed under Section 173, the magistrate considers the charge against the accused to be groundless, he shall discharge the accused and record the reasons for such discharge (**Section 239**). If in case the magistrate is of the opinion that the accused is triable then charges shall be framed against the accused (**Section 240**).

In the case of the State of U.P. vs. Lakshmi Brahman in the context of duty of Magistrate at the stage of commitment. The Court considered the nature of duty lying upon the magistrate with regard to observance of Section 207 Cr.P.C. and it said that the duty cast on the Magistrate by Section 207 has to be performed in a judicial manner. ^[6]

Second stage of trial

After framing a charge under **Section 240**, the Magistrate has to prove under Sec **242** Cr.P.C and under subsection (3) of that Section the Magistrate is bound to proceed to take all such evidence as may be produced in support of the prosecution. This provision and the provisions in subsection (1) and (2) of **Section 243**, CrPC are mandatory. The Provisions of **Section 243** applies both to cases instituted under Police report and Private complaint.

In the case of Vijay Raj vs State of Rajasthan, the procedure to be followed after the accused is called upon to enter his defense, is the same in both the cases instituted upon a police report and those instituted otherwise than on police report. ^[7]

In the case of P.Saravanan vs State Represented by the Inspector of Police, it is pertinent to note that the recording of the plea of guilty both in a warrant case and in a sessions case, under Section 241 under Section 229 of Cr.P.C., as the case may be, case only often, the charge has been read out to the accused. The charge must be specific, unambiguous, very clear and the admission by the accused must be unambiguous and unqualified unconditional. ^[8]

Private Complaint

First stage of trial

If the case is instituted on a private complaint and the accused is brought before the magistrate the prosecution must satisfy itself with all the evidence produced and can issue a summon to any of its witnesses directing him to attend or to produce any document **(Section 244)**. After taking all the evidence under Section 244 if the magistrate finds it suitable to discharge the accused at any previous stage of the case considers his charges to be groundless **(Section 245)**.

Second stage of trial

As per **Section 247** the defense counsel shall produce his evidence to support the accused. If at the framed charges against the accused the magistrate finds him not guilty then an order of acquittal shall be released.

On the off chance that any case is organized on the objection to judge or to Police official or a blamed individual is introduced before the justice and officer finds that there is no ground against denounced individual then he will be released quickly by the judge, the individual who did the protest will be called to give clarification of why he ought not pay add up to the individual against whom blamed charges were made.

*In the case of **Narpat Singh vs Anr.**, as a matter of fact attributing uncharitable remarks and initiation of proceedings under Section 250 Cr.P.C against the petitioners are in gross violation of principles of natural justice. Therefore, the impugned action is per se vulnerable on this count also. It is also noteworthy that registration of case against the accused persons by the petitioners and thereafter carrying out investigation was pursuant to an order of the Court under Section 156(3) Cr.P.C.^[9]*

Procedure in summon trial

Chapter XX of Cr.P.C starting with **Section 252** and ending with **Section 259** deals with the provisions governing the Summon trial.

First stage of trial

On the appearance of the accused in front of the magistrate, the particulars of the offence for which he is accused must be stated to him and ask him whether he pleads guilty for the same offences that he is charged with **(Section 251)**.

Where the summon has been issued to the accused under **Section 206** and he, therefore, pleads guilty for the same without appearing in front of the magistrate,

he shall transmit to the magistrate by post or through messenger. He shall also specify about the fine in summons but in case the accused does not accept his plea of guilty then magistrate shall with his discretionary powers sentence him to pay fine specified in his summons (**Section 253**).

In the case of ***Biru Ram vs Ishar Singh & onr.***, sub-section (2) of Section 253 of Criminal Procedure Code, provides that nothing in this **Section** shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless. [\[10\]](#)

Procedure when not convicted Under Section 252 or Section 203- Then in such a case a magistrate shall hear the prosecution and take the evidence as may be produced in support of the prosecution or shall issue summons to any witness directing him to attend or to produce any document or other thing.

Second Stage of trial

Acquittal or Conviction- If the magistrate is satisfied that the accused is guilty of the charges framed then the magistrate may convict the accused under Section 252 or Section 255 and where the magistrate upon taking evidence under section 254 and further evidence find accused not guilty under the framed charges then he shall record an order of acquittal of the accused.

Withdrawal of complaint- Before the final order is passed, if the complainant satisfies the magistrate that there are sufficient grounds for him to withdraw his complaint against the accused, and then the magistrate may permit him to withdraw the same (**Section 257**).

Power of court to convert summon cases in warrant cases- In the trial of summon case with an offence punishable for a term exceeding six months, if the magistrate in the sake of interest of justice may convert the summon case into a warrant case by following the procedure of the warrant case and a rehearing of the case in the manner provided in the code (Section 259).

Procedure of Summary trial

Chapter XXI of Cr.P.C starting with **Section 260** and ending with **Section 265L** deals with the provisions governing the Summon trial.

The foremost objective of the Summary trial is to dispose of the cases speedily.

Procedure to be followed- The procedure to be followed under summary trial is same as the procedure specified for summons trial (**Section 262**).

If a sentence of fine not exceeding two hundred rupees has been passed then no chance of appeal be given.

In every case of summary trial if the accused doesn't plead guilty then the magistrate shall record the substance of the evidence and the judgment that is delivered must also contain a brief statement of the reason for coming in a particular finding (**Section 264**).

Section 265 emphasizes that every such record i.e. the particulars mentioned in **Section 263**, and the substance of evidence and judgment must be recorded in the language of the Court.

Shivaji Sampat Jagtap vs. Rajan Hiralal Arora the Hon'ble Bombay High Court observed that, "the succeeding Magistrate, however in a case, the procedure contemplated under **section 263 and 264** of the Code in particular has not been followed, he need not hold a trial de novo", and the view was upheld in **J.V.Baharuni vs. State of Gujarat 2015**.[\[111\]](#)