

COURSE NAME -	LAW
CLASS-	B.A.LL.B-6TH SEM
SUBJECT-	LAW OF CRIMES-II
TOPIC-	Trial before Court of Session

**By :-GURU DUTT
ASSISTANT PROFESSOR
SARASWATI INSTITUTE OF LAW
PALWAL**

Trial before Court of Session

Bhagirath v State of M.P AIR 1976 SC 975

The trial before the Sessions Court must proceed and be dealt with continuously from its inception to its finish. Sessions case must not be tried piecemeal. Once the trial commences, the Sessions Judge must, except for a very pressing reason which makes an adjournment inevitable, proceed till the final trial is concluded.

Trial to be conducted by public prosecutor (Section-225):

In every trial before a court of session, the prosecution shall be conducted by a public prosecutor.

Opening case for prosecution (Section-226): When an accused appears or is brought before the court in pursuance of a committment of the case under section-209, the P.P. should give a brief summary of the evidence and the particulars of the witnesses by which he proposes to prove the case against the accused person.

State of Gujrajt v Nareshbhai Haribhai Tande 1997 Cri LJ 2783 (Guj HC It is the duty of trial court to secure the attendance of the accused. It cannot acquit the accused on the ground that the prosecution failed to bring the accused

Discharge of Accused (Section-227): After considering the record of the case, and after hearing the submission of the parties, if the court considers that there is no sufficient ground for proceeding against the accused, it shall discharge him and record its reasons for so doing.

Framing of charge (Section-228): After considering the record of the case, and hearing the parties, if the judge is of opinion that there is a ground for presuming that the accused has committed an offence which.

a) is not exclusively triable by court of sessions, he may frame a charge against the accused, and transfer the case to the CJM, who shall then try the offence in accordance with the procedure for the trial of warrant case instituted on a police report.

b) is exclusively triable by the court, he shall frame in writing a charge against the accused. The charge shall be read and explained and be asked whether the accused pleads guilty of the offence charged or claims to be tried.

Conviction on plea of guilty (229): If the accused pleads guilty, the judge shall record the plea and in his discretion may convict him.

The plea of guilty only amounts to an admission that the accused committed the acts alleged against him and must plead by his own mouth and not through his counselor pleader.

Date for prosecution evidence (Section-230): If the accused refuses to plead, or does not plead, or claims to be tried or is not convicted, the judge shall fix a date for the examination of witnesses. On the application of the prosecution the judge may issue any process for compelling the attendance of any witness or the production of any document or other things.

Evidence for prosecution (Section-231): On the date fixed for evidence, the judge shall proceed to take all such evidence as may be produced in support of the prosecution and may permit the cross examination of any witness to be deferred until any other witness has been examined or recall any witness for further cross-examination.

Acquittal of accused (Section-232): After

- (a) taking the evidence of the prosecution
- (b) examining the accused
- (c) hearing the prosecution and defence on the point, if the judge considers that there is no evidence that the accused had committed the offence, the judge, shall record an order of acquittal.

Evidence for the defence (Section-233): When the accused is not acquitted the court calls upon him to enter on his defence and adduce any evidence in support of his defence. Any written statement put by the accused must be filed with the record.

On request by accused for issue of process to compel attendance of witnesses or production of documents, the judge shall issue such process unless he considers the request to be vexatious or made for the purpose of delay or defeating the ends of justice.

Arguments (Section-234): When the examination of the defence witnesses is complete, the prosecutor sums up his case, and the accused or his pleader shall be entitled to reply. Where any law point is raised by the defence the prosecution may be allowed to make his submission with regard to such point of law.

Judgment (Section-235): After hearing the arguments and points of law (if any) the judge shall give a judgment in the case.

Procedure in case of previous conviction (Section-236): In a case where a previous conviction is charged under section-211 (7), and the accused denied to be previously convicted, as alleged in the charge, the judge may, after convicting the accused, take evidence in respect of the alleged previous conviction necessary to prevent the accused from being prejudiced at the trial

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