

Execution, Suspension, Remission & Commutation of Sentences

Introduction

Enforcement of sentences is governed by Chapter 32 of the Criminal Procedure Code, 1973. When awarding sentences, judges have broad discretion within the statutory limits. Consequently, each judge exercises their own judgment, and the sentences they hand down are based on their individual assessment. Sentences can vary in how they are carried out, with several factors influencing the execution of sentences. There are constitutional and statutory provisions that allow for the suspension, remission, or commutation of sentences imposed on convicts. Under the Indian Constitution of 1950, Articles 72 and 161 empower the governor and the president to grant pardons or commute sentences. This authority is wielded by the head of the state. The executive can demonstrate clemency toward convicts through remission, suspension, or commutation of sentences. The primary objective is to consider certain aspects of a case that may not have arisen during the court proceedings. Thus, the court has discretion in determining the terms of a sentence for a convict.

In the case of **State of M.P. v. Bablu Natt**, the Supreme Court articulated that “the principles governing the imposition of punishment would depend on the facts and circumstances of each case. An offense that affects the morale of society should be dealt with severely.”

Categories of Sentences

Capital Punishment

According to Section 366 of the CrPC, 1973, a session judge cannot carry out a death sentence without the High Court's confirmation, while the convict remains in jail. Subsequently, the High Court reviews the case under Section 388 and can:

- Confirm the sentence issued by the Session Court.
- Annul the conviction and convict the accused on the same charges as those in the Session Court.
- Acquit the person if the time for appeal has not yet lapsed or if the appeal has been disposed of.

In the influential case of Attorney General of India v. Lachma Devi, it was held that the “public hanging as a means of executing the death sentence is unconstitutional and inhumane.”

Execution of a Death Sentence Confirmed by the High Court

Under Section 414 of the CrPC, if the High Court pronounces a death sentence on appeal or in revision, the Session Court must carry out the order by issuing a warrant.

Postponing Execution of a Death Sentence Pending Supreme Court Appeal

Under Section 415 of the CrPC, if a person has been sentenced to death by the High Court and the case has been sent for appeal in the Supreme Court under Article 134 of the Indian Constitution, the execution may be postponed. This postponement is allowed until the appeal is disposed of or until the time for filing such an appeal has lapsed.

When a death sentence is confirmed or issued by the High Court, the sentenced individual may apply to the High Court for a certificate under Article 132 or 134 of the Indian Constitution, 1950. In such cases, the High Court may order the postponement of the sentence's execution until the time it considers reasonable for the individual to file the appeal.

Postponing Capital Punishment for Pregnant Women

Under Section 416 of the CrPC, if a person sentenced to death is found to be pregnant, the High Court must commute the sentence to life imprisonment.

In the case of *Panchhi v. State of U.P.*, the commutation of a pregnant woman's death sentence to life imprisonment was deemed improper, as pregnancy alone is not a sufficient ground for commutation.

Imprisonment

The State Government holds the authority to determine the place of imprisonment for anyone convicted under the CrPC, 1973.

Determining the Place of Imprisonment

As per Section 417 of the CrPC, when a person is sentenced under the provisions of the CrPC and is confined to jail, the magistrate of the court ordering the sentence must direct the person to be transferred to a criminal jail. If a person was transferred from a civil jail to a criminal jail, they will only be sent back to the civil jail under specific circumstances. These circumstances include either three years having passed since the transfer to the criminal jail, or an order for the payment of expenses or compensation out of the fine under Section 357 of the CrPC, 1973, issued by the court that ordered the imprisonment in the civil jail.

Execution of Imprisonment Sentences

Section 418 of the CrPC, 1973 addresses the execution of sentences of imprisonment for life or other terms mentioned in Section 413. The court that passes the sentence must forward a warrant to the jail or place where the convict is confined. It is worth noting that when a person is sentenced to be confined until the rising of the court, there is no need to forward a warrant to the jail, and the person shall be confined according to the court's directions.

If the accused is not present in court when sentenced to such imprisonment, the court will issue an arrest warrant for the person, and their sentence will commence on the date of arrest.

Levying Fines

Warrants for the Levy of Fines

Under Section 421 of the CrPC, when an offender has been sentenced to pay a fine, the amount can be recovered by issuing a warrant that allows for the attachment and sale of any movable property owned by the offender. Alternatively, a warrant may be issued to the Collector of the district, ordering them to collect the amount as arrears of land revenue from the offender's property.

It should be noted that if the sentence specifies imprisonment in case of default, and the offender has already undergone such imprisonment for non-payment of the fine, the court will not issue the warrants unless special circumstances are present, which must be recorded in writing, or if there is an order for the payment of expenses or compensation out of the fine under Section 357 of the CrPC, 1973.

Suspension of Imprisonment Execution in the Case of Fine Default

Under Section 424 of the CrPC, if a person has been sentenced to pay a fine and faces imprisonment in case of default, the court can suspend the

execution of the imprisonment sentence. In such cases, the court may release the offender, provided that they provide a bond with sureties for the payment of the fine or its instalments. If the offender fails to furnish the fine on the specified date for an instalment, the court will order the execution of the imprisonment immediately.

Warrant Issuing Authority

As per Section 425 of the CrPC, every warrant for the execution of a sentence can be issued by the Judge or Magistrate who pronounced the sentence or by their successor in office.

Sentences for Escaped Convicts

Section 426 of the CrPC states that when a sentence of death, life imprisonment, or a fine is imposed under this code on an escaped convict, the execution of the sentence takes effect immediately.

When a sentence of imprisonment is imposed on an escaped convict, the following scenarios apply:

- If the new sentence is more severe than the previous one, the new sentence takes effect immediately.
- If the new sentence is less severe than the previous one, the convict must serve the remainder of the sentence from which they escaped.
- The sentence of rigorous imprisonment is considered more severe than a sentence of simple imprisonment.

Sentences for Offenders Already Sentenced for Another Offence

When a person is convicted and subsequently convicted for another offense, they must commence the previous punishment before serving the subsequent sentence. However, the court may order the subsequent sentence

to run concurrently. It is essential to note that where a person has been sentenced under Section 122 of the CrPC, 1973, due to non-furnishing of security while undergoing such a sentence, and then sentenced to imprisonment for the offense committed before the issuance of such order, the latter sentence commences immediately.

The case of State of Karnataka v. M.S. Bokkasad exemplifies that when a person is already serving a life imprisonment sentence and is subsequently sentenced to a term of life imprisonment, both sentences run concurrently.

Offsetting Detention Period Against Imprisonment Sentence

If the accused is serving a sentence and has been sentenced to imprisonment for a term other than defaulting on a fine, the period of detention during the investigation, trial, or inquiry of the same case before the conviction date will be set off against the term of imprisonment. The case of Jeevan Singh v. State of Maharashtra clarifies that an accused sentenced to imprisonment must serve the remaining term if they fail to furnish the fine by the specified date for an installment.

Returning the Warrant Upon Sentence Execution

When a sentence has been fully executed, the officer responsible for execution must return the warrant to the court that issued it. The warrant must be undersigned by the respective officer, and it should specify the method of execution.

Collection of Money Ordered to Be Paid as Fine

If money (other than a fine) is payable based on an order under the CrPC, and the code does not specify the method of recovery, it should be collected as if were a fine.

Conclusion

In conclusion, the judiciary imposes sentences on offenders, and these sentences can be executed, remitted, or suspended by the executive authority. The Criminal Procedure Code, 1973, contains provisions that empower the President and Governor of the state to modify offenders' sentences. Execution involves the implementation of death, life imprisonment, or the imposition of fines. Remission and suspension are mechanisms for reducing the duration of a sentence or postponing it without altering the sentence's length. Special provisions exist for pregnant women to prevent capital punishment. Warrants are issued in the name of the offender to the jail's officer-in-charge. The CrPC, 1973, contains distinct provisions for lawbreakers in various situations.

Case laws on Execution, Suspension, Remission & Commutation of Sentences

Case Name	Key Points
Attorney General of India v. Lachma Devi (1986)	- Public hanging as a means of executing the death sentence is unconstitutional and inhumane.
Panchhi v. State of U.P. (1998)	- Commutation of a pregnant woman's death sentence to life imprisonment on the grounds of pregnancy was considered improper. Pregnancy alone is not a sufficient ground for commutation.
Ishwar Bhai Hirabhai Churana v. State of Gujarat	- Section 418 of CrPC was held to be mandatory, and the court has a duty to ensure that the sentence is executed; otherwise, the accused may avoid it.
State of Karnataka v. M.S. Bokkasad (1976)	- When a person is already serving a life imprisonment sentence and is subsequently sentenced to a term of

Case Name	Key Points
	life imprisonment, both sentences shall run concurrently.
Jeevan Singh v. State of Maharashtra (1977)	- The period of detention undergone by the accused during the investigation, trial, or inquiry before the conviction date should be set off against the term of imprisonment. The accused's liability to undergo imprisonment is restricted to the remaining term.