

Trial before a Court Session under Criminal Procedure Code

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Initial Steps in the Trial

Opening case for the Prosecution – S.226

The prosecutor shall open his case.

He shall produce a brief summary of all the relevant documents, evidence and witnesses against the accused.

However, at this stage it is not necessary to give full details regarding the evidence.

Discharge – S.227

When, upon consideration of the relevant material placed on record



the Court forms a prime facie opinion that there are no sufficient grounds to prosecute him,



the Court may discharge such an accused.

Object of Discharge

To save the accused from prolonged harassment.

To ensure that the accusation made against the accused is not frivolous.

To enable the superior court to examine the correctness of the reasons for which the Sessions Judge ordered discharge.

Supreme Court Guidelines on discharge

- In the case of *Union of India v. Prafulla Kumar Samal* the Apex Court has laid down the following guidelines:
 - The Judge has undoubted power to ***weigh the evidence*** to find out whether a prime facie case is made against the accused or not.
 - If the evidence raises ***grave suspicion*** against the accused, in such cases the charge shall be framed and the trial shall proceed.
 - The ***factual matrix*** of each case has to be examined minutely by the Judge
 - There is ***no general rule*** that can be followed while dealing with the issue of discharging the accused.
 - The Judge shall carry out an ***unbiased scrutiny*** of the evidence, before ordering discharge.
 - The Judge shall refrain from acting as ***mouthpiece of prosecution***.
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Framing of Charge S. 228

This stage is arrived at when the Court ***on perusal of the evidence*** submitted u/s. 226 is of the opinion that there exists a prime facie case.

If the offence is ***not exclusively triable by a Court of Session***, he may frame the charge and transfer the case to Chief Judicial Magistrate or other Judicial Magistrate, as the case may be.

The ***object*** of the provision is to ensure that the accused is not vexed on basis of false accusations.

It is not obligatory on part of the Court to ***take evidence from the accused*** at stage of framing charges.

The ***standard test of proof*** is not applied at the stage of framing charges.

Explaining the Charge to the Accused – S.228(2)

- Once the charge is framed, the same shall be read over and explained to the accused.
- At this stage, the Court shall the accused if pleads guilty or not.
- It is the bounden duty of the judge to ensure that the accused has understood the charge.
- Non-compliance of this section would have the effect of vitiating the trial if the accused has been prejudiced by the same.

Conviction on plea of Guilty – S.229

- The plea of guilty must be taken in unambiguous terms.
- It shall be fully, fairly and adequately recorded by the Magistrate.
- The scrutiny of plea of guilty shall proportionally rise with the rise in gravity of offence. For instance, if an accused pleads guilty in case of offence punishable with death or imprisonment for life, the Court shall be reluctant to convict him on basis of such plea of guilty and may order trial.
- Once the accused is convicted on basis of plea of guilty then the judge shall hear the arguments on question of quantum of sentence.
- In case of previous conviction, the procedure prescribed u/s. 236 shall be followed.

Date for Prosecution Evidence – S.230

If the accused refuses to plead guilty, and requests a trial, in such case the Court shall fix a date for examination of witness.

On such date, the trial shall commence.

Evidence for Prosecution

- **Examination of Witnesses – S.231**
- As per the date mentioned in the order passed u/s. 230, the Court shall commence with the examination of witnesses for the prosecution u/s. 231.
- The rules of procedure as per the Evidence Act shall be followed while conducting the examination.
- The examination of witnesses includes the following:
 - *Examination in Chief;*
 - *Cross examination;*
 - *Re – Examination.*

Record of Evidence – S.276

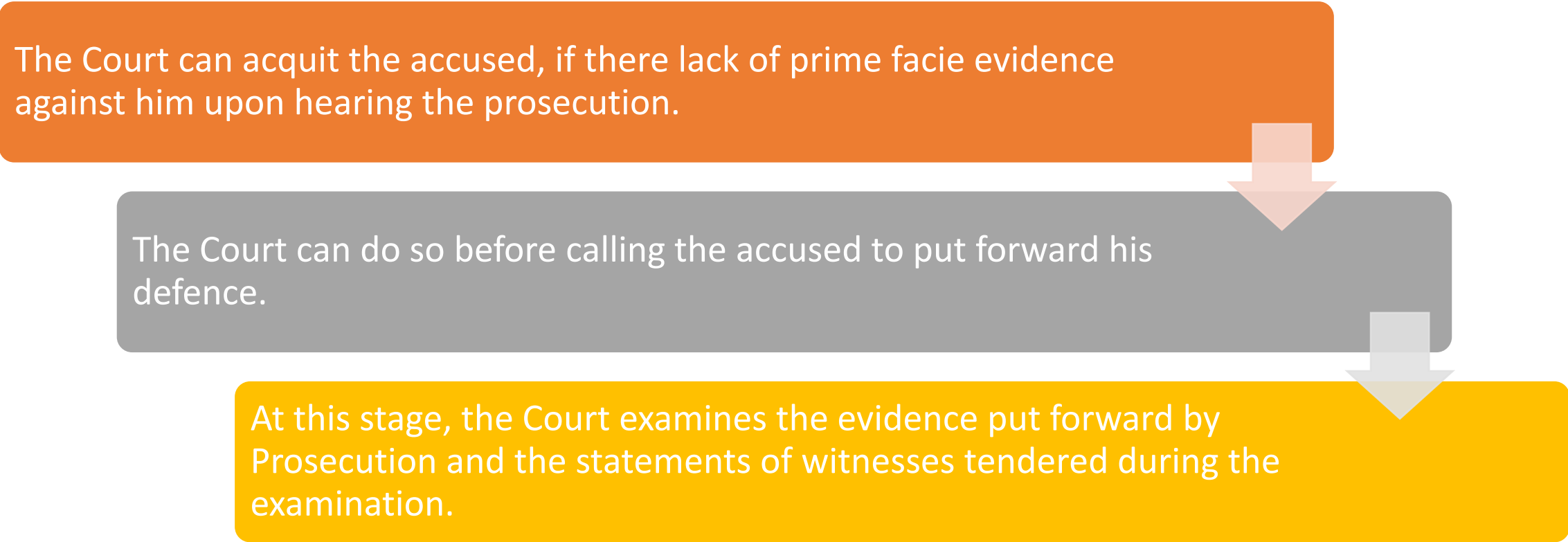
- The evidence of each witness shall be taken down in writing by the Court.
- It can be recorded in two forms:
 - *Question/Answer*
 - *Narrative*
- Once the evidence is recorded it shall be read over and explained to the deponent.
- The statement of evidence shall be signed by the presiding judge.
- The Court shall also take into account the demeanor of the witness while he is deposing before the Court.
- The evidence shall be recorded in the language of the Court, and if it is recorded in any other language, the true translation of the same shall be recorded.

Steps to Follow the Prosecution Evidence



Hearing of Parties – S.232

The Court can acquit the accused, if there lack of prime facie evidence against him upon hearing the prosecution.



The Court can do so before calling the accused to put forward his defence.

At this stage, the Court examines the evidence put forward by Prosecution and the statements of witnesses tendered during the examination.

Order of Acquittal – S.232

In absence of clinching evidence against the accused, the Court may record an order of acquittal.

The object of such provision is that there is no need to call for the defence of the accused, if there is no clinching evidence tendered by the Prosecution.

The term “no evidence” against the accused means that there is no legal proof against the accused that he committed the crime for which he is charged.

Explanation of the Accused – S.313

- Once the prosecution evidence is complete, at such stage, before the accused is brought before the Court for his defence, he can give statements u/s. 313 in support of his defence, prior to the stage where the defence evidence starts.

Evidence for Defence



Examination of Witnesses – S.233(1)



This provision is enacted to protect the interests of the accused.



It gives the accused an opportunity to enter on his defence and adduce evidence in support thereof.



The accused himself is a competent witness.

Written Statement of the Accused – S.233(2)



The accused has a option to place on record his written statement for his defence.



If the accused files such a written statement, in the case the Judge shall place it on the Record in the Court file.

Issue of Process – S.233(3)

- The accused may apply before the Court for compelling attendance of any witness or production of any document.
- The Judge shall consider the application in detail before accepting or denying the same.
- If the Judge is of the opinion that such application is merely filed by the accused to cause delay and laches in the trial, then the Judge may decline the same.
- Recording of Evidence S. 276 – as stated in earlier phase



Steps to follow Defense Evidence

Arguments – S.234

Once the evidence for the defence is complete, then the prosecution shall sum up its case and present the arguments.

In case any *point of law* is raised by the accused, the prosecution shall address the said issue as well.

Once the prosecution submits its arguments then the defence is entitled to put forth its reply to the same.

Judgment of Acquittal or Conviction



- After hearing arguments and points of law (if any),
- the Judge shall give a judgment in the case.
- If the accused is convicted, the Judge shall, unless he proceeds in accordance with the provisions of section 360, hear the accused on the question of sentence, and then pass sentence on him according to law.