

DISPOSAL OF CRIMINAL CASES WITHOUT FULL TRIAL

from :

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In general the case shall end after conducting full pledged trial it ends with acquittal or conviction but there are circumstances where the case shall end without conducting trial, the below given are certain provisions incorporated in the Code of Criminal Procedure :

When Criminal proceedings barred by limitation of time:

If the accused raises the preliminary plea that the criminal proceedings against him are barred by the limitation of time as prescribed under law then the proceedings must be stopped if the cognizance was taken after the lapse of limitation period as contemplated under section 468 of Cr.P.C.

Section 468: Bar to taking cognizance after lapse of the period of limitation.

(1) Except as otherwise provided elsewhere in this Code, no Court, shall take cognizance of an offence of the category specified in sub-section (2), after the expiry of the period of limitation.

(2) The period of limitation shall be—

(a) six months, if the offence is punishable with fine only;

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

(d) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment.

Autrefois acquit and autrefois convict:

If the accused raises a plea that he was earlier tried for the same offence and was convicted or acquitted of the same and that according to the principle of autrefois convict or autrefois acquit he cannot be tried again. If the principles laid down under Section 300 of Cr.P.C are satisfied then the proceedings are barred. The above said principle has been recognized as a fundamental right in the Constitution.

300. Person once convicted or acquitted not to be tried for same offence.

(1) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under sub-section (1) of section 221, or for which he might have been convicted under sub-section (2) thereof.

(2) A person acquitted or convicted of any offence may be afterwards tried, with the consent of the State Government for any distinct offence for which a separate charge might have been made against him at the former trial under sub-section (1) of section 220.

(3) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last- mentioned offence, if the consequences had not happened or were not known to the Court to have happened, at the time when he was convicted.

(4) A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(5) A person discharged under section 258 shall not be tried again for the same offence except with the consent of the Court by which he was discharged or of any other Court to which the first-mentioned Court is subordinate.

(6) Nothing in this section shall affect the provisions of section 26 of the General Clauses Act, 1897 (10 of 1897) or of section 188 of this Code.

Explanation—The dismissal of a complaint, or the discharge of the accused, is not an acquittal for the purposes of this section.

Discharge of Accused:

When the magistrate considers the charge against the Accused is groundless, after recording reasons the accused can be discharged under Section 239 of Criminal Procedure Code.

239. When accused shall be discharged -

If, upon considering the police report and the documents sent with it under section 173 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.

Conditional pardon to an accomplice:

The criminal proceedings against an accused person come to an end if he is given pardon in accordance with the provisions of Sections 306 and 307.

Section 306 : Tender of pardon to accomplice.

(1) With a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to an offence to which this section applies, the Chief Judicial Magistrate or a Metropolitan Magistrate at any stage of the investigation or inquiry into, or the trial of, the offence, and the Magistrate of the first class inquiring into or trying the offence, at any, stage of the inquiry or trial, may tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof.

(2) This section applies to—

(a) any offence triable exclusively by the Court of Session or by the Court of a Special Judge appointed under the Criminal Law Amendment Act, 1952 (46 of 1952).

(b) any offence punishable with imprisonment which may extend to seven years or with a more severe sentence.

(3) Every Magistrate who tenders a pardon under sub-section (1) shall record—

(a) his reasons for so doing;
(b) whether the tender was or was not accepted by the person to whom it was made, and shall, on application made by the accused, furnish him with a copy of such record free of cost.

(4) Every person accepting a tender of pardon made under sub-section (1)—

(a) shall be examined as a witness in the Court of the Magistrate taking cognizance of the offence and in the subsequent trial, if any;

(b) shall, unless he is already on bail, be detained in custody until the termination of the trial.

(5) Where a person has accepted a tender of pardon made under sub-section (1) and has been examined under sub-section (4), the Magistrate taking cognizance of the offence shall, without making any further inquiry in case.—

(a) commit it for trial—

(i) to the Court of Session if the offence is triable exclusively by that Court or if the Magistrate taking cognizance is the Chief Judicial Magistrate;

(ii) to a Court of Special Judge appointed under the Criminal Law Amendment Act 1952 (46 of 1952), if the offence is triable exclusively by that Court;

(b) in any other case, make over the case to the Chief Judicial Magistrate who shall try the case himself.

Section 307 : Power to direct tender of pardon.

At any time after commitment of a case but before judgment is passed, the Court to which the commitment is made may, with a view to obtaining at the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender a pardon on the same condition to such person.

Absence or non-appearance of complainant:

In a warrant case which is instituted upon a complaint, and on any day fixed for hearing of the case, if the complainant is absent and the offence may be lawfully compounded or is not a cognizable offence, the magistrate may in his discretion at any time before the charge has been framed, can discharge the accused. (Sec.249)

In a summons case which is instituted upon a complaint, if the complainant does not appear on any day fixed for hearing of the case or any subsequent day, then the magistrate has wide discretion either to acquit the accused or adjourn the hearing of the case or may dispense with the attendance of the complainant and proceed with the case.

Section :249 Absence of complainant -

When the proceedings have been instituted upon complaint, and on any day fixed for the hearing of the case, the complainant is absent, and the offence may be lawfully compounded or is not a cognizable offence, the Magistrate may, in his discretion, notwithstanding anything hereinbefore contained, at any time before the charge has been framed, discharge the accused.

Withdrawal by prosecution:

The Public Prosecutor or Assistant Public Prosecutor in charge of a case may, with the consent of the Court, at any time before the judgment is pronounced, withdraw from the prosecution of any person either generally or in respect of any one or more of the offences for which the accused is tried.

Such offence must be in the nature as provided under Section.321 of the code.

Section 321: Withdrawal from prosecution The Public Prosecutor or Assistant Public Prosecutor in charge of a case may, with the consent of the Court at any time before the judgment is pronounced, withdraw from the prosecution of any person either generally or in respect of any one or more of the offences for which he is tried; and upon such withdrawal,—

(a) If it is made before a charge has been framed, the accused shall be discharged in respect of such offence or offences;

(b) if it is made after a charge has been framed, or when under this Code no charge is required he shall be acquitted in respect of such offence or offences:

Provided that where such offence—

(i) was against any law relating to a matter to which the executive power of the Union extends, or

(ii) was investigated by the Delhi Special Police Establishment under the Delhi Special Police Establishment Act, 1946 (25 of 1946), or

(iii) involved the misappropriation or destruction of, or damage to, any property belonging to the Central Government, or

(iv) was committed by a person in the service of the Central Government while acting or purporting to act in the discharge of his official duty, and the prosecutor in charge of the case has not been appointed by the Central Government he shall not, unless he has been permitted by the Central Government to do so, move the Court for its consent to withdraw from the prosecution and the Court shall, before according consent, direct the Prosecutor to produce before it the permission granted by the Central Government to withdraw from the prosecution.

Withdrawal by complainant:

In a trial of a summons case initiated on a private complaint, if the complainant at any time before a final order is passed satisfies the magistrate that there are sufficient grounds for permitting him to withdraw his complaint against the accused, then the magistrate may permit him to withdraw the same, and shall thereupon acquit the accused. (Sec.257 Cr.P.C). In a trial of a warrant case initiated on a private complaint, the complainant has no power to withdraw the complaint. The only provision which may have some relevance in this connection is Section 224 of the code.

Section : 257 Withdrawal of complaint -

If a complainant, at any time before a final order is passed in any case under this Chapter, satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint against the accused, or if there be more than one accused, against all or any of them, the Magistrate may permit him to withdraw the same, and shall thereupon acquit the accused against whom the complaint is so withdrawn.

Compounding of offences:

Where the offences are essentially of a private nature and relatively not quite serious, the Code considers it expedient to recognize some of them as compoundable offences and some others as compoundable only with the permission of the court. **Section 320** of the code deals with compoundability of offence.

Power of court to stop proceedings in certain cases:

In any summons case instituted otherwise than upon complaint, a magistrate of the first class, or any other judicial magistrate with the previous sanction of the Chief Judicial Magistrate, may stop the proceedings at any stage without pronouncing any judgment. While stopping the proceedings the magistrate shall record reasons for doing so. (Sec.258)

Section : 258 Power to stop proceedings in certain cases -

In any summons-case instituted otherwise than upon complaint, a Magistrate of the first class or, with the previous sanction of the Chief Judicial Magistrate, any other Judicial Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment and where such stoppage of proceedings is made after the evidence of the principal witnesses has been recorded, pronounce a judgment of acquittal, and in any other case release, the accused, and such release shall have the effect of discharge.

Abatement of proceedings on the death of the accused:

The ultimate object of the criminal proceedings is to punish the accused on his conviction of any offence. Therefore, the criminal proceedings abate on the death of the accused, as their continuance thereafter will be infructuous and meaningless. This position being self evident the Code has not made any specific provision in this regard.

Conclusion

Above discussed provisions are concern with disposal of the cases without conducting trial. But to do the justice to the victim who suffered loss due to the act done to her/him by the accused the fair trial shall be conducted and after that the court comes to one conclusion and finds the facts to acquit or convict the accused.