

## DISPOSAL OF CASES WITHOUT TRIAL

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The Code of Criminal Procedure, 1973 is a procedural law providing the mechanism in which manner the criminal trials are to be conducted on the basis of substantive criminal law i.e., IPC and other criminal statutes. The Primary object of criminal justice system is to ensure that the trial must be fair

Normally, once the cognizance has been taken, the case proceeds and after full trial, either results in conviction or acquittal. Before that, discharge of the accused can also be made in some circumstances as per Section 256 of Code of Criminal Procedure in summons case.

We all know that there are different procedures for trial prescribed in Code of Criminal Procedure basing on gravity of the offence alleged against the culprits. The code of criminal procedure provides for four types of trial procedure. They are[1] trial before a court of Sessions, [2] trial warrant cases by Magistrates, [3] trial of summons cases by Magistrates, and [4] summary trials. Both the trial before the court of sessions and warrant cases by Magistrates are tried under the procedure of warrant cases and the remaining two are tried in a summons cases trial.

Under different circumstances, the criminal cases can be disposed of without trial.

### (1) **Criminal proceedings barred by limitation:**

When the accused appears or is brought before the court, he can raise the preliminary object that the criminal proceedings against him are barred by limitation under Section 468, Cr.P.C.:

### (2) **Compounding of offences:**

Section 320(1) specifies the offences, which can be compounded without the permission of the Court. These offences are mostly of a minor nature viz injuring religious feelings S. 298, causing hurt - Section 323 and 324, wrongfully restraining or confining any person - Section 341 and 342, assault or use of criminal force. Sections 352, 355 and 358 mischief.

Sections 426 and 427 criminal trespass and house trespass Sections 447, 448, criminal breach of contract of service - Sec. 491, Adultery. Section 497, enticing taking away or detaining with criminal intent a married women - Sections 498, defamation - Section 500, 501 and 502, insult intended to provoke breach of the peace - Section 504, criminal intimidation except when the offence is punishable with imprisonment for 7 years. Section 506, act caused by making a person to believe that he will be an object of divine displeasure Section 508 of Indian Penal Code, 1860.

Section 320 (2) of Criminal Procedure Code give the list of offences, which can be compounded with the permission of court only. These offences are mostly of the same nature as described in sub-section (1), but in graver form like causing grievous hurt by dangerous weapon - Section 324,325,335, causing hurt by rash and negligent act - Sections 337 and 338. Wrongfully confining a person for more than 3 or 10 days or in a secret place - Section 343, 344 and 346, assault or criminal force to woman with an intent to outrage her modesty. Section 354, assault or criminal force in attempting wrongfully to confine a person - 357, theft - section 379, 381 dishonest misappropriation of property - section 403, criminal breach of trust - Section 406, 407 and 408, dishonestly receiving the stolen property or assisting disposal of the stolen property. Sections 411 and 414, cheating - Sections 417, 418, 419, 420, 421, 422, 423 and 424, Mischief by killing or maiming animal. Sections 428, 429 and 430, House Trespass to commute an offence punishable with imprisonment. Section 451, use of false or counterfeited trade Mark or property - Sections 482, 483 and 486, Bigamy - Section 498, defamation of person like president, vice president. Governor etc. Section 500, altering words or making gestures to insult modesty of woman - Section 509 of the Indian Penal Code, 1860.'

### 03. **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.

**Section 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.

The Code of Criminal Procedure contemplates discharge of the accused by the Court of Session under Section 227 in case triable by it, cases instituted upon a police report are covered by Section 239 and cases instituted otherwise than on police report are dealt with in Section 245. The three Sections contain somewhat different provisions in regard to discharge of the accused. Under Section 227 the trial Judge is required to discharge the accused if he considers that there is not sufficient ground for proceeding against the accused. Obligation to discharge the accused under Section 239 arises when "the Magistrate considers the charge against the accused to be groundless." The power to discharge is exercisable under Section 245(1) when "the Magistrate considers, for reasons to be recorded, that no case against the accused has been made out which, if unrebutted, would warrant his conviction.... The stage for discharge under Section 245, on the other hand, is reached only after the evidence referred to in Section 244 has been taken.

04. **Conditional pardon to an accomplice (Section 306 and 307, Cr.PC)**

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.

05. **Absence or non-appearance of complainant (Section 249 Cr.PC)**

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.

06. **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.

07. **Withdrawal from prosecution (Section 321 Cr.PC)**

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:

08. **Withdrawal by complainant (Section 257, Cr.PC)**

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.

09 **Autrefois acquit and autrefois convict (Person once convicted or acquitted not to be tried for same offence as per Section 300 Cr.PC):**

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.

10. **Power of court to stop proceedings in certain cases (Section 258 Cr.PC)**

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.

11. **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:**

Disposal of a case without trial not only saves time but also in certain cases helps in restoring harmony that cannot be achieved by conducting a full fledged trial.

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