



Study on the trial of warrant case under CRPC

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Abstract: Warrant cases means the cases which are a more serious offence that is punishable with death, life imprisonment or imprisonment for a term exceeding two years. The trials of warrant cases are conducted by the Court of Session or by Magistrate. If the offence is more serious then it is triable by the Court of Sessions, whereas if the offence is less serious warrant case then it is triable by the Magistrate.

[Singh, G. **Study on the trial of warrant case under CRPC**. *Researcher* 2023;15(4):23-28]. ISSN 1553-9865 (print); ISSN 2163-8950 (online). <http://www.sciencepub.net/researcher>. 05.doi:[10.7537/marsrsj150423.05](https://doi.org/10.7537/marsrsj150423.05).

Keywords: Warrant, Case, CRPC, India

Introduction:

Introduction: The expressions “complaint”, “inquiry”, “investigation”, “police report”, “summons-case” and “warrant-case” are defined in Sections 2(d), 2(g), 2(h), 2(r), 2(w) and 2(x) of the Code respectively and are extracted hereinbelow for immediate reference:

(d) “complaint” means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report.

Explanation.-A report made by a police officer in a case which discloses, after investigation, the commission of a non-cognizable offence shall be deemed to be a complaint; and the police officer by whom such report is made shall be deemed to be the complainant.

(g) “inquiry” means every inquiry, other than a trial, conducted under this Code by a Magistrate or Court;

(h) “investigation” includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorised by a Magistrate in this behalf;

(r) “police report” means a report forwarded by a police officer to a Magistrate under sub-section (2) of section 173;

(w) “summons-case” means a case relating to an offence, and not being a warrant-case;

(x) “warrant-case” means a case relating to an offence punishable with death, imprisonment for life or imprisonment for a term exceeding two years;

As would be evident from the definitions recited, a “complaint” is an allegation made orally or in writing to a Magistrate with a view to take action under the

Code against some person, known or unknown, who had committed an offence and does not include a police report. In contradistinction, “police report” means a report forwarded by a police officer to a Magistrate under Section 173(2), whereas “warrant case” is one relating to an offence punishable with death, imprisonment for life or punishment for a term exceeding two years, a “summons-case” is one which is not a “warrant-case”. A clear cut distinction, therefore, has been ordained by the Code between a “complaint” and a “police report” as well as a “warrant-case” and a “summons-case”. See. *The State Of Goa vs Jose Maria Albert*, (2018) 11 SCC 659.

In the case of a Trial initiated by a warrant, the CrPC hereinafter mentioned as the code, has established a provision under chapter XIX, under the name “Trial of Warrant Cases by Magistrate”. We shall be discussing these provisions, including other related sections, to understand how the procedure works and what role the justice system plays in administering justice.

- **Section 238** of the code states that, when a warrant case is initiated on a police report, the accused appears or is brought before the magistrate at the commencement of the trial, the magistrate shall then satisfy themselves by complying with the provision of S.207^[1].
- **Section 239** of the code states that, upon reading and considering the police report post the investigation (S.173)^[2]. The Investigating Officer thereafter, makes an examination of any of the accused and, Gives the prosecution and the accused an opportunity to make their case and be heard. Upon hearing both sides; the Judge is of the opinion that the charges levied on the accused are

groundless, it is within the jurisdiction of the magistrate to discharge the accused, and record the reasons for making such a judgement.

- **Section 240** of the code states that, if the upon consideration and examination if any, post earring of both the parties the magistrate, is of the opinion that there is ground to presume that an offence has been committed by the accuses that the magistrate has the authority to try and is of the opinion, that a justifiable punishment can be ordered by magistrate, they shall then frame the charge in writing against the accused.
- **Section 241** of the code states that, if the accused pleads guilty of the charges so levied against them, the magistrate shall record the same and upon their discretion convict the accused.
- **Section 242** of the code states that, if the accused refuse to plea or pleads non guilty and/or the magistrate does not convict them under S.241, then the magistrate shall fix a date for the examination of the witness. The magistrate has the authority, on application by the prosecution, to issue summons of any witness directing them to attend or to produce and document or other thing. The magistrate thus, on the date so fixed shall take all the evidence the prosecution may produce in support of their claim. The magistrate has the jurisdiction to defer cross examination of any witness until any other witness or recall of a witness for further cross examination.
- **Section 243** of the code states that the accused shall then be called upon to enter their defence and produce evidence, and if the accused so puts a written statement in front of the court that same shall be put on the record by the magistrate. The section further talks about that after such defences has been made by the accused, applies to the magistrate to issue any process for compelling the attendance of any witness, the magistrate shall issue the same unless they consider such an application should be refused on the ground that it has been made for the purpose for vexation or delay or for defeating the ends of justice and such grounds or rejection shall be recorded in writing. It is also mentioned that for the attendance on any witness reasonable expenses for the same should be submitted to the court.
- **Section 244** of the code states that, when a warrant case is initiated other than a police report, the accused appears or is brought before the magistrate, In that case the magistrate shall proceed to hear the prosecution and take all such evidence that may be produced by the court in support of the prosecution. The magistrate can also, on the application of the prosecution, issue summons to any witness directing them to attend or to produce any document or other thing.
- **Section 245** of the code states that, upon taking all the evidence as referred to the S.244 of the code into consideration the magistrates considered, with such reasoning being recorded, that no case against the accused has been made out, which if left unrebutted shall warrant their conviction, the magistrate shall discharge them. The provision further states that, nothing in this section prevents the magistrate to discharge the accused at any previous stage of the case, with reasons being recorded, the magistrate considers the charge to be groundless.
- **Section 246** of the code states that, if any evidence has been taken or at any previous stage the magistrate of of the opinion that there is grounds to presume that the accused has committed an offence that is trable under this chapter which the magistrate has the jurisdiction to try and appropriately punish, the magistrate shall frame the charge against the accused in writing. The charge shall then be read and explained to the accused and shall then be asked to either plead guilty of not guilty for the same, including giving any defence in support of their claim. If the accused pleads guilty, the magistrate shall record the plea and shall have discretion to to convict the accused theron. But in the case if the accused refuses to plea, or pleads non guilty or claims to be tried, the accused shall be required to state, at the next hearing of the case, if the magistrate recording their reasons for, thinks fit to cross examine any witness for the prosecution whose evidence has been taken.
- **Section 247** of the code states that the accused shall be called upon to enter their defence and produce their evidence, and the provision of section 243 of the code shall be applicable.
- **Section 248** of the code states that, if a charge has been filed under this chapter, and the magistrate finds the accused not guilty, they shall record an order of acquittal. The section talks about that in the case the magistrate does find the accused guilty but does not proceed in accordance with the provision of S.325^[3] and S.360^[4] then the magistrate shall, upon hearing of the accused pass a sentence on the accused according to the law. The provisions of the section further states that, if a previous conviction is charged under the provision of S211(7) and the accused does not admit that they have been previously convicted as alleged in the charge, the magistrate after said conviction takes evidence in respect of the alleged previous conviction and shall record the same.

This provision is further extended, by stating that the magistrate shall not ask nor shall be accused to ask to plead before the magistrate, furthermore the prosecution is also barred from using evidence of the charge in a trial unless the accused has been convicted of the same.

- **Section 249** of the code states that, when a proceeding has been initiated upon complain, and on the day so fixed previously for the hearing of the case, the complainant is absent and the offence may be legally compounded or is of a non cognizable nature, the magistrate may, in their discretion in accordance with all other provisions before the charges are framed can discharge the accused.
- **Section 250** of the code states that, if a complaint is instituted via information given to a police officer or to a magistrate wherein one or more persons are accused of a crime that is triable by a magistrate, and the magistrate who is to hear of these charges acquits any or all of the accused and is of the opinion that there was no reasonable ground for making such an accusation against one of all of them. The magistrate may in their order of discharge or acquittal, if the person who so has made such a complaint or passed information to the police or the magistrate shall call such person to show cause as to why they should not be liable to pay compensation to each or all of the accused, if such person is not present to issue a summons for the same. In accordance with this provision, the magistrate shall record and consider the cause that the informant may show, and if satisfied that there were no reasonable grounds for making such an accusation shall order an amount not exceeding the amount of fine allowed to be imposed, to be paid by the complainant or informant to the accused(s). The magistrate may further order that in the case of default of payment, the person ordered to pay such compensation shall undergo a simple imprisonment of a person not exceeding 30 days. In connection to the previous provision the section further states that, S. 68-69 of the IPC shall also apply. But the section concludes, with the provisions saying that, if on an order to pay compensation on a case that can be appealed and such time for appeal has not lapsed and the same is presented the compensation is not liable to be paid before the expiration of one month of said order.

Warrant cases

Section 2(x) of Cr.P.C defines warrant – case. Warrant case means a case relating to an offence punishable with death, imprisonment for life or imprisonment for a term exceeding two years. Chapter XIX of Cr.P.C

deals with provisions for trial of warrant cases instituted on police report. Some essential elements of a warrant case are as infra:

Charges must be mentioned in a warrant case.

Personal appearance of accused is mandatory

A warrant case cannot be converted into a summons case

The accused can examine and cross-examine the witnesses more than once.

The magistrate should ensure that the provisions of Section 207 Cr.P.C.

Section 207 of Cr. P.C. 1973, include the supply of copies such as police report, FIR, statements recorded or any other relevant document to the accused.

The stages of trial in warrant cases are given from Sections 238 to 250 of the Code of Criminal Procedure, 1973.

Trial of warrant cases by the Magistrate Courts are provided in Chapter XIX CrPC where as the trial of summons cases are governed by Chapter XX CrPC.

Discharge of accused, in warrant cases, is covered under Section 239 CrPC and S. 245(2) of the Code of Criminal Procedure, 1973, as applicable to such warrant cases.

Recalling of summons issued against accused is considered in *Adalat Prasad v. Rooplal Jindal* 338 : 2004 SCC (Cri) 1927 and *K.M. Mathew v. State of Kerala*, 1992 SCC (Cri) 88. See also.

In *Subramaniam Sethuraman v. State of Maharashtra*, the attention of the Apex Court was drawn to the fact that its decision in *Adalat Prasad* case was on warrant procedure.

Chapter XIV of the Code dwells on the conditions requisite for the initiation of proceedings under the Code. Section 190 provides that any Magistrate of the first Class and any Magistrate of second class specifically empowered in this behalf under sub-section (2) thereof, may take cognizance of any offence –

(a) upon receiving a complaint of facts which constitute such offence;

(b) upon a police report of such facts;

(c) upon information received from any person other than a police officer, or upon his own knowledge, that such offence has been committed.

After an information is laid with the police in respect of an offence, as provided for in Chapter XII of the Code and on completion of the investigation in connection therewith, the officer in-charge of the concerned police station is required to submit a report to the jurisdictional Magistrate empowered to take cognizance of the offence on such report, under Section 173 thereof. This police report as referred to in sub-section (2), needs to be in a form

prescribed by the State Government and ought to mention inter alia, the names of the parties, the nature of the information, the names of the persons, who appear to be acquainted with the circumstances of the case, whether an offence appears to have been committed and if so by whom, and whether the accused has been arrested and released. Sub-section (8) of Section 173, however, does not preclude further investigation, even after submission of such report so as to enable the investigating agency to forward to the Magistrate a further report or reports regarding such evidence as may be obtained. This police report, as has been referred to in Section 190, is one of the inputs available to the Magistrate to take cognizance of any offence, as disclosed thereby.

In terms of Section 200, if however a complaint is filed in a court of law, as is contemplated in clause (a) of Section 190, a Magistrate taking cognizance of an offence on the basis thereof, has to examine upon oath, the complainant and the witnesses present, if any and the substance of such examination has to be reduced in writing, to be signed by the complainant and the witnesses and also by the Magistrate. The mandate of examining the complainant and the witnesses is relaxed:

- a) if a public servant acting or purporting to act in the discharge of his public duties or a Court has made the complaint; or
- b) if the Magistrate makes over the case for inquiry or trial to another Magistrate under Section 192.

In terms of Section 202, any Magistrate, on receipt of a complaint of an offence of which he is authorized to take cognizance or which has been made over to him under Section 192, may, if he thinks fit, and shall in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction, postpone the issue of process against the accused and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not, there is sufficient ground for proceeding. The direction for such investigation, however, is not permissible – a) where, it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Sessions; or b) where the complaint has not been made by a Court, unless the complainant and the witnesses present (if any) have been examined on oath under Section 200.

Chapter XIX is devoted to trial of warrant cases by Magistrate and enfolded two categories i.e. A -cases instituted on a police report and B- cases instituted otherwise than on a police report. In the former category i.e. cases instituted on a police report, the successive stages comprehended after the accused appears or is brought before a Magistrate at the

commencement of the trial, have been detailed. These are accommodated in Sections 238 to 243.

In terms of Section 238, when, the accused appears or is brought before a Magistrate at the commencement of the trial, the Magistrate shall satisfy himself that he has complied with the provisions of Section 207 i.e. the accused has been furnished without delay, free of cost, a copy of each of the records/documents mentioned therein, which include the police report, referred to hereinabove and the papers accompanying the same. If upon considering the police report and the documents sent along with it under Section 173 and making such examination if any of the accused, as the Magistrate may think necessary, and if after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused and record his reasons for so doing. On the other hand, if upon such consideration and examination if any, and hearing, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try and which, in his opinion, could be adequately punished by him, he shall frame in writing, a charge against the accused, which would be read and explained to the latter and he would be asked whether he pleads guilty to the offence charged or claims to be tried. Noticeably, these two eventualities encompassed in Sections 239 and 240 of the Code though contemplate examination of the accused, if the Magistrate thinks it necessary, no witness of the prosecution can be examined at that stage and the Magistrate would decide as to whether the charge is to be framed or not on the basis of the materials available i.e. the police report and the accompanying papers as well as the statement of the accused, if recorded, of course after affording an opportunity of hearing to both the sides.

Whereas Section 241 empowers the Magistrate, if the accused pleads guilty, to record such plea and in his discretion, convict him thereon, in terms of Section 242, the Magistrate would fix a date for examination of the witnesses if the accused refuses to plead guilty or does not plead so, or claims to be tried. After the closure of the evidence of the prosecution, in course whereof, the accused would have a right to cross-examine its witnesses, he would be called upon to enter upon his defence and produce his evidence and after recording his statement, if it is also prayed by him, the Magistrate would issue such process for the attendance of any witness for the purpose of examination and cross-examination, or for production of any document or other thing, unless it is considered that such an application should be refused on the ground that it is vexatious or had been made for the

purpose of delay or for defeating the ends of justice. At the end of the trial, on the completion of the process, as above, if the Magistrate finds the accused not guilty, he shall record an order of acquittal. However, if the Magistrate finds the accused guilty, but does not proceed in accordance with the Sections 325 or 360 of the Code, he would, after hearing the accused on the question of sentence, pass sentence upon him according to law.

With regard to cases instituted otherwise than on police report, the procedure is outlined in Sections 244 to 247 of the Code. In terms of Section 244, when in any warrant case, instituted otherwise than on police report, the accused appears or is brought before the Magistrate, the latter shall proceed to hear the prosecution and take all such evidence as may be produced, in support of the prosecution. It is subsequent thereto, as per Section 245, that if upon taking all the evidence so produced, the Magistrate considers, for reasons to be recorded, that no case against the accused has been made out, which if rebutted, would warrant his conviction, the Magistrate would discharge him. Section 245(2) empowers the Magistrate to discharge the accused at any previous stage of the case, if, for reasons to be recorded by such magistrate, he considers the charge to be groundless. In case, however, when such evidence has been taken, or at any previous stage of the case, the Magistrate is of the opinion that there is ground for presuming that the accused has committed an offence triable under the Chapter, which such Magistrate is competent to try and which, in his opinion, could be adequately punished by him, he shall frame in writing, a charge against the accused, as ordained by Section 246(1). Thereafter, the charge shall be read and explained to the accused, and he shall be asked whether he pleads guilty or has any defence to make. If the accused pleads guilty, the Magistrate shall record the plea, and may, in his discretion, convict him thereon. However, if the accused refuses to plead guilty or does not plead so or claims to be tried, he shall be required to state, at the commencement of the next hearing of the case, or, if the Magistrate for reasons to be recorded in writing so thinks fit, forthwith, whether, he wishes to cross-examine any, and if so, which of the witnesses for the prosecution, whose evidence has been taken and if he elects to do so, the witnesses named by him, would be recalled and, after cross-examination and re-examination (if any), they would be discharged. As per Section 246(6), the evidence of the remaining witnesses for the prosecution would next be taken and after cross-examination and re-examination, if any, they shall also be discharged. It is subsequent thereto, that in terms of Section 247, the accused would then be called upon to enter upon his defence and produce

his evidence; and thereafter the provisions of Section 243, applicable for cases instituted on a police report, would apply.

Distinction between summons-cases trial and warrant -cases trial

1. In a summons case when the accused appears or is brought before a Magistrate, the particulars of the offence of which he is accused shall be stated to him and he shall be asked whether he pleads guilty or has any defence to make (Section 251).
In a warrant case when the accused appears or is brought before a Magistrate, the Magistrate shall satisfy himself that he has complied with the provisions of Section 207, i.e., a copy of the Police report, first information report, statements recorded under Section 161 (3), the confession and statements recorded under Section 164 and any other document or relevant extracts forwarded to the Magistrate with Police report under Section 173(5) shall be furnished to the accused (Section 238).
2. In a summons-case if the accused pleads guilty the Magistrate shall record the plea and may convict him on that basis (Section 252). In warrant-case if on considering the police report and the document sent u/s 173 and making examination of the accused if thought necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused (Section 239).
3. In a summons-case if the Magistrate does not convict the accused on his plea of guilty, he shall proceed to hear the prosecution and take all evidence. He shall also hear the accused and take all the evidence produced by the accused (Section 254(1)).
In a warrant case if on considering the report and documents etc. Under Section 239 the Magistrate is of the opinion that the accused has committed an offence, the charge shall be framed against the accused. The charges so framed shall be read and explained to the accused and he shall be asked whether he pleads guilty or claims to be tried (Section 240).
4. In a summons case if the Magistrate upon taking the evidence produced by the prosecution as well as the accused and such other evidence as he may think necessary, finds the accused not guilty, he shall record an order of acquittal. A magistrate may u/s 252 on his plea of guilty or under section 255 convict the accused of any offence which the accused has committed in the opinion of the

Magistrate provided that he is satisfied that the accused would not be prejudice thereby (Section 255).

In a warrant case if after charges framed are read and explained to the accused, he pleads guilty, his plea may, be recorded by the Magistrate, and the accused may be convicted (Section 241). If the accused does not plead guilty, the magistrate shall fix a date for the examination of witnesses. On the date so fixed the magistrate shall take all evidences in support of the prosecution (Section 242). If the Magistrate finds the accused guilty he shall after hearing the accused on question of sentence, convict him (Section 248).

5. In summons case, when summons has been issued on complaint and the complainant does not appear on any day fixed for the hearing of the case, the Magistrate may acquit the accused unless for some reasons he thinks it proper to adjourn the hearing of the case to some other day. However the Magistrate may in certain circumstances dispense with the attendance of the complainant and proceed with the case (Section 256).

In a warrant case when the proceeding has been instituted, upon the complaint and the complainant does not appear on any day fixed for the hearing of the case, The Magistrate may at the time before charges have been framed discharge the accused provided the offence is compoundable and is not a cognizable offence (Section 240). It means in a warrant case the accused cannot be discharged if the offence is either non-compoundable or is cognizable one or when charges have already framed.

6. In a summons case, if adequate grounds are shown to the satisfaction of the Magistrate, he may permit the complainant to withdraw his complaint and thereupon the accused shall be acquitted (Section 257).

In a warrant case, there is no provision for withdrawal of complaint by the complainant.

7. In a summons case no formal framing of charge is necessary. In warrant case framing of charges is always necessary.
8. In a summons case there are no provisions authorising the Magistrate to permit the cross-examination of any prosecution witness to be deferred.

In a warrant case the magistrate may permit the cross-examination of any prosecution witness to be deferred or recall of any witness for further cross-examination.

Conclusion:

Warrant case means a case **relating to an offence punishable with death**, imprisonment for life, or **imprisonment for a term exceeding two years**.

They are usually the cognizable offences which are serious or grievous in nature and in which the police arrests without warrant. Procedure of Warrant case is defined under chapter 19 of Code of criminal procedure. In Warrant cases charge is framed against the accused. The definition of the warrant case is given in 2 (x) in the Code Of Criminal Procedure, 1973.

The criteria of summons case and warrant case determine the period of conviction in any offense, punishable with a fine of Rs. 50/-, then such a case is summons case. In any case the issue of summons or warrant does not change the nature of the case, the warrant is issued in the summons case, and it does not make the case a warrant case. A **warrant** is issued with an objective of bringing accused to the court, who've not appeared to the court, even after he/she is summoned.

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3/11/2023