

RMM LAW COLLEGE SAHARSA

CODE OF CRIMINAL PROCEDURE

IIIrd Part

Paper -3

TOPIC- General provisions as to inquiries and trials.

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309. Power to postpone or adjourn proceedings.

(1) In every inquiry or trial the proceedings shall be held as expeditiously as possible, and in particular, when the examination of witnesses has once begun, the same shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded.

(2) If the Court after taking cognizance of an offence, or commencement of trial, finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody:

Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time:

Provided further that when witnesses are in attendance no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded in writing:

Provided also that no adjournment shall be granted for the purpose only of enabling the accused person to show cause against the sentence proposed to be imposed on him.

Explanation 1 —If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Explanation 2 —The terms on which an adjournment or postponement may be granted include, in appropriate cases, the payment of costs by the prosecution or the accused.

310. Local inspection.

(1) Any Judge or Magistrate may, at any stage of any inquiry, trial or other proceeding, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, or any other place which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection.

(2) Such memorandum shall form part of the record of the case and if the prosecutor, complainant or accused or any other party to the case, so desires, a copy of the memorandum shall be furnished to him free of cost.

311. Power to summon material witness, or examine person present.

Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it to be essential to the just decision of the case.

Comments

(i) Power of Court to recall any witness or witnesses already examined or to summon any witness can be invoked even if the evidence in both sides is closed so long as the Court retains seisin of the criminal proceedings: *Mohanlal Shamji Soni v. Union of India*, (1981) 1 Crimes 818 (SC); (1991) Cr LJ 152 (SC).

(ii) Any person can be summoned as witness or recalled or re-examined at any stage of proceeding where essential; *Mohanlal Shamji Soni v. Union of India*, (1991) GLJ 1521 (SC); (1991) 1 Crimes 818 (SC).

(iii) It is crystal clear that the Court has been empowered to summon any person as a witness at any stage of inquiry, trial or other proceeding. The power is not confined to any particular class of person; *Heeralal v. State of Madhya Pradesh*, (1997) 2 Crimes 634 (MP).

(iv) It is settled in law if the conditions under this section are satisfied the Court can call witness not only on the motion of either the prosecution or the defence but also it can do so on its even motion; *Heeralal v. State of Madhya Pradesh*, (1997) 2 Crimes 634 (MP).

(v) The discretion vested in the Court under section 311 is to be exercised judicially and not arbitrarily; *Raghunath Prasad v. State of Rajasthan*, (1997) 3 Crimes 86 (Raj).

312. Expenses of complainants and witnesses.

Subject to any rules made by the State Government, any Criminal Court may, if it thinks fit, order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial or other proceeding before such Court under this Code.

313. Power to examine the accused.

(1) In every inquiry or trial, for the purpose of enabling the accused personally to explain any circumstances appearing in the evidence against him, the Court—

(a) may at any stage, without previously warning the accused put such questions to him as the Court considers necessary;

(b) shall after the witnesses for the prosecution have been examined and before he is called on for his defence question him generally on the case:

Provided that in a summons-case where the Court has dispensed with the personal attendance of the accused, it may also dispense with his examination under clause (b).

(2) No oath shall be administered to the accused when he is examined under sub-section (1)

(3) The accused shall not render himself liable to punishment by refusing to answer such question, or by giving false answers to them.

(4) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he had committed.

Comments

Section 313 is an important section and salutary provision which should not be slurred over; *Raman Saikia v. State of Assam*, (1997) 2 Crimes 555 (Gau).

