

DISCHARGE AND ACQUITTAL

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ABSTRACT

The Criminal Procedure Law, 1973 outlines the legal requirements for an accused person's release or acquittal in a criminal proceeding. Acquittal is release of the accused's innocence in the offence charged against them, whereas discharge refers to the release of an accused without a formal finding of guilt or innocence. This paper's research aims were to identify the justifications for an accused person's discharge, to examine the circumstances surrounding an accused person's acquittal, and to review both classic and contemporary examples on these subjects. Discharge under warrant cases initiated by police report, discharge in a sessions trial, and discharge under complaint cases, and under summons cases are covered along with acquittal by judge, magistrate and absence of complainant. Landmark cases have been discussed and a recent case of acquittal has been discussed as well.

Keywords: Discharge, Acquittal, CrPC

INTRODUCTION

Under Section 227 of the Criminal Procedure Code, 1973ⁱ, discharge application is the remedy available to someone who has been falsely accused. This Code contains the guidelines for submitting a discharge application if the accusations made against him are untrue. He is entitled to be dismissed if the evidence presented to the court is insufficient to establish the offence and there is no prima facie evidence against him.ⁱⁱ

Under Section 232 of the Criminal Procedure Code, 1973ⁱⁱⁱ, acquittal is defined. In simple terms it means that the case is over, and the accused is not accountable for the accusations made against him or her. The accused is deemed innocent since there was insufficient evidence to convict him of committing an offence.^{iv} Under Section 248 of the Criminal Procedure Code, 1973^v, an accused is acquitted if the Magistrate finds them not guilty of the offense they were charged for.

Acquittal and discharge are legal terms for criminal trial outcomes, but they have distinct meanings. An individual is released from the criminal proceedings without a formal finding of guilt or innocence in the case of a discharge, whereas an acquittal is a formal judgement that a person is not guilty of the crime for which they have been charged. In other words, a finding of "not guilty," is equivalent to an acquittal, whereas a release from the case without a verdict of guilt or innocence is equivalent to a discharge.^{vi}

RESEARCH OBJECTIVES

Statute

- Criminal Procedural Code, 1973 (CrPC)

Relevant Provisions

- Discharge
 - i. Criminal Procedure Code, 1973, Section 173
 - ii. Criminal Procedure Code, 1973, Section 227
 - iii. Criminal Procedure Code, 1973, Section 239
 - iv. Criminal Procedure Code, 1973, Section 245(1)

- v. Criminal Procedure Code, 1973, Section 245(2)
- vi. Criminal Procedure Code, 1973, Section 248
- vii. Criminal Procedure Code, 1973, Section 251

- *Acquittal*

- i. Criminal Procedure Code, 1973, Section 232
- ii. Criminal Procedure Code, 1973, Section 233
- iii. Criminal Procedure Code, 1973, Section 235
- iv. Criminal Procedure Code, 1973, Section 248(1)
- v. Criminal Procedure Code, 1973, Section 256
- vi. Criminal Procedure Code, 1973, Section 360

Research objectives of the paper include:

- a) To determine on which grounds is an accused discharged.
- b) To determine when an accused is acquitted.
- c) To analyse a few landmark and recent cases on the topics.

DISCUSSION

Grounds when accused is discharged

- Essentials for Discharge^{vii}

The following essentials must be considered for the Court to assess the Charge sheet and Police Report that were provided to it by the Police in accordance with Section 173 of CrPC:

- The Magistrate has the power to investigate the Accused if he sees fit
 - Following that, the prosecution and the accused parties' arguments and versions would be presented.
 - Grounds against the accused should be without merit if there is no supporting documentation.
- The Court must also be certain that the accused is not the subject of a valid initial charge.^{viii}

- Discharge under Warrant Case

There are two types of warrant cases, instituted via police report and complaint.

a) Discharge under warrant cases instituted via police report

The final charge sheet under Section 173 of the code is filed by the police following the conclusion of their investigation. The court then starts the accused's trial. Yet, Sections 239 and 227 of the Criminal Procedure Code (CrPC) have procedures that allow an accused individual to be released before charges are filed against him. These rules, however, may only be invoked by the accused in warrant situations.

After the final charge sheet against the accused filed by the police after their investigation is complete, the court in question presents the accused with the charges that have been brought against him. Section 239 of the CrPC allows the accused to be released before any accusations are brought against him. It specifies when an accused person may be released.^{ix}

If the Magistrate determines that the charge against the accused is without merit after carefully reviewing the police reports, all the documents submitted pursuant to Section 173, the examinations of the accused, if any, and after hearing the prosecution and accused, he shall discharge the accused and note his justifications.^x

b) Discharge under warrant cases instituted via complaint

Section 245 of the Criminal Procedure Code, 1973 states when an accused can be discharged in cases when there is a warrant case instituted via a complaint.

The Magistrate shall discharge the accused if, after considering all the evidence referred to in Section 244, for reasons to be recorded, the Magistrate determines that no case has been made out against him that, if unrebutted, would justify his conviction. Nothing in this provision prevents a Magistrate from releasing the accused at any earlier stage of the case if he believes the charge to be without merit, and he must record his reasoning.

According to Section 245(1) of the CrPC, the Magistrate must determine whether the prosecution's evidence is adequate to support a conviction of the accused if it is not refuted. According to Section 245(1) of the CrPC, the Magistrate will proceed to release the accused if there is no compelling evidence in the case file against them.^{xi}

The Magistrate may discharge the accused under Section 245(2) of the CrPC at any precedent stage of the case, which means even before such proof is presented. However, in order to exonerate an accused person under Section 245(2) of the CrPC, the Magistrate must determine that the charge is without merit. The Magistrate may make this choice even before the offender appears in court or before any evidence is collected in accordance with Section 244 of the CrPC.^{xii}

- Discharge under Summons

Case Under Section 251 of the CrPC, in a summons case, the accused should be informed of the details of the offence for which he is accused, and when he appears or is summoned before the magistrate, the question of whether he pleads guilty or has a defence to present will be presented to him. On a bare reading of Section 251 of the Criminal Procedure Code, it is evident that the Magistrate in a Summons Trial is not granted any special authority to dismiss the proceedings.^{xiii}

In the case of **K.M. Matthew v. the State of Kerala**, the accused petitioned for the recalling of the summoning order in a summons case. The Hon'ble Supreme Court ruled that the Magistrate lacks authority to pursue further action against the accused if there are no accusations made in the complaint relating to the Accused in the commission of the crime. The accused is free to enter a plea, but if the magistrate is persuaded after reviewing the complaint that there is no such offence for which the accused might be tried and that the process should not have been issued against him, the magistrate may decide to dismiss the case. For the Magistrate to revoke the process or end the proceedings, no explicit clause is required.^{xiv} But in the case of **Bhushan Kumar v. State (NCT of Delhi)**, the Supreme Court ruled that the Magistrate had the authority to release an accused in a Summons Case.^{xv}

- Discharge in Session Trail

According to Section 227 of the CrPC, the Magistrate must discharge the accused and note the reasons for doing so if the Judge finds that there are insufficient grounds to proceed against the accused. This must happen only after hearing the prosecution's and the accused's arguments and after giving the case file and any supporting documentation due consideration.^{xvi}

Mandatory cases in which a Sessions Judge ruled that discharge was required:

- Where he is unable to advance because of a previous Supreme Court ruling.
- Where there is a clear constraint prohibiting the prosecution.
- Instances where the evidence presented to the court is insufficient.
- When there are no grounds under the law to proceed with the trial of the accused
- When no punishment has been imposed.^{xvii}

Grounds when an accused is acquitted

- Acquittal entering upon defense

If the accused is not found not guilty in accordance with Section 232 of the CrPC (judge is of the opinion that the accused is not guilty)^{xviii}, he or she is called to provide any evidence in support of their defence to refute the charges made in accordance with Section 233 of the CrPC. A written statement provided by the accused must also be entered into the record by the judge. If the accused requests that a witness or piece of evidence be produced, the judge must take that into consideration and issue the requested process, unless the judge believes that the accused is merely trying to drag out the case's resolution.^{xix}

- Judgement of Acquittal

According to Section 235 of the CrPC, the judge is required to render a judgement after hearing all of the arguments and legal contentions in the case.^{xx} Unless the judge has complied with the provisions of Section 360 of the CrPC, which deals with the release of the convict on probation due to good conduct or after admonition, the judge shall hear the accused on the issue of sentence and pass it out in accordance with the law in the event of a conviction of the accused.^{xxi}

- Acquittal by Magistrate

As per Section 248(1) of the CrPC, if the Magistrate is of the opinion that the accused is not guilty, then the Magistrate shall order a sentence of acquittal.^{xxii}

- Non-appearance or Death of Complainant

In accordance with Section 256 of the CrPC, the Magistrate may acquit the accused if the complainant is not present on the date set for the accused's appearance or any other day to which the case may be postponed, unless the Magistrate believes that it may be adequate to postpone the case's hearing to a different time.

The accused is not, however, entitled to acquittal if the Magistrate believes that the complainant's presence is not required or if he or she is being represented by a pleader or the officer who is leading the case. This clause will also apply in cases where the complainant's absence is caused by his or her demise.^{xxiii}

CASE ANALYSIS

Union of India v. Prafulla Kumar Samal & Another (1979)^{xxiv}

In the case of *Union of India v. Prafulla Kumar Samal & Another*, (1979) 3 SCC 4, the Honorable Supreme Court held that the words used in the context 'not sufficient ground for proceeding against the accused' show that the Judge cannot be frame the charges at the commands of the prosecution, and application of court's mind to the facts of the case is required to decide whether a case has been made out by the prosecution for trial. In other words, the Judge must apply When assessing this fact, it is not necessary for the court to go into detail on the positives and negatives of the situation.

At this stage, which is observed in accordance with Section 227, all the judge needs to do is review the evidence in order to decide whether or not there are adequate grounds for continuing with the proceeding against the accused. The nature of the evidence that was recorded by the police or the documents that were produced, both of which prima facie reveal that there is a suspicious situation against the accused so as to frame a charge against him before the court, would be taken into account in order to determine whether or not there is sufficient ground to frame a charge against him.

***Mallikarjun Kodagali v. State of Karnataka (2018)*^{xxv}**

In this case, the Parliament amended Section 372 of the Criminal Procedure Code (CrPC) to allow the victim to appeal any order made by the court if, in their opinion, the accused was wrongfully acquitted, sentenced to a less severe punishment, or received insufficient compensation.

On behalf of Mr. Kodagali, who had passed away, the legal representatives of Mallikarjun Kodagali had appealed to the Karnataka High Court. The High Court's ruling upholding the decision to acquit an MLA and others accused of attacking Kodagali in Bagalkot was the subject of the appeal. Due to Kodagali's passing, the High Court had dismissed the appeal as being unmaintainable.

The question was whether the petitioner should be entitled to the benefits of the aforementioned modified CrPC provision as none existed at the time the initial verdict was rendered.

In the majority ruling, Judge M. B. Lokur stated that Section 372 of the Criminal Procedure Code, which deals with appeals pertaining to acquittal orders, should be interpreted in favour of the victim in a "realistic, liberal, progressive" manner. He also cited a United Nations General Assembly resolution that stated that in addition to the state, the victim should have the right to file an appeal against the conviction of the accused.

This landmark case recognised the victim's ability to appeal and ruled that the victim may do so if they feel the appropriate sentence has not been provided.

***Champal Kapoorchand Jain v. Navyug Cloth Stores (2019)*^{xxvi}**

The complainant missed 11 of the 31 scheduled hearing sessions for the case. The complainant and his attorney were not there on the 31st occasion either, but the judge still reached a conclusion and issued a ruling.

Due to the complainant's absence, the Metropolitan Magistrate issued an order of acquittal to the respondent, who was the case's accused party.

The complainant and his attorney subsequently contested the metropolitan magistrate's decision in an appeal, claiming that the attorney had misheard the next date and was the cause of their absence.

The Court noted that pursuant to Section 256, the complainant must be present on each date of the hearing unless the magistrate determines that his presence is not required, which was not the case in this instance. Eleven disappearances had already been charged by the magistrate. The Magistrate has broad authority under this Article. He must see to it that the accused is granted his right to a prompt trial because the case cannot drag on indefinitely.

The court dismissed the appeal as a result of concluding that the pleas lacked merit.

LIMITATIONS

Limitations of the paper include use of secondary data sources which may not have all the information needed to address the research objectives. Secondary data may also be of lower quality, accuracy, or relevance because it was collected by someone else and may not have been prepared or executed as carefully as the study.

CONCLUSION

The Criminal Procedure Code (CrPC) specifies rules and procedures for an accused person's release and acquittal in a criminal proceeding. If the prosecution's charge sheet and police reports are insufficient to support the allegations against an accused, the court has the authority to dismiss the case against them.

For the discharge of an accused person in a warrant case brought by police report and complaint, as well as in a summons case and session trial, there are various steps. Before making a decision, the court must take into account all the testimony and supporting materials offered by the prosecution and the defendant.

If the prosecution is unable to prove a case against the accused beyond a reasonable doubt or if the accused is found not guilty following a thorough trial, the accused may be acquitted at any point in the course of the proceedings. The court's decision to exonerate the accused must be supported by thorough justification.

It is significant to remember that an accused person's release or acquittal does not necessarily mean they are not guilty of the allegations made against them. That simply shows that the prosecution was unable to establish their guilt beyond a reasonable doubt. The prospect of the case being reopened and the accused being tried again if new evidence surfaces is not eliminated by the discharge or acquittal of an accused.

ENDNOTES

- ⁱ Criminal Procedure Code, 1973, Section 227
- ⁱⁱ Prakhar Rathi, *Discharge under CrPC*, iPleaders (May 30, 2020), <https://blog.iplayers.in/discharge-under-crpc/>
- ⁱⁱⁱ Criminal Procedure Code, 1973, Section 232
- ^{iv} Mehak Jain, *Acquittal under CrPC*, iPleaders (Jun 30, 2020), <https://blog.iplayers.in/acquittal-under-crpc/>
- ^v Criminal Procedure Code, 1973, Section 248
- ^{vi} Testbook, *Difference between Discharge and Acquittal*, Testbook (Jan 1, 2023), <https://testbook.com/key-differences/difference-between-acquittal-and-discharge/>
- ^{vii} Smt. Prema Rajeswari, *Discharge of Accused in Criminal Cases*, eCourts (June, 2018), <https://districts.ecourts.gov.in/sites/default/files/Discharged%20of%20accused%20in%20Criminal%20Cases%20-Prema%20Rajeswari.pdf>
- ^{viii} Criminal Procedure Code, 1973, Section 173
- ^{ix} Criminal Procedure Code, 1973, Section 239
- ^x Criminal Procedure Code, 1973, Section 173
- ^{xi} Criminal Procedure Code, 1973, Section 245(1)
- ^{xii} Criminal Procedure Code, 1973, Section 245(2)
- ^{xiii} Criminal Procedure Code, 1973, Section 251
- ^{xiv} K.M. Matthew v. the State of Kerala (1992) 1 SCC 217
- ^{xv} Bhushan Kumar v. State (NCT of Delhi) 2012 (5) SCC 424
- ^{xvi} Criminal Procedure Code, 1973, Section 227
- ^{xvii} Druva Vig, *Discharge under CrPC*, Law Insider (June 16, 2021), <https://www.lawinsider.in/columns/when-can-an-accused-be-discharged-from-criminal-liability>
- ^{xviii} Criminal Procedure Code, 1973, Section 232
- ^{xix} Criminal Procedure Code, 1973, Section 233
- ^{xx} Criminal Procedure Code, 1973, Section 235
- ^{xxi} Criminal Procedure Code, 1973, Section 360
- ^{xxii} Criminal Procedure Code, 1973, Section 248(1)
- ^{xxiii} Criminal Procedure Code, 1973, Section 256
- ^{xxiv} Union of India v. Prafulla Kumar Samal & Another
- ^{xxv} Mallikarjun Kodagali v. State of Karnataka
- ^{xxvi} Champalal Kapoorchand Jain v. Navyug Cloth Stores