Subject Name: Code of Criminal Procedure
Topic Name: Procedure in Complaint Cases

Table of Content:-

Examination of Complainant [Sec. 200]..... 1
Inquiry or Investigation for Further Scrutiny of the Complaint..... 2
Dismissal of a Complaint..... 3

Summoning an individual to appear in court to answer a criminal charge carries significant consequences. Hence, Sections 200-203 are enacted to deter false, frivolous, and vexatious complaints aimed at harassing the accused.

These sections specifically apply to cases where cognizance is taken on a complaint [under Sec. 190(1)(a)]. Such a specialised procedure is deemed unnecessary when cognizance is based on a police report.

A Magistrate, upon taking cognizance of an offence based on a complaint, is obligated to examine the complainant (Sec. 200). Subsequently, the Magistrate may issue summons to the accused, order an inquiry under Sec. 202, or dismiss the complaint under Sec. 203.

Examination of Complainant [Sec. 200]

According to Sec. 200, a Magistrate taking cognizance of an offence based on a complaint must examine the complainant and present witnesses under oath. The substance of this examination must be recorded in writing and signed by the complainant, witnesses, and the Magistrate.

The purpose of this examination is to determine whether a prima facie case exists against the accused. These provisions are mandatory, requiring the Magistrate to examine the complainant even if the facts are fully outlined in the written complaint. The complainant or their representative must also be given an opportunity to be heard.

However, if the accused is not prejudiced, the failure to examine the complainant does not invalidate the proceedings. Additionally, under Sec. 200, the Magistrate should inquire about the presence of witnesses.

Although the absence of such mention in the order sheet does not inherently invalidate the proceedings, it is not mandatory for the Magistrate to examine all witnesses named in the complainant's petition.

In certain circumstances, pre-summoning evidence may be dispensed with. Proviso (a) to Sec. 200 states that when a complaint is made in writing by a court or a public servant (e.g., a police officer), examining the complainant is unnecessary. Similarly, proviso (b) indicates that if the complaint is in writing and the Magistrate transfers the case for inquiry or trial to another Magistrate under Sec. 192, re-examining the witnesses or the complainant is not required.

The oath-bound examination of the complainant isn't a mere formality; dismissing a complaint without such scrutiny is legally impermissible. A statement under oath holds distinct significance, transcending non-sworn statements.

Legislative intent underscores the necessity of an oath-bound statement, which cannot be circumvented by any statutory provision. However, it's not mandatory for the Magistrate to personally examine witnesses named in the complaint. Likewise, there's no requirement for the Magistrate to justify summoning.

Consequently, the absence of witness examination by the Magistrate, post prima facie case establishment, doesn't nullify Section 200 proceedings. Notably, improper examination by the Magistrate isn't grounds for an accused to overturn a process issuance order.

Section 200 also presents exceptions to the aforementioned scrutiny rules. Notably, when a complaint is in writing, the Magistrate isn't obligated to personally examine the complainant and witnesses:

- If a public servant, acting in an official capacity, or a court lodges the complaint.
- If the Magistrate transfers the case to another Magistrate after initial examination.

These exceptions alleviate potential inconveniences, ensuring expediency in judicial proceedings. Additionally, a Station House Officer's report, under certain circumstances, may be treated as a complaint, exempting the officer from personal examination by virtue of Section 200's provisions.

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Furthermore, it's been established that a Magistrate can take cognizance without issuing a detailed order, relying instead on previous police complaint statements. Even in cases involving complaints

by public servants or courts, while not mandatory, the Magistrate retains discretion to conduct examinations if deemed necessary. In some instances, where the Magistrate lacks jurisdiction, the complaint may be directed to the appropriate court, either in written or oral form.

Inquiry or Investigation for Further Scrutiny of the Complaint

Upon receipt of a complaint for an offence falling within their jurisdiction, a Magistrate may opt to defer the issuance of process against the accused, instead choosing to conduct an inquiry personally or direct an investigation by a police officer or another suitable individual.

However, such direction for investigation is precluded in two instances: firstly, where the offence alleged is exclusively triable by a Court of Session, and secondly, where the complaint originates from a non-judicial entity, unless both the complainant and any present witnesses have been duly examined under oath as per Section 200.

An amendment to Section 202 introduced the provision that when the accused resides beyond the Magistrate's jurisdiction, the Magistrate may postpone process issuance. Furthermore, if the investigation is to be conducted by someone other than a police officer, said individual possesses all necessary powers for investigation save for the authority to make arrests without a warrant.



Section 202's objective is to allow the Magistrate to form an opinion regarding whether process issuance is warranted, mitigating any initial hesitations arising solely from a superficial review of the complaint and the complainant's sworn testimony.

The Magistrate's focus lies in determining whether there exists evidence supporting the complaint's allegations, rather than assessing the sufficiency of evidence for conviction. The discretionary phrase "if he thinks fit" grants the Magistrate full discretion to direct an investigation or opt for an inquiry, albeit this discretion must be exercised judiciously.

In cases where the complainant is unable to identify individuals allegedly involved in a non-cognizable offence, the Magistrate is compelled to instruct a police investigation. However, such investigations need not be exhaustive, serving primarily to assist the Magistrate in reaching a decision regarding process issuance.

If the Magistrate opts for a personal inquiry, they retain the discretion to administer oaths to witnesses as deemed necessary.

However, in cases exclusively triable by a Court of Session, the Magistrate is mandated to summon and swear in all witnesses presented by the complainant. This provision ensures the accused possesses full knowledge of the allegations against them, facilitating adequate preparation for their defence.

The complainant's presence during such inquiries isn't obligatory; the Code doesn't mandate their attendance, especially if they've already been examined under oath. Dismissing a complaint in such circumstances would be unlawful.

Dismissal of a Complaint

Upon thorough consideration of the sworn statements of the complainant and witnesses, along with the findings from any inquiry or investigation conducted pursuant to Section 202, if the Magistrate determines that there isn't sufficient grounds to proceed, they are mandated by Section 203 to dismiss the complaint, accompanied by a concise recording of reasons for the dismissal.

Section 203 places the onus on a Magistrate, who initiates proceedings based on a complaint, to assess whether there exists ample justification to pursue the case. This assessment hinges on the testimonies of the complainant and witnesses, as well as any investigative findings under Section 202.

The pivotal distinction laid down by the Supreme Court in Chandra Deo Singh v. Prokash Chandra Bose underscores that the threshold for proceeding is not tantamount to the standard required for conviction. As long as prima facie evidence is presented, even if the accused offers an alternate defence, the matter is deferred for adjudication by the appropriate forum.

In cases exclusively triable by the Court of Session, the Magistrate's scrutiny is confined to ascertaining whether prima facie evidence supports the allegations against the accused. This examination isn't akin to the meticulous assessment conducted during charge framing; rather, it's a preliminary determination of sufficient grounds for proceeding.

In exercising discretion under Section 203, the Magistrate must abstain from considering extraneous motives behind the complaint. Mere delay between the offence and the complaint doesn't warrant dismissal; instead, it may be relevant during trial.

Recording reasons for dismissal under Section 203 is imperative to ensure transparency and accountability. Absence of such reasoning renders the order vulnerable to higher judicial scrutiny. Additionally, the accused may challenge the dismissal order through revision.

Notably, dismissal under Section 203 isn't tantamount to discharge or acquittal; hence, the principle of autrefois convict or autrefois acquit isn't applicable.

However, a subsequent complaint following dismissal would generally be assessed cautiously, with the likelihood of proceeding being contingent upon exceptional circumstances justifying a reevaluation of the case. Such circumstances could include new evidence or a previous dismissal based on incomplete information or misunderstanding.

Ultimately, whether a second complaint is an abuse of the court's process or a step towards justice hinges on the specifics of each case.

