BLOGS

Notes on Stages of Criminal Proceeding in India

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Edit TABLE OF CONTENTS Introduction Pre-Trial Stage Trial Stage Post-Trial Stage Conclusion

Introduction

The Code of Civil Procedure, 1973 governs the procedure concerned with criminal proceedings in general, along with the Indian Evidence Act, 1872, both of which are procedural laws. The Indian Penal Code, 1860 contains the substantial law involved in a criminal proceeding. The entire proceedings can be categorized into three stages, namely the pre-trial stage, trial stage and post-trial stage. It is not necessary that a criminal case has to go through all three stages mandatorily. For instance, a case can get dismissed in the pre-trial stage itself.

Each of the three sections will be examined in detail in this article.

Pre-Trial Stage

A criminal suit is instituted by way of a First Information Report (FIR) under **Section 154** of the CrPC or a complaint on the commission of an offence. In the pre-trial stage, at first, it has to be distinguished if the offence is cognizable or non-cognizable. If the offence is cognizable, then FIR has to be filed by Police. If the Police refuse to file FIR, then a criminal complaint can be filed to the Magistrate, who in turn will order the Police to register the FIR. Once a FIR is registered against the accused for a cognizable offence, the accused can apply for anticipatory bail or file an application for quashing the FIR before the Court.

After FIR is registered, chargesheet has to be filed under **Section 173** by the Police after investigation. If the Court is of the view that there is reasonable ground for initiating trial, then processes are issued and accused is mandated to appear. If the accused fails to appear, then he is declared absconder and evidence is recorded under **Section 299 of CrPC**.

If the offence is non-cognizable, then a complaint can be filed to the appropriate authority. The accused person can be released on bail in case of non-cognizable offence, if arrested. The

procedure to be followed while making an arrest has been laid down in the landmark case of ***D.K. Basu v. State of West Bengal (1997).***

The Magistrate sends the complaint to the Police Station under **Section 156 (3)** for registration of FIR. The Magistrate can also conduct an inquiry under **Section 200**. After the Magistrate's inquiry, there are three possibilities.

- Firstly, the case can be dismissed under Section 204(4) for default.
- Secondly, the case can be dismissed under Section 203.
- Thirdly, the Court can take cognizance and issue summons under Section 204. If the accused fails to appear, then like in case of cognizable offence, here too, he is declared as an absconder, and evidence is recorded.

Trial Stage

On filing of chargesheet and issuance of processes, in case of a cognizable offence, if the accused appears, then there two possibilities. The case can be discharged or charges can be framed. If the accused pleads guilty, then he is convicted on the plea of guilt. However, if the accused does not plead guilty, then prosecution can take evidence, accused can be examined and his statement can be recorded under **Section 313**, after which defence side evidence is taken. After both side evidence is completed, arguments happen, and judgement is pronounced.

When the accused appears after issue of summons in a summons trial, that is, a trial where the offence is punishable with imprisonment for less than two years, evidence is taken, statement is recorded, arguments are advanced and judgement is pronounced. The accused can either be acquitted or convicted and sentenced.

In case of a warrant trial, that is, a trial where the offence:

(i) punishable with death,

(ii) life imprisonment or,

(iii) imprisonment for a term exceeding two years,

there is a possibility for the case being discharged before charges are framed. Apart from that, rest of the procedure followed in case of trial is similar to that of the previous instances.

Post- Trial Stage

The post-trial stage of criminal proceedings is simple. After the trial stage, the judgement can be appealed or revised. In the absence of an appeal or revision, a hearing for deciding the quantum of punishment happens, post which the sentence is executed.

Conclusion

A criminal proceeding, therefore, starts with the registration of FIR or complaint and ends with the execution of sentence or provision to appeal. Though the criminal proceedings are detailed in nature, they are built upon the lucid structure elaborated here. The Code of Criminal Procedure has provisions to guide each of the stages of the criminal proceeding, all of which ensure that the proceeding happens seamlessly and without any inordinate delay.

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