

1-Introduction

The task of Taking Direct cognizance of an offence is that of the Magistrate under section 190 of CrPC where after taking cognizance, it appear to the Magistrate that the case is one which is exclusively traible by the court of session, then he commits the same of the court of session.

2. Meaning and definition of committal

- . The term COMMITAL is not defined in crpc, 1973**
- . General Meaning:- To forward a matter for cognizance and trial before court of session by a magistrate after taking cognizance.**

3. Relevant provision regarding committal proceeding

(a) sec-193- cognizance of offences by courts of session.

(b) sec-209- commitment of case to court of session when offence is triable exclusively by it.

(c) sec-323- Procedure when, after commencement of inquiry or trial, Magistrate finds case should be committed.

(d) First Schedule of Criminal Procedure code 1973 column No-6

(e) General Rule Criminal 1977 Rule-35-Procedure on commitment.

Rule-35(A) The Magistrate shall record in the commitment order a certificate in the effect that the provision of section 173(4) of the court.

(f) U.P. Amendment Act No. 16 of 1976, Section 6.

(g) committal to first Additional Session Judge outlying court

4. Committal proceeding

- Case institution on a Police report (s-173 CrPC) or otherwise (s-190 CrPC)
- Accuse appears is brought before magistrate
- Magistrate appears - case is triable by the court of session as per column no. 6 schedule 1st of CrPC
- Complying the section 207 or 208 of CrPC
- Send- Record, Document, Articles,
- Information/Notify the Public Prosecutor.

Sanjay Gandhi vs Union of India Air 1978, SC 514 The Supreme Held followings -

(i) where offence exclusively triable by the court of session, the committing Magistrate has no power to discharge the accused nor does he have the power to take oral evidence.

(ii) It is not open to the committing court to check whether prime facie case is made or not.

(iii) Committing Magistrate may look in to the case where wrong section of Penal Code is Quoted.

(iv) Court of session may discharge the accused if made up facts unsupported by any material are reported by the Police a serious offence is made to appear.

5. Relevent Case laws

- Section 193 CRPC 1973
- (a) “Cognizance taken on affencee not an offender” Kishun singh v/s State of Bihar (1993)2 Scc 16
- (b) “ Execept and otherwise expressly provided” Moly V/s State of Kerla (2004) 4 scc 584 s.c Means except positively provided diffrently in clean unambiguaus Language”

Section 323 CrPC, 1973

- (c) Thakur Ram Vs State of Bihar, air 1966 SC 911 Para 7
- (d) Chhadmi Lal Vs State of U.P., AIR 1960, S.C. 41
Para 9
- (e) Archana Vs State of West BENGAL, DOJ 28.08.2023

Notification Of High Court Of Uttarakhand

Notification No. 348/UHC/Admin.B/XVII-98/2011: Therefore, in order to overcome this hardship being faced by the litigants, Hon'ble the Chief Justice, in view of Section 194, 381 (2) and 400 of Cr.P.C. has directed that Sessions Cases, Criminal Appeals, Criminal Revisions and Bail Applications (except cases of Special Courts jurisdiction and such cases, whose jurisdiction exclusively lies to the Court of District & Sessions Judges) pertaining to the jurisdiction of Courts at outlying stations shall be received, registered, heard and disposed of by the Court of Additional District & Sessions Judge and if there are more than one Court of Additional District & Sessions Judge, the Senior-Most Additional District & Sessions Judge, situated at the outlying station.

THANK YOU