

Appeal, Reference, and Revision Under the Cr.P.C.

An appeal, Reference, and Revision are under the inherent rights bestowed on every citizen of the country. This is the right to be heard. [Article 21 of the Indian Constitution](#) provides that every person is entitled to the right to personal liberty as prescribed under the law.

As such, no one should be deprived of this right except where there is a criminal case against such an individual who is found guilty and confined to imprisonment. In such instance, the person has a right to appeal against the decision of the court for an acquittal or a discharge. Appeal only lies from a lower court to a higher court.

The purpose of this Article is to expand on the terms Appeal, Reference, and Revision under the [Criminal Procedure Code](#) and characterize the difference between the three, especially under the Code.

In lay terms, **Appeal is defined as an application of plea that is brought to a higher court to review the decision of the lower court.** Such application comes as a legal proceeding and cannot be made to the court on the same level as the trial court but to a higher court.

For instance, an aggrieved person can file an appeal against the decision of the Magistrate Court to the High Court of the State, he or she can file an appeal against the decision of a High Court to the Court of Appeal, and likewise to the Supreme Court. The decision of the Supreme Court is final and there is no appeal afterward.

Under the Code, **sections 372 – 394** govern Appeal. Each of these sections shall be considered accordingly. But before diving into it, it is pertinent to note that an appeal in criminal cases may either be to overturn the decision of the lower court or to affirm the decision and lower the sentence or conviction.

In this case, the aggrieved person has been convicted of an offense but the lower court failed to impose the required sentence prescribed by the law for such an offense. Thus, only a person affected or aggrieved by a decision of the court may appeal against such decision.

Section 372 of the [Criminal Procedure Code, 1973](#) stipulates that appeal shall only lie from the lower court to the higher court if it is provided for in the Code.

Section 374 provides from appeals from the court convictions. It stipulates that appeal shall lie from the High Court to the Supreme Court for convictions. An appeal also can lie from a Court of Sessions to the High Court for a conviction that is more seven (7) years.

An appeal shall lie from the Magistrate Court to the Session in certain cases provided under **section 325**.

Section 375 stipulates that there shall not be any appeal in any case where the accused pleaded guilty and was convicted on that plea especially if the conviction is by a High Court, Magistrate Court or Court of Sessions except if the appeal bothers on the legality or extent of the conviction or sentence.

Section 376 adds that there shall be no appeal for petty cases. Petty cases are offenses that are treated as simple offenses or misdemeanour. Instances of petty cases are conviction by the High Court for a term of imprisonment not exceeding six (6) months or a fine not exceeding 1000 rupees.

Also, a conviction by the Metropolitan Magistrate for a term of not more than three (3) months or a fine of not more than 200 rupees; and, a conviction by the Magistrate for a fine, not more than 100 – 200 rupees.

Section 377 covers appeal by the State government on the sentence or conviction that bothers on the ground of inadequacy.

Section 378 covers appeal in cases of acquittal. In such instance, the cases can only be entertained or heard with the leave of the court.

Guiding principles for appeals

In **Chandrappa vs the State of Karnataka**, the Appellate court laid down the guiding principles for appeals against acquittals. The principles are as follows:

- i. Where the fact of the case is obviously wrong and has warranted a miscarriage of justice. In this instance, an appeal can be held on the acquittal. This principle was established in **Bhagirath case**, 35 CR LJ 1367.
- ii. In an instance where the trial court failed to draw a clear distinction between an unquestionable inference from the facts of the case. Example, **Raothula** 40 CR LJ 458.
- iii. Where the trial court overlooked important evidence in adjudicating the case which results in a wrong decision or a miscarriage of justice. Example, **Dharnadas**, A1960 SC 734.
- iv. When the facts of the case tendered were erroneously rejected as evidence by the trial court. An instance is **Dhulaji**, A1963G 234.

Section 379 provides for an appeal against the sentence or conviction of the High Court in cases such as:

- A life imprisonment
- An imprisonment for ten (10) years or more
- A death sentences

In such instances, an appeal shall lie directly to the Supreme Court.

Other sections pertaining to Appeal not discussed are the stipulations and provisions of the procedures and timeline for appeal by an aggrieved person to various courts.

Reference in lay terms is a consultation of various sources of information from the trial court. Reference is simply an application made by the trial court to a higher court for the explanation of an Act, Legislation, and Regulation pertaining to the case at hand.

As such, there will be a thorough examination of the Laws to find out if there is a misunderstanding or a misapplication or a reevaluation of the facts of the case in tandem with the application of the law. Reference is covered under **Chapter XXX** particularly **sections 395 – 396 of the [Criminal Procedure Code](#)**.

Section 395 defines a Reference as where there is a case before a trial court and such case involves a question pertaining to the validity of a Regulation, Ordinance or Act or any provisions of the Regulations, Ordinance or Act, which is necessary for the determination of the criminal case. Such Act, Regulations or Ordinance may be inoperative or invalid but a higher court such as the Supreme Court or the High Court has not declared it so.

As such, the lower court or the trial court will refer to the higher court for its reason or opinion. Such opinion or reason may form the basis of the Court's decision. In such instance, the accused may be committed to prison or set on bail pending the return of the reason or opinion by the higher court.

Section 396 of the [Criminal Procedure Code](#) covers for the party that may bear the cost when the reason or opinion sought for on point of law is returned back to the trial court. Also, it stipulates on how the pending case is determined subject to the return of such opinion or reason by the trial court.

Revision in simple terms is to correct or alter a decision already made. It is a two-way traffic. That is, a decision of the court can be revised by the trial or lower court or by the higher or supreme court. The main aim of both sides is to revise, alter, correct, review the decision already made by the trial court.

The power to revise a decision by the higher court is discretionary and as such, it does not confer or impose on the higher court an order to revise every decision brought before it. In the case of **Pranab Kumar v. the State of WB**, the Supreme Court was of the view that revision powers are not a conferred right on the litigants.

It is put in the code to serve as a check and also to ensure that the High Court has the power to see that justice is served in accordance with the rules and laws. Revision ensures that the court does not abuse its powers or exceed its jurisdiction provided for by the Code.

For instance, **section 362 of the [Criminal Procedure Code](#)** provides that no court has the right to review or alter its final judgment or final order or final decision once it has been signed. The only exception is to correct a clerical, arithmetic or grammatical error.

Therefore, the power to review may vest in the superior court but the power to revise rests on the lower court. The power to review or revised cannot be exercised when there is a pending appeal on the case in a higher court.

Revision is covered under **Chapter XXX, sections 397 – 402 of the Code**. The Sections provides as follows:

Section 397 – the Court has the power to call for the record of proceedings of its court or any inferior courts.

Section 398 – Upon examining the record of proceedings, the Judge has the right to order for an inquiry into the decision of a case.

Sections 399 – 400 – the Session Judge have the power to revise a decision and he or she can call additional session judges for the revision of the decision.

Section 401 – the High Court has the power to revise the cases before it or before the inferior or lower courts.

Section 402 – the High Court also has the power to transfer or withdraw the revision cases before it.

Appeal	Reference	Revision
It is under Chapter XXIX of the Criminal Procedure Code	It is under Chapter XXX of the Criminal Procedure Code	It is under Chapter XXX of the Criminal Procedure Code
It is covered in sections 372 – 394 of the Code	It is covered in sections 395 – 396 of the Code	It is covered in sections 397 – 402 of the Code
An Appeal lies to the higher court on points of facts and law.	Reference lies to the higher court on points of law.	Revision lies to both the lower court and the higher court on already adjudicated matters.
Appeal Starts upon the determination of the case.	Reference occurs while the matter is still pending in court.	Revision starts under the final judgment or final order or final decision of the court.
An Appeal is to plea or petition against the decision passed by the lower court.	Reference is to consult the higher court on insolate or invalid Laws, Acts, Regulations or Ordinance pertaining to the case at hand.	Revision is to revise, review, alter or amend a grammatical, clerical or arithmetical error by the trial court or a higher court.
An Appeal can be filed by an aggrieved person or the accused with the leave of the court in certain cases.	Reference is initiated by the trial court to the higher court.	Revision can be initiated by either the trial court suo moto or by the higher court.

An appeal, Reference, and Revision are different terms in law that all serve the same purpose, that is, to ensure that justice is served.

An Appeal may avail an aggrieved person or an accused the opportunity to petition his or her case to the higher court while reference is to consult the higher court on points of law pertaining to a pending case. Revision, on the other hand, is a review or alteration of an error made after the final judgment has been delivered.