

Reading Resource: Stages of Criminal Proceedings

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Criminal proceedings are set in motion with the commission of an offence. The steps involved in various stages of Criminal proceedings are more in number and higher in complexity, as compared to Civil Proceedings because of the constitutionally mandated rights¹ given to the accused.

In criminal cases, the most important stage is the **Pre-Trial Stage** which includes **arrest and investigation, and collection of evidence** by Police. It is imperative to understand the types of cases in Criminal Proceedings.

Based on the type of offense (cognizable/non-cognizable), there are three types of criminal cases according to CrPC:

1. **Warrant case** (offenses punishable with death, life imprisonment or imprisonment exceeding 2 years)
2. **Summons case** (offenses punishable with imprisonment of less than 2 years)
3. **Summary case** (offenses punishable with imprisonment of not more than 6 months)

¹ Right to get a fair representation in a criminal procedure is a facet of Right to Equality (Article 14, Constitution of India)

Article 20, Constitution of India says that "no person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence. Thus, the accused is at par with other citizens.

an accused is given a human treatment in jails fulfilling reformative approach (Article 21). Article 22 says that no person shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult and to be defended by, legal practitioner of his choice. Sections 50 and 50 A of CrPC support this. Section 54 CrPC- Right to be examined by a medical practitioner, section 273 CrPC- Right to be present for trial.

While the proceedings in each of these cases are more or less the same, the procedures are relatively relaxed in Summons cases and extremely relaxed in Summary cases.

Here, we will focus on the most stringent procedure to be followed in Warrant Cases.

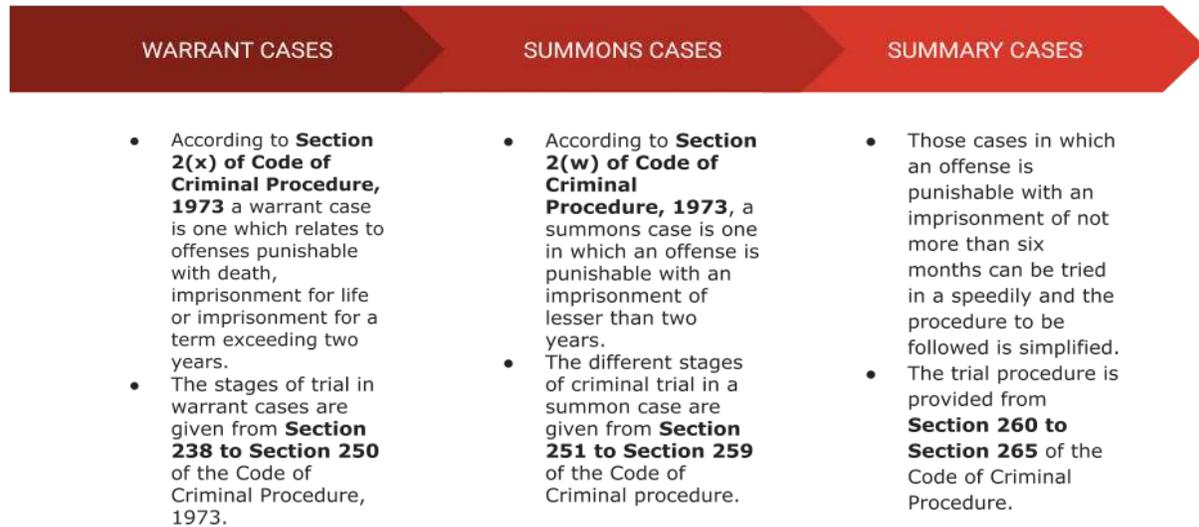


Illustration A:

- Mr. X. through his contacts, arranged for a gym to open during lockdown and brought 20 other friends to work out together.
- Mr. X was caught red-handed by the Police and was arrested under Section 188, IPC (cognizable and bailable offence) for disobeying lockdown orders.
- Mr. X gets bail immediately (as it is a bailable offence) and calls you to ask what happens next.

To understand this, let's first figure out the various stages of criminal proceedings.

The criminal proceedings are divided into following three stages with their respective steps as mentioned in the following diagram:

1. Pre-Trial

2. Trial

3. Post-Trial

STAGE 1- PRE-TRIAL

STEP	RELEVANT PROVISIONS IN IPC/CrPC	PLEADINGS/ NECESSARY DOCUMENTS
1.Information to police or Complaint to Magistrate	<ul style="list-style-type: none">• Section 154, CrPC• Section 156(3) CrPC	<ul style="list-style-type: none">• FIR or• Complaint
2. Inquiry and investigation by police, may apply for Anticipatory Bail before arrest if aware of complaint/FIR	<ul style="list-style-type: none">• Section 438 CrPC	<ul style="list-style-type: none">• Inquiry Report• Application for Anticipatory Bail• Reply, if any• Order of the Magistrate
4. .Arrest	<ul style="list-style-type: none">• Sections 41,42, 46, 48151 CrPC	<ul style="list-style-type: none">• List of seizure• Medical report• Reasons for arrest
5. Produced before Magistrate within 24 hours- arguments for remand or release on bail	<ul style="list-style-type: none">• Section 57, CrPC (production of accused)• Section 167 CrPC (Remand Order)• Section 436 -437 CrPc (Bail Procedure)	<ul style="list-style-type: none">• Bail Application• Reply, if any• Order of the Magistrate
6. Investigation Report concluded and filing of Chargesheet	<ul style="list-style-type: none">• Section 161 and 164, CrPC (Recording of statements)• Section 173, CrPC (Final Report)• Section 207, CrPC (Chargesheet handed over to accused)	<ul style="list-style-type: none">• List of witnesses, statements, evidence• Final report/Chargesheet
7. Case committed to Sessions Court in warrant's case- Arguments on charges	<ul style="list-style-type: none">• Chapter XVIII CrPC	<ul style="list-style-type: none">• All the record sent to Sessions Court
8. Either discharged, if not proceeded to trial	<ul style="list-style-type: none">• Section 227, CrPC (discharged)• Section 228 (Framing of charges)	<ul style="list-style-type: none">• Application u/s 227 praying for discharge• Order of the Magistrate

STAGE 2- TRIAL

STEP	RELEVANT PROVISIONS IN CrPC	PLEADINGS/ NECESSARY DOCUMENTS
1. Framing of charges	<ul style="list-style-type: none"> Section 228 CrPC 	<ul style="list-style-type: none"> Order of the Judge Framing the Charges, reading out to ask Accused if he agrees to them
2. Plea of Guilt	<ul style="list-style-type: none"> Section 229 	<ul style="list-style-type: none"> Order of the Judge recording the plea
3. Prosecution Evidence	<ul style="list-style-type: none"> Sections 230-231, CrPC 	<ul style="list-style-type: none"> Record of Evidence
4. Statement of the Accused	<ul style="list-style-type: none"> Section 313, CrPC 	<ul style="list-style-type: none"> Record of Statement
5. Defence Evidence	<ul style="list-style-type: none"> Section 243 CrPC 	<ul style="list-style-type: none"> Record of Evidence
6. Arguments	<ul style="list-style-type: none"> Section 314 CrPC 	<ul style="list-style-type: none"> Memorandum of arguments
7. Judgment	<ul style="list-style-type: none"> Chapter XXVII CrPC 	<ul style="list-style-type: none"> Certified copy of Judgment
8. If convicted, Quantum of Sentence Hearing (Justice Iyer called it 'punitive dilemma')	<ul style="list-style-type: none"> Section 360 CrPC 	<ul style="list-style-type: none"> Certified copy of the Order

Trial means a determination of issues adjudging the guilt or innocence of a person. There is always a confusion pertaining to when a trial commences. Does it commence after the police complete its investigation, or when the police file the charge sheet or at the time when the Court frames the charge?

The Supreme Court in [Hardeep Singh & Ors v. State of Punjab & Ors, \(2014\) 3 SCC 92](#) has held that the trial commences only when charges are framed against the accused.

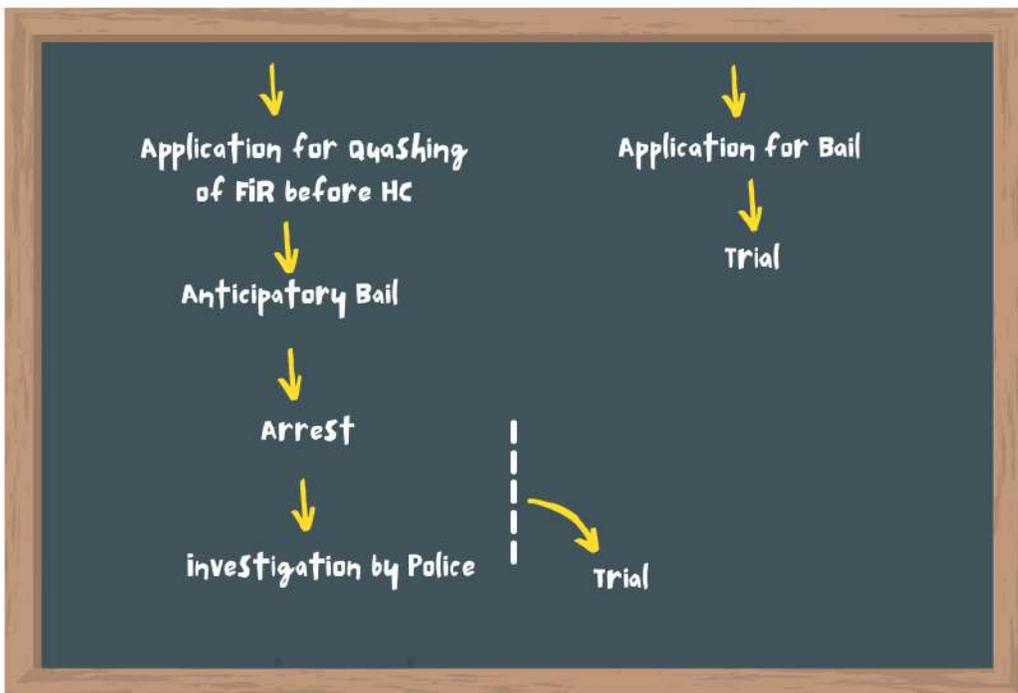
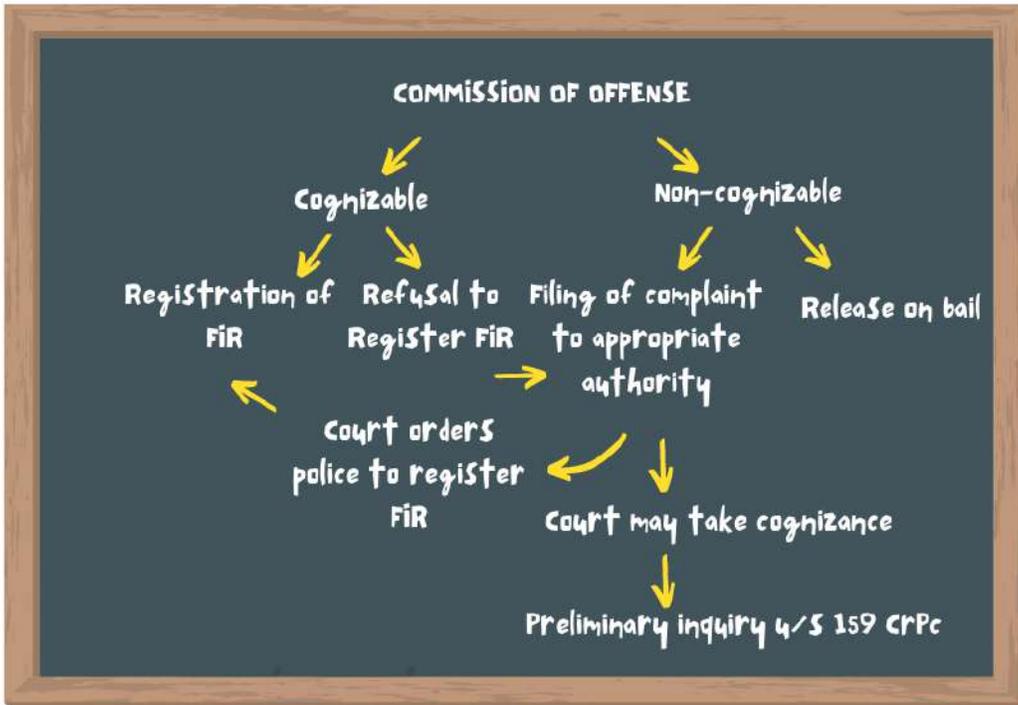
Revisiting **Illustration A**, the criminal proceedings will be conducted in the following manner:

1. It's a summary case, FIR will be registered [u/s 154](#), CrPC.
2. Inquiry and investigation Report will be prepared with evidence against Mr. X
3. Final report will be filed before the Magistrate along with a copy of complaint by the Public Servant as per [Section 195\(1\)\(a\)](#) CrPC.
4. Summons will be issued to demand the appearance of the accused (Mr. X) before the Magistrate.

5. Arguments will take place on the charges.
6. Based on the arguments, Mr. X will either be discharged or the case will proceed to trial. Given the fact that it is a minor offence, in all likelihood, the Magistrate will either discharge at this stage or impose fine or both instead of proceeding to Trial.

STAGE 3- POST TRIAL

STEP	RELEVANT PROVISIONS IN CrPC	PLEADINGS/ NECESSARY DOCUMENTS
1. Appeal	<ul style="list-style-type: none"> • Chapter XXIX CrPC • Sections 372-394, CrPC 	<ul style="list-style-type: none"> • Memorandum of Appeal • Certified Copy of Impugned Order • Reply, if any
2. Revision/ Review before HC or Sessions Court	<ul style="list-style-type: none"> • Sections 397- 405, CrPC 	<ul style="list-style-type: none"> • Revision / Review Petition • Certified copy of impugned order • Reply, if any
3. Curative Petition	<ul style="list-style-type: none"> • Article 137, Constitution of India 	<ul style="list-style-type: none"> • Curative Petition • Certified Copy of impugned Order • Reply, if any
4. Mercy Petition	<ul style="list-style-type: none"> • Article 72, Constitution of India 	<ul style="list-style-type: none"> • Mercy Petition • Certified Copy of impugned Order • Reply, if any
5. Execution of Sentence	<ul style="list-style-type: none"> • Chapter XXXII, CrPC 	<ul style="list-style-type: none"> • Warrant issued • Endorsement on Warrant to be returned once executed



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