BLOGS

Summon Cases under CrPC

Khushi Malviya · 31 Dec 2023

Edit Introduction Procedure of Trial in Summon Cases Analysis of Summon Cases Conclusion

Introduction

A **"summon"** is a document that orders the person to whom it is delivered to appear in court and respond to the charge brought against him. In accordance with **Section 204(1) (a) of the Cr.P.C., 1973,** the Magistrate issues a summons to the defendant. Therefore, summon cases are those in which the maximum sentence is two years in prison.

It could be argued that since summons cases are not serious in nature, a quick decision must be made without forgoing the requirements of a fair trial. **Sections 251 to 259 of the Cr.P.C., 1973**, which governs how to handle such matters, gives a procedure that is less formal and serious than other trial

Procedure of Trial in Summon Cases

A. Components of an Offence

Although it is not required to file charges, **Section 251** stipulates that the accused must nonetheless be brought before the court and must explain the specifics of the offence. To help the accused understand the accusations against him, this is done.

If the details cannot be communicated, the trial will not be tainted and the accused will not be prejudiced because **Section 465** of the code allows for the correction of such an anomaly. Courts are required by Section 251 to ask the accused if they plead guilty, and Sections 252 and 253 must be followed in order to be convicted after such a plea of guilty.

B. Conviction on Plea of Guilty

Conviction following a guilty plea is provided by **Sections 252 and 253**. General pleas of guilty are allowed under **Section 252**, and specific pleas of guilty in petty instances are allowed under **Section 253**.

If the accused answers in the affirmative and the court records the plea in the accused's exact words, the accused may be found guilty at the court's discretion on the basis of that record. If the answer is no, **Section 254** must be applied further by the court. If the accused enters a guilty plea yet the allegations against him do not amount to an offence, then the accused's guilty plea will not result in a conviction.

As the magistrate has the discretion to convict on the plea or not, if the accused is found guilty on the plea, the magistrate shall proceed in accordance with **Section 360**; otherwise, the magistrate shall hear from the accused regarding the issue of sentencing and shall impose the appropriate punishment. If the guilty plea is rejected, the magistrate will then proceed in accordance with **Section 254**.

C. Acquittal/Conviction

If the magistrate determines that the accused is innocent after recording the evidence under **Section 254**, he or she will be declared free. If the accused is guilty, the magistrate must proceed in accordance with **Sections 360 or 325**; otherwise, the law will be applied to his sentencing.

D. Discharge in cases of Summon Cases

In cases where summoning is initiated through a complaint, the first-class Magistrate, with prior approval from the Chief Judicial Magistrate, has the authority to halt proceedings at any stage. If the proceedings are stopped after recording the evidence, it results in a judgment of acquittal.

However, if the proceedings are halted before recording the evidence, it leads to a release, which acts as a discharge. It is a matter of contention that in summon cases instituted on a complaint, the Magistrate lacks the power to drop the case even if there is insufficient evidence to proceed against the accused.

This is because doing so would require the Magistrate to recall their own order. The Supreme Court has clarified that the issue of process is an interim order and can be recalled, so no specific provision is needed to empower the Magistrate in such situations.

In summon cases on a complaint, the Magistrate cannot discharge, review, or recall the order of issuing the process. Consequently, the trial court must proceed with the trial, and there is no provision for dropping the case. However, a person can approach the High Court under **Section 482 of Cr.P.C** if they find themselves in such circumstances. In summon cases instituted on a complaint, the accused will either be convicted or acquitted; no provision for discharge exists.

Analysis of Summon Cases

The trial of summon cases is intended to be less formal to ensure a speedy resolution. However, **Section 258**, which does not grant explicit power to the Magistrate to drop a case lacking sufficient grounds, can be prejudicial to the accused.

While some courts, like in the **K.M. Matthew case**, opine that the Magistrate has the implied power to dismiss cases without evidence of a crime, there have been dissenting views in other judicial pronouncements.

For instance, in the **Arvind Kejriwal case**, it was ruled that the law does not specifically empower Magistrates to drop cases under Section 258, deferring the matter to the High Court under Section 482.

Nonetheless, this additional step can hinder the main objective of summon cases – swift trials. To ensure a fair trial and protect the rights of the accused, it is vital to reevaluate this matter and find a balanced approach.

Conclusion

In conclusion, a summons case under the CRPC is a legal process used to address less serious offenses where the accused is required to appear before the court based on a summons issued by the Magistrate.

The procedure is generally simpler and faster compared to warrant cases. In a summons case, the Magistrate has the authority to stop the proceedings at any stage, with proper approval, which can result in either a judgment of acquittal or a release (discharge) depending on when the proceedings are halted.

However, it’s important to note that in summon cases initiated on a complaint, the Magistrate’s power to drop the case is limited, and the trial court must conclude the trial by either convicting

or acquitting the accused. Any challenges to the Magistrate's decision can be addressed through appropriate legal channels, such as approaching the High Court under relevant provisions.

Also Read: [Cognizable and Non-Cognizable Offences under CrPC]