

INQUIRY

Section 2(g) of the Code of Criminal Procedure (CrPC) defines an inquiry as any non-trial investigation conducted by a Magistrate or Court. The purpose is to determine if the case warrants trial, aiming to uncover the truth. It involves a comprehensive examination of events, individuals, and relevant occurrences associated with the alleged offence. The primary objective is to extract crucial information essential for establishing the criminal nature of the offence. Each inquiry serves as a foundational starting point, elucidating whether the actions amount to criminal conduct and paving the way for subsequent trial proceedings.

PENAL PROVISIONS UNDER CODE OF CRIMINAL PROCEDURE (CrPC)

The power to hold investigation or preliminary inquiry as given in **Section 159** of the CrPC which states that, in case the police in charge convey to the court that they will not proceed with the investigation as there is no cognizable offence formed or if they deny to the informant that there is no sufficient ground for investigation; in such cases, the court may direct the police in charge to proceed with the preliminary inquiry or investigate the matter; the alternative under this section is that the court may also proceed to depute any Magistrate subordinate to him.

Penal Provisions Given Under Bharatiya Nagarik Suraksha Sanhita, 2023

Section 173(3) of the BNSS imparts statutory authority to the preliminary inquiry, a departure from its previous presence solely in certain police regulations/manuals. This inquiry is confined to cognizable offences with a punishment ranging from three to less than seven years of imprisonment. Notably, the BNSS introduces a **time-bound constraint**, mandating completion within 14 days from the receipt of information. Moreover, it allows for a preliminary inquiry to assess the prima facie case for FIR registration even upon initial information about a cognizable offence, thereby granting powers to the police.

Section 173(4) in BNSS (corresponding to CrPC's Section 154(4)) empowers the complainant to apply to the Magistrate for FIR registration only if the Superintendent of Police refrains from investigating the case or directing a subordinate police officer to do so, in compliance with BNSS provisions.

BNSS introduces definitions such as "**audio-video electronic**" (Section 2(1)(a)) and "**electronic communication**" (Section 2(1)(i)). Furthermore, **Section 530** explicitly permits all trials, inquiries, and proceedings to be conducted electronically, utilizing audio-video electronic means or electronic communications.

Remarks

A notable and recurrent aspect within the BNSS is the incorporation of electronic communication and audio-video electronic means across diverse procedures, aligning with the bill's overarching goal of enhancing technological utilization in legal processes. Concurrently, an amendment to **Section 155** of the CrPC, as reflected in **Section 174(1)** of the BNSS, introduces a specific timeframe of a fortnight for a police officer to submit the daily diary report to the Magistrate.

TRIAL

The word 'Trial' is not defined under the Code of Criminal Procedure, 1973 (CrPC). However, it is commonly understood that the stage of trial begins after the framing of charge and ends with conviction or acquittal of the accused. It is the judicial adjudication of a person's guilt or innocence.

PENAL PROVISIONS UNDER CODE OF CRIMINAL PROCEDURE (CrPC)

The Criminal Procedure Code (CrPC) delineates four types of trials. Chapter XVIII, spanning from **Section 225 to Section 237**, encompasses

provisions regulating trials before a Court of Session. Moving forward, Chapter XIX, from **Section 238 to Section 250**, governs the provisions related to warrant cases by magistrate. Chapter XX, covering **Section 251 to Section 259**, outlines provisions governing summon trials. Lastly, Chapter XXI, spanning **from Section 260 to Section 265L**, deals with provisions pertaining to summary trials.

PENAL PROVISIONS UNDER BHARTIYA NAGARAİK SURAKSHA SANHITA, 2023

Specified timelines have been prescribed for various stages of the criminal process including to complete the investigation and file a final report and for trial of the offence. For instance, it is mandatory for a Magistrate to decide whether to take cognizance of the chargesheet within a period of 14 days.

Section 250 mandates a 60-day window from the date of committal for the accused to file a discharge application. Additionally, **Section 251** reinforces this effort by setting a 60-day timeline for framing charges from the first hearing on charge.

Section 254 allows for the use of audio-video electronic means in Sessions cases for the deposition of evidence or statements of witnesses, police officers, public servants, or experts. A similar provision is included in Section 265 for the trial of warrant-cases, enabling the use of electronic means for examining witnesses

Section 283 makes *summary trial* mandatory for petty and less serious offences (like theft, receiving or retaining stolen property, house trespass, breach of peace, criminal intimidation, etc.). In cases where punishment is extendable up to 3 years (earlier 2 years) the Magistrate may, for the reasons to be recorded in writing and after giving the accused a reasonable opportunity of being heard, try such cases summarily.

Section 356, provides for an inquiry, trial to be conducted or a judgement to be passed against a proclaimed offender, **in absentia**. The process involves the issuance of two warrants of arrest within an interval of 30-days, publication of notices in two local or national newspapers, notification of the commencement of trial to relatives and the affixing of notices regarding the trial's initiation before the commencement of such trial.

Further, the trial against the proclaimed offender can only commence after the passage of 90 days from the date of framing charges. The provision extends the right to legal representation of the proclaimed offender with the state appointing an advocate for the absent accused's defence. This innovative framework diverges from the prevailing norm limited to only recording witness testimonies during trial in absentia.

Proviso to **Section 193(9)** provides a timeline for conducting further investigation during trial. It has been provided that after filing of charge sheet if further investigation is required, it shall be completed within 90 days, and any extension of time period beyond 90 days shall only be with the permission of the Court. This provision serves as a safeguard against the potential abuse of police power, makes the police more accountable, and prevents unnecessary delays in criminal proceedings.

Section 530 explicitly permits all trials, inquiries, and proceedings to be conducted electronically, utilizing audio-video electronic means or electronic communications.

REMARKS-

The proposed amendments in prescribing timelines for trials and formal adoption of audio-visual and electronic means signify a deliberate shift towards a more efficient and technologically aligned regime for the administration of criminal justice. Particularly noteworthy is the inclusion of provisions pertaining to trials against absconding individuals, marking a significant and important addition to the evolving landscape of criminal justice procedures.