

Session Trial | 10 Oct 2023

Introduction

The word 'Trial' is not defined under the Code of Criminal Procedure, 1973 (CrPC). However, it is commonly understood that **the stage of trial begins after the framing of charge and ends with conviction or acquittal of the accused.**

It is the judicial adjudication of a person's guilt or innocence. Also, we can say that it is an important process to determine whether the accused is guilty of an offence or not.

Object and Scope

A trial's main objective is to provide a fair opportunity for an accused person to conduct a fair trial according to the principle of natural justice. The trial must be fair, just, and it should not be unreasonable.

Parties to Trial

- There are two parties involved in a criminal trial namely:
 - The prosecutor representing the State.
 - The accused is defended by the counsel
- **India follows the adversarial system, where generally the onus of proof is on the State (Prosecution)** to prove the case against the accused, and until and unless the allegation against the accused is proved **beyond reasonable doubt**, the accused is presumed to be innocent.
 - In certain exceptional cases, which may relate to terrorism, etc., the onus of proof has been put on the accused person.

Initiation of Trial

- The judicial function of the court begins as soon as the Public Prosecutor opens his case and produces documents in support of his case.
- Hearing arguments and considering documents produced by a party in the presence of the accused is the exercise of a judicial function, and once that is done the trial begins.

Types of Trial

- Under the CrPC, trials have been categorized as:
 - **Session Trial (Chapter XVIII, Section 225 to 237)**
 - Warrant Trial (Chapter XIX, Section 238 to 250)
 - Summons Trial (Chapter XX, Section 251 to 259)
 - Summary Trial (Chapter XXI, Section 260 to 265)

Trial before a Court of Session

- **About**
 - **Chapter XVIII from Section 225 to 237** has been prescribed under the CrPC for the trial before the **Court of Session**.
 - The offences that will be **tried by the which specific court** are provided under The **First Schedule of CrPC**.
 - In cases where the crimes carry penalty of death, life imprisonment, or imprisonment exceeding seven years, the trial takes place in a Sessions Court after Magistrate takes cognizance and commits it to Session Court.

Procedure of Trial in Court of Session

Once the Police Report is filed, competent magistrate takes cognizance of the case and if it is found that the case is triable by the Court of Session then it is committed to it under Section 209 of CrPC. The Session Trial is contained under Section 225 – 237 which are enumerated as follows:

Section -225. Trial to be conducted by Public Prosecutor.

Section -226. Opening case for prosecution.

Section - 227. Discharge.

Section - 228. Framing of charge.

Section - 229. Conviction on plea of guilty.

Section -230. Date for prosecution evidence.

Section - 231. Evidence for prosecution.

Section - 232. Acquittal.

Section - 233. Entering upon defence.

Section - 234. Arguments.

Section - 235. Judgment of acquittal or conviction.

Section - 236. Previous conviction.

Section -237. Procedure in cases instituted under section 199(2).

- **Trial to be Conducted by Public Prosecutor** - As per **Section 225** of CrPC, in every trial, a Court of Session, the prosecution shall be conducted by a Public Prosecutor.
- **Opening Case of Prosecution** - **Section 226** mentions that when the accused appears or is brought before the Court in pursuance of a commitment of the case under Section 209, the prosecutor shall open his case by describing the charge brought against the accused and stating by what evidence he proposes to prove the guilt of the accused.
 - **Section 209** - Commitment of case to Court of Session when offence is triable exclusively by it.
- **Discharge of Accused** - As per **Section 227** of the Code, after considering the record of the case, and after hearing the submission of the parties, if the court considers that there is no sufficient ground for proceeding against the accused, it shall discharge him and record its reasons for doing so.
 - In **State of Orissa v. Debendra Nath Padhi (2004)**, it was held by the Supreme Court (SC) that Section 227 was incorporated to save the accused from prolonged harassment which is a necessary concomitant of a protracted criminal trial.
- **Framing of Charge** - As per **Section 228(1)** of CrPC, after considering the record of the case and after hearing the parties, if the Judge considers that there is ground for presuming that the accused has committed an offence which is exclusively triable by the Session Court, that court shall frame in writing charges against the accused.
 - Also, as per **Section 228(2)** of the Code, the charge shall be read and explained to the accused and the accused shall be asked whether he pleads guilty of the offence charged or claimed to be tried.
 - In the case of **Dinesh Tiwari v. Uttar Pradesh and another (2014)**, SC held that as said that the Judge is not required to record detailed reasons for framing charge under Section 228 if there are sufficient grounds to presume that the accused has committed the offence.
- **Conviction on Plea of Guilty** - As per **Section 229** of CrPC, if the accused pleads guilty, the Judge shall record the plea and may, in his discretion, convict him thereon.
 - **Plead Guilty** – It means to take responsibility for or to confess to a crime that one has committed.
- **Date for Prosecution Evidence** - As per **Section 230** of the Code, if the accused refuses to plead guilty or does not plead guilty, or claims to be tried, or is not convicted despite pleading guilty, the Judge must fix a date for examination of witnesses.
- On the application of the prosecution, the judge may also issue any process for compelling the attendance of any witness or the production of any document, etc.
- In **Public Prosecutor v. Sambhaji (1965)**, that it is the duty of the Court to take all necessary steps to compel the attendance of witnesses.

- **Evidence for Prosecution** - As per **Section 231(1)** of the Code, on the date fixed under Section 230, the Court shall proceed to take all such evidence as may be produced in support of the prosecution.
 - According to **Section 231(2)** of CrPC, the court may permit the cross examination of any witness to be deferred until any other witness has been examined or recall any witness for further cross examination.
 - In **Habeeb Mohammad v. State of Hyderabad (1953)**, SC held that it is the duty of the prosecution to examine all material witnesses essential for unfolding the prosecution story, whether in the result the effect of that testimony is for or against the case for the prosecution.
- **Acquittal of Accused** - As per **Section 232** of CrPC, after taking the evidence for the prosecution and examining the accused, the court shall hear the parties (prosecution and defence) and then if it considers that there is no evidence that the accused committed the offence, it shall record an order acquitting him.
- **Evidence for the Defence** - As per **Section 233(1)** of CrPC, if the accused is not acquitted, he shall be called upon to enter on his defense and adduce any evidence in support of his defense.
 - According to **Section 233(2)** of CrPC, if the accused submits any written statement, the judge shall file it with the record.
 - As per **Section 233(3)** of CrPC, if the accused applies for the issue of any process for compelling the attendance of any witness or production of any document/thing, the judge shall issue such process unless he considers reasons to be recorded, that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of Justice.
- **Arguments - Section 234** of the Code directs that after the evidence for the defence is concluded it is for the **prosecution to sum up the case**, and then the defence is entitled to reply.
 - Provided that where any point of law is raised by the accused or his pleader, the prosecution may, with the permission of the Judge, make his submission with regard to such point of law.
- **Judgement** - As per **Section 235 (1)** of CrPC, after hearing arguments and points of law if any, the judge shall give a judgement in the case.
- **Previous Conviction – Section 236 CrPC** provides that in a situation where a person is accused of a previous conviction according to a specific law provided under sub-section 7 of section 211, and the accused denies having that previous conviction, the Judge can decide to hear evidence about this alleged prior conviction after the accused has already been found guilty under section 229 or section 235.
 - However, before the accused is convicted under section 229 or section 235, the Judge should not mention or ask the accused about the previous conviction, and the prosecution should also not bring it up during the trial.
 - It's only after the accused is found guilty of the current charges that the issue of the alleged previous conviction will be addressed.
- **Cases instituted under Section 199(2) - Section 237 of CrPC** provides that when a **Court of Session** decides to consider a case related to an offence mentioned in sub-section (2) of section 199, it should conduct the trial following the procedures used for cases that begin with a warrant and are not initiated through a police report, as is typically done in Magistrate Courts.

Concept of Fair Trial

- The **major objective of CrPC is to provide for fair trial** in the administration of criminal justice, therefore all the provisions of the Code are attuned to this goal.
 - A fair trial refers to a legal proceeding in which all parties involved are afforded equal and just treatment, ensuring that the process is conducted impartially and without bias
- The concept of fair trial is a fundamental principle in every Judicial system and this concept of fair trial ensures justice. A trial in criminal jurisprudence is a judicial examination or determination of the issues at the hands of the Court to arrive at a conclusion whether the accused is guilty of the offence or not.
- The following elements influence in determining the fairness of a trial:
 - Presumption of innocence of accused
 - Right of accused to have a proper defence
 - Right to legal aid
- Impartial Judiciary
 - Right against self-incrimination

- Right to speedy trial
- Right against double jeopardy

Conclusion

- All persons must be treated equally before the court. Everyone shall be entitled to a fair trial by an impartial court established by law. The basic goal of any criminal justice system is to ensure that citizens receive a fair and impartial trial. Consequently, the trial process has been categorized taking into account the gravity of the offences. This approach aims to achieve a fair distribution of justice while preventing the higher courts from becoming overwhelmed by handling less severe violations