

All about General Provisions of CrPC as to Inquiries and Trial.

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General provisions as to Inquiries and Trial

Introduction

Inquiries and trial are simply two out of the various stages in the due course of deciding a case of criminal nature. They are both defined as under the **Code of Criminal Procedure, 1973**. The Chapter **XXIV** deals with the **general provisions as to inquiries and trials**.

An Inquiry is either done by a magistrate or by the court. It is not to be done by police officials. Inquiry is different from Investigation.

Inquiry according to the Code includes every inquiry other than a trial conducted under this Code, by a Magistrate or court. It relates to proceedings of Magistrates prior to trial. [Section 2 (g)]

Section 159 of the Code empowers a Magistrate on receipt of a police report under Section 157, Cr.P.C. to hold a preliminary inquiry in order to ascertain whether an offence has been committed and, if so, whether any persons should be put upon their trial.

The cases which are triable by the court of sessions, the commencement of proceedings takes place before a Magistrate, which are in the nature of an inquiry preparatory to sending the accused to take his trial before the Court of Session.

The Magistrate in such cases is bound to either discharge the accused or commit him for trial, but he has no power to declare an accused either guilty or innocent of the offence with which he is charged.

An inquiry is also by a Magistrate in cases triable by himself under S. 202 of the Code. On a complaint being filed before a Magistrate, he examines the complainant and the witnesses on oath in order to find out whether there is any matter which calls for investigation by a criminal court.

The Magistrate may not act on the complaint and dismiss it if he distrusts the statements of the complainant and the witnesses and the result of the 'investigation or inquiry does not establish sufficient ground for proceeding. All these proceedings are in the nature of inquiry.

Investigation:

“Investigation”, according to the Code, includes all proceedings under it for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf. [Section 2 (h)].

Investigation consists of steps taken by a police officer other than a Magistrate to ascertain whether any offence has been committed at all and, if so, by whom and what is the evidence on which the prosecution can be based. Investigation can also be made by a person specially authorized by a Magistrate to do so. The case is only started if investigation by the police reveals that an offence has been committed by the accused, otherwise not.

Trial:

The term “trial” has not been defined in the Code. It is the examination and determination of a cause by a judicial tribunal which has jurisdiction over it. It is a judicial proceeding which ends in conviction or acquittal but not discharge.

In a warrant case the trial begins with the framing of the charge when the accused is called upon to plead thereto : but in a summons case, as if is not necessary to frame a formal charge, the ‘trial’ starts when the accused is brought before the Magistrate and the particulars of the offence are stated to him. In a case exclusively triable by a court of session the trial begins only after the committal proceedings by the Magistrate. The term “trial” includes appeal and revision, which are a continuation of the first ‘trial’.

The function of a court in a criminal trial is to find out whether the person arraigned before it as the accused’ is guilty of the offence with which he is charged. For this purpose it scans the material on record to find whether there is any reliable and trustworthy evidence on the basis of which it is possible to found the conviction of the accused and to hold that he is guilty of the offence with which he is charged.

Harchand Singh v. State of Haryana, 1975 (1) S.C.J. 102,

Investigation, Inquiry and Trial distinguished:

Inquiry is the second stage which is conducted by a Magistrate for the purpose of committing the accused to sessions or discharging him when no case has been made out. In case of complaints made to a Magistrate, it refers to a preliminary inquiry made by him under Section 202 to ascertain the truth or falsehood of the complaint or whether there is any matter which calls for investigation by a criminal court.

The final stage of the case comes when the accused is put on trial before the Sessions Judge or the Magistrate when he is empowered by law to try the cases himself.

Inquiry is viable in determination of truth or falsehood of certain allegations in order to take any further action according to law. It may involve examination of witnesses or inspection of the locale.

Trial, on the other hand, is what actually determines the accused person's innocence or guilt in the court of law. We can say that **Trial begins where Inquiry ends.**

Q 1. Which act covers the general provisions as to Inquiries and Trial?

The chapter XXIV of Code of Criminal Procedure, 1973, covers these general provisions.

Q 2. What are the relevant sections?

The chapter XXIV talks about general provisions as to Inquiries and Trial, under sections **300-327.**

Q 3. What is the purpose of Inquiries?

It is the assessment of truth by any person appointed by the Magistrate or the Magistrate himself.

Q 4. List the types of Inquiry.

Types of Inquiry are as follows –

Judicial

Non Judicial/ Administrative

Preliminary

Local

Inquiry into offence

Inquiry into matter other than the offence.

Q 5. Give a brief description of the difference between inquiry, investigation and trial.

Investigation, inquiry and trial are three different stages of a criminal case. The case is first investigated by the police to ascertain whether an offence has actually been committed and if so, by whom and the nature of evidence available for the prosecution.

Q 6. Differentiate between investigation and inquiry

- **INQUIRY –**

1. Inquiry is a process which is brought in motion for the purpose of clearing a doubt, enhancing knowledge or finding a solution to a problem
2. An inquiry shall be conducted by a Magistrate or Court.
3. The object of an Inquiry is to determine the truth.
4. An Inquiry is a Judicial proceeding.

- **INVESTIGATION –**

1. Investigation is a formal process to get to facts and truth.
2. Investigation is conducted by a Police Officer or any person other than a Magistrate or Court.
3. The main object of an investigation is the collection of evidence.
4. An Investigation is an executive proceeding.

Q 7. What are the types of Trials? Give relevant sections for the same.

There are basically three types of trials –

Trials by court of session

Trials by magistrates (can be summon cases or warrant cases)

Summary trials

Sec 225-237 deal with warrant cases by a court of Session.

Sec 238-250 deal with warrant cases by magistrates.

Sec 251-259 provides procedure for trial of summons cases by magistrates.

Sec 260-265 make provisions relating to summary trials.

Q 8. Which section talks about the Principle of Double Trial?

The sec 300 under CrPC 1973, talks about the principle of double trial. It says that the accused cannot be tried for the same offence, twice.

Q 9. Can the Accused be a competent witness?

An accused person brought to the court can act as a competent witness for the defence when examined on oath.

Q 10. Who entails the power to summon material witnesses?

The Magistrate possesses the power to summon material witnesses. He also has the power to examine the witnesses present or so summoned.

Q 11. What do you understand by Compounding of Offences?

Compounding of offences tells us the different persons who is capable to compound certain offences under IPC . for eg – the person who is the owner of a certain property stolen only can compound the offence of theft against the accused.

Q 12. What is Withdrawal from Prosecution?

The sec 321 of this code provides for certain cases wherein the Public Prosecutor, with the consent of the court and any time before passing of the judgment, can withdraw any person wholly or partially accused.