

TRIAL ON SUMMON CASE-A CRITICAL STUDY

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Abstract

This paper discuss concerning the idea of trial on summon cases by the official, that deals concerning the procedure followed by the judicial official within the trial of summon cases. there's no distinction within the procedure between path of summons cases instituted on personal complaints and trial of summons cases instituted on police charge-sheets. Summons-case suggests that a case about AN offence, and not being a warrant-case. Warrant-case suggests that a case about AN offence that is punishable with: death, imprisonment for keeps or imprisonment for a term extraordinary 2 years. In summon case the suspect if taken to the official he must manufacture all the documents required and he has been asked to simply accept his plea or to require defense. When in a summons cases the accused appears or is brought before the Magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked whether he pleads guilty or has any defence to make, but it shall not be necessary to frame a formal charge. It is necessary that the accused should have a clear statement made to him as to the particulars of the offence of which he is charged. An accused may not be convicted even on his admission of guilt if the prosecution report does not make out an offence under a

statute. This analysis paper deals concerning the procedures followed by the official in trial on summon case and provisions about the trial on summon case.

Key words: Trial, summons, case, warrant, Arrest, Offence.

Aim of Study

- To study about the trial on summon case by magistrate.
- To make a study about the procedures followed by the magistrate in summon case trial.

Material and methods

The study is collected from national and international journals, books and publications from various websites which give importance to the trial on summon cases.

Sources of study:

The researcher has referred books, research articles, unpublished thesis and e-sources as a part of secondary sources for the writing of the project.

Limitations:

The researcher is unable to trace the primary sources needed to write about the topic as the topic demands research in the archives which is not available to the research as admission to the government archives is not allowed.

Introduction

The Criminal Procedure Code of 1973 is, as is clearly indicated by its title, a comprehensive enactment egg laying down the law with reference to criminal procedure. however it's value mentioning that the code isn't a pure adjective law of procedure; there square measure some provisions in it that take the character of substantive law. as an example, chapters VIII, X and XI that deals with 'prevention of offences' and chapter IX that deals with 'maintenance of proceedings'. As per the Code, criminal trials will be divided into 3 classes namely: warrant cases, summons cases and outline trials. the main target of this text shall be summons cases

The term “summons cases” has been outlined, during a negative sense, below Section 2(w) of the CrPC as “a case with reference to associate degree offence, not being a warrant case”. On the opposite hand, a “warrant case” suggests that a case with reference to associate degree offence punishable with death, imprisonment always or imprisonment for a term not less than 2 years.

The two definitions, thus, result in the conclusion that the premise of classification between summons case and warrant cases is that the seriousness of the offence. This classification becomes applicable whereas determinant the sort of trial procedure to be adopted during a case. The trial procedure provided for summons cases is barren of a lot of formality and item as in warrant cases since the previous is comparatively less serious in nature. Chapter XX (Ss. 251-259) of the Criminal Procedure Code delineates the procedure for trial of summons cases.

The following are the stages to be followed in respect of procedure relating to the trial of summons case:

1. Substance of accusation to be stated to the accused

When in a very summons cases the defendant sees or is brought before the jurist, the particulars of the offence of that he's defendant shall be expressed to him, and he shall be asked whether or not he pleads guilty or has any defence to form, however it shall not be necessary to border a proper charge. It's necessary that the defendant ought to have a transparent statement created to him on the particulars of the offence of that he's charged. Associate in Nursing defendant might not be guilty even on his admission of guilt if the prosecution report doesn't decipher Associate in Nursing offence below a statute.

2. Conviction on plea of guilty

If the defendant pleads guilty, the justice shall record the plea as nearly as attainable within the words utilized by the defendant and should, in his discretion convict him on it. If the defendant admits some or all of the facts alleged by the prosecution however pleads “not guilty”, the court is guaranteed to proceed per law by examining the witnesses of prosecution and defence.

3. Conviction on plea of guilty in absence of accused in petty cases

Section 253 of CrPC provides a good less complicated procedure for doing away with petty cases while not the presence of suspect within the court. wherever the suspect needs to plead guilty while not showing within the court, the suspect is meant to send Rs.1000/- by post or through a counselor-at-law to the adjudicator. The adjudicator will on his discretion convict the suspect.

4. Procedure when not convicted by the Magistrate

If the judge doesn't convict the suspect underneath Section 252 or Section 253, the judge shall proceed to listen to the prosecution and take all proof as could also be created in support of the prosecution, and conjointly to listen to the suspect and take all such proof as he produces in his defence.

The judge might, on the applying of the prosecution, issue summons to any witness guiding him to attend or turn out proof. The judge is certain to examine all the witnesses and he's not authorized to limit the quantity of witnesses.

The judge might, before conjure any witness on such application, need that the affordable expenses of the witness incurred in attending for the needs of trial be deposited in court.

5. Acquittal or conviction

If the official once considering proof finds the defendant acquitted, he shall record associate order of final decision. He may additionally conceive to unleash the bad person once admonition, or on probation of excellent conduct once underneath Section 360, or underneath Probation of bad person Act,1958 once considering the character of offence, character of bad person and circumstances of the case. A official could convict the defendant of any offence (amenable to the trial in an exceedingly summons case) that from the facts admitted or evidenced the defendant seems to own committed. this will solely be done if the official is happy that it might not prejudice the defendant.

If the official, whereas discharging or acquitting the defendant, thinks that there was no cheap ground for creating accusation against the defendant person, he could decision upon the person creating such accusation to point out cause on why he shouldn't pay compensation to the defendant person once that the official could, for reasons to be

recorded, build associate order fixing the compensation to be paid by such person to the defendant.

6. The court can convert a summons case into a warrant case

Section 259 of the CrPC provides that if within the course of the trial of a summons case regarding AN offence punishable with imprisonment surpassing six months, it seems to the adjudicator that within the interests of justice, the offence ought to be tried in accordance with the procedure for trial of warrant cases, he could proceed to re-hear the case within the manner provided by the Code for the trial of warrant cases {and could and should and will} even recall any witness United Nations agency may be examined.

The words “re-hear the case” indicate that the adjudicator ought to start the proceedings from the beginning or First State novo.

Trial of summons cases

There is no distinction within the procedure between path of summons cases instituted on personal complaints and trial of summons cases instituted on police charge-sheets.

The only purpose wherever there's divergence between the 2 categories of cases was that in summons cases instituted on police charge- sheet, the official ought to see that copies of documents mentioned in Section 207 square measure stocked with to the suspect as before long as he seems or is made before the Court, and also the same isn't any additional sensible follow, as currently the suspect person/persons square measure entitled to the Copies no matter categorisation.

When the suspect seems or is brought before the Court he ought to initial of all be questioned with relation to the contents of the grievance or the charge- sheet and he ought to be asked whether or not he pleads guilty or not. [Section 251].

If the suspect pleads guilty he might right away be guilty and sentenced beneath Section 252. If he doesn't plead guilty the case ought to be adjourned to a different date for the examination of the P.W.s.

After the P.W.s square measure examined the suspect ought to be questioned usually with relation to their proof. If the suspect cites any D.W.s or needs to allow proof himself, their proof ought to even be recorded and arguments ought to be detected. thenceforth a judgment of conviction or final decision follows. [Section 255].

When a prosecution is instituted for a petty offence which may be disposed of summarily, the official problems summons to the suspect leading him to look before the Court or to transmit by post or by a courier to the Court his plea of guilty if he needs to admit the offence.

The summons ought to additionally mention that if the suspect pleads guilty the desired quantity of fine not prodigious Rs. 100/- may be obligatory. [Section 206] If the official follows this procedure he might work the plea of guilty transmitted to the Court by the suspect even through post and convict and sentence him tho' the suspect isn't in person gift within the Court. [Section 253] A petty offence is one that is punishable solely with fine not prodigious Rs. 1,000/- .The procedure beneath Section 206 might also be followed within the case of offences falling beneath motorized vehicles Act.

Procedure followed by the magistrate in trial on summon case

Section 251 of the Code of Criminal Procedure provides that once, in a very summons-case, the defendant seems or is brought before the jurist, the particulars of the offence of that he's defendant should be equipped to him, and he should be asked whether or not he pleads guilty, or has any defence to create. However, in such cases, it's not necessary to border a proper charge against the defendant. all the sa/me, the provisions of the Code rega/rding joinder to charg/es and joint trials would apply to the tria/l of summons- case.

If the defendant pleads guilty, the jurist should record his plea as nearly as attainable within the words utilized by the defendant himself, and may, in his discretion, conv/ict hi/m on su/ch a plea. Thus, though Associate in Nursing defendant pleads guilty, the jurist isn't absolute to convict him, if he thinks it necessary to possess proof of his guilt.

If summons has been issued underneath S. 206 (namely, in cases of petty offences), and therefore the defendant wishes to plead guilty to the charge while not showing before the jurist, he should transmit to the jurist, by post or traveller, a letter containing his plea and conjointly the quantity of fine laid out in the summons.

On receiving a plea of guilty from the defendant, the jurist could, in his discretion, convict the defendant in his absence, and sentence him to pay the fine laid out in the summons. wherever a advocate authorised by the defendant pleads guilty on behalf of the defendant, the jurist should record the plea as early as attainable within the words of the advocate, and May, in his discretion, convict the defendant on such plea, and sentence him as explicit on top of.

If, however, the jurist doesn't convict the defendant as on top of, he should proceed to listen to the prosecution, and take all such proof as is also created in support of the prosecution, and conjointly hear the defendant and take all such proof as is also created by him in his defence.

On Associate in Nursing application by the prosecution or the defendant, the jurist could, if he thinks work, issue a summons to any witness, directive him to attend or to provide any document or alternative factor. Before conjuring any such witness, the jurist could need that the cheap expenses of such witness in attending the trial be deposited within the Court.

After taking all the proof, if the jurist finds that the defendant isn't guilty, he should record Associate in Nursing order of final decision.

If, on the opposite hand, he finds the defendant guilty, he should pass a sentence on him in line with law, unless the jurist submits the complete proceedings to the Chief Judicial jurist, on the bottom that he cannot pass a sentence that is sufficiently severe within the circumstances, or if once conviction, the jurist orders the defendant to be free on probation or once admonition.

It is conjointly specifically only if a jurist could convict the defendant of any offence which may be tried underneath this Chapter, that from the facts admitted or verified, he seems to possess committed, no matter is also the character of the criticism or summons, if he's happy that the defendant wouldn't be prejudiced thereby. (S. 255)

Trial before Magistrates Court Summons triable

Sections 251 to 259 of CrPC, 1973 visit the procedure for trial before Magistrates Court for Summons triable offences.

Section 251: Substance of the accusation to be stated: within the 1st hearing, once the suspect seems or is brought before the justice, the justice would state the particulars of the offence of that he's suspect, and would raise him whether or not he pleads guilty or has any

defense to form. In Summons triable offences, formal charges don't seem to be framed like in Warrant triable offences.

Section 252: Conviction on plea of guilty: If the suspect pleads guilty, the justice would record the plea as nearly as doable within the words employed by the suspect and should, in his discretion convict him on that.

Section 253: Conviction on plea of guilty in absence of suspect in petty cases: In offences involving penalization by approach of fine upto Rs.1000/- solely, the justice might issue a summons u/s 206 stating in this that if the suspect needs to plead guilty to the charge while not showing before the justice, he shall transmit to the justice, by post or by courier, a letter containing his plea and additionally the number of fine per the summons; or if he needs to seem by counsellor and to plead guilty to the charge through such counsellor, to authorize, in writing, the counsellor to plead guilty to the charge on his behalf and to pay the fine through such counsellor. For the needs of this section, "petty offence" means that any offence punishable solely with fine not prodigious one thousand rupees, however doesn't embrace any offence thus punishable beneath the motorized vehicles Act, 1939 (4 of 1939) 103 , or beneath the other law that provides for convicting the suspect person in his absence on a plea of guilty.

Section 254: Procedure once not convicted: If the justice doesn't convict the suspect beneath section 252 or section 253, the justice then would proceed to listen to the prosecution case and would proceed to require all such proof as is also created by the prosecution in support of their case. The justice might, if he thinks work, on the appliance of the prosecution or the suspect, issue a summons to any witness directional him to attend or to supply any document or different factor. A justice might, before conjury any witness on such application, need that the affordable expenses of the witness incurred in attending for the needs of the trial be deposited in Court.

Section 255: final decision or conviction: If the justice, upon taking the proof named in section 254 and such any proof, if any, as he may, of his own motion, cause to be created, finds the suspect clean-handed, he would record associate order of final decision. If the justice finds the suspect guilty, and just in case the justice doesn't proceed in accordance with the provisions of section 325 or section 360, he would pass the sentence upon the suspect in step with law. The

provisions of Sections 325 and 360 are declared hereunder. A justice might, beneath section 252 or section 255, convict the suspect of any offence triable beneath this Chapter, that from the facts admitted or tried, he seems to possess committed, no matter is also the character of the criticism or summons, if the justice is happy that the suspect wouldn't be prejudiced there by.

Section 256: Non-appearance or death of litigant

(1) If the summons has been issued on criticism, and on the day appointed for the looks of the suspect, or any day resultant to it to that the hearing is also adjourned, the litigant doesn't seem, the justice shall, even so something hereinbefore contained, acquit the suspect, unless for a few reason he thinks it correct to adjourn the hearing of the case to another day:

(2) Provided that wherever the litigant is painted by a counsellor or by the officer conducting the prosecution or wherever the justice is of opinion that the non-public attending of the litigant isn't necessary, the justice might dispense together with his attending and proceed with the case.

(3) The provisions of sub-section (1) shall, up to now as is also, apply additionally to cases wherever the non-appearance of the litigant is thanks to his death.

Section 257: Withdrawal of complaint: If a litigant, at any time before a final order is passed in any case beneath this Chapter, satisfies the justice that there are comfortable grounds for allowing him to withdraw his criticism against the suspect, or if there be over one suspect, against all or any of them, the justice might allow him to withdraw a similar, and shall with that acquit the suspect against whom the criticism is thus withdrawn.

Section 258: Power to prevent proceedings in bound cases: In any summons-case instituted otherwise than upon criticism, a justice of the primary category or, with the previous sanction of the Chief Judicial justice, the other Judicial justice, may, for reasons to be recorded by him, stop the proceedings at any stage while not saying any judgment and wherever such stoppage of proceedings is formed when the proof of the principal witnesses has been recorded, pronounce a judgment of final decision, and in the other case, unharness the suspect, and such unharness shall have the impact of discharge.

Section 259: Power of Court to convert summons-cases into warrant cases: once within the course of the trial of a summons-case concerning associate offence punishable with

imprisonment for a term prodigious six months, it seems to the justice that within the interests of justice, the offence ought to be tried in accordance with the procedure for the trial of warrant-cases, such justice might proceed to re-hear the case within the manner provided by this Code for the trial of warrant-cases {and might|and should|and will} recall any witness UN agency may are examined.

Conclusion

I conclude by spoken communication that summons-case means that a case regarding Associate in Nursing offence, and not being a warrant-case. Warrant-case means that a case regarding Associate in Nursing offence that is punishable with: death, imprisonment for keeps or imprisonment for a term olympian 2 years. it's been aforesaid within the provisions that if the suspect has been inactive for his plea, he has got to settle for his plea or has got to defend him. justice of the primary category has the ability to transfer summon case into warrant case. If the suspect pleads guilty justice has got to record the plea within the words of the suspect and on his discretion will convict him for the offence. If the suspect isn't gift before tha justice, if he pleads guilty by the justice then he shall by the post to the justice, in letter stating his plea and fine fixed by the court for his offence has got to be sent.

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