

PRIVATE COMPLAINT

Here the only consideration is whether or not there is any sufficient ground for proceeding

- 1) Sworn statement – Sec. 200. Where the Magistrate finds that he is not competent to take cognizance of the offence return the complaint for presentation to proper Court – S. 201.
- 2) Section 202 enquiry – not a must except in Sessions Offences and in cases where the accused resides outside the local limits of the Magistrate.
- 3) Dismissal under Sec. 203 or issue of process under Sec. 204.

Summary (Chapter 21)	Summons (Chapter 20)	Warrant (Chapter 19-B)	Sessions (Chapter 18)
(Procedure - same as in the case of police charge)	Procedure same as in police charge	<ol style="list-style-type: none"> a) Offences punishable with imprisonment exceeding 2 years. b) Procedure : Secs. 244 to 249. 	Offences punishable with imprisonment exceeding 7 years.
	<p>DIFFERENCES</p> <ol style="list-style-type: none"> 1) Complainant can seek permission to withdraw the complaint – Section 257. 	<ol style="list-style-type: none"> 1) If the complainant is absent before framing charge, discharge the accused u/s. 249 provided the offence is compoundable or non-cognizable (Eg. 325, 323 I.P.C.) - (This is not there in police charge cases because there the State is the complainant). Even where the offence is cognizable and non-compoundable (Eg.380 I.P.C.) and the complainant remains absent, the Magistrate can issue warrants to the complainant and discharge the accused under Sec. 245 (2) if the complainant eludes the process of court. 	<p>Cognizance only on committal u/s 193 r/w 209 Cr.P.C.</p> <p>EXCEPTIONS:-</p> <ol style="list-style-type: none"> 1) In complaints of defamation against President, Vice President, Governor etc. Sec. 199 (2). 2) Offences under Secs. 175, 178, 179,180 and 228 I.P.C. when committed in the presence of the Court - Sec. 345. 3) Refusing to answer or produce documents- Sec.349. <p>No provision for the Sessions Judge to award compensation if the accusation is without reasonable cause.</p> <p>(Procedure for trial is same as in police charge case).</p>
	2) Para 3 (d) of CHART – A i.e. Acquittal or Release U/s 258 not available.	2) Where the complainant and the accused are present, the Magistrate to take all such evidence as may be produced by the prosecution - Sec. 244 (1). Before or during such evidence the Magistrate can discharge the accused if he considers the charge to be groundless - Sec. 245 (2). Read 1994 (1) KLT 365. Even though this is only an enquiry stage, the accused are entitled to cross-examine the witnesses. (2009) 14 SCC 115 and (2010) 11SCC 520.	
	3) Death or absence of the complainant may entail acquittal of the accused -Sec. 256 (This is not there in police charge case since State is the complainant)	<ol style="list-style-type: none"> 3) After taking prosecution evidence U/s. 244 the Magistrate can discharge the accused if he considers that no case has been made out which if un rebutted would warrant a conviction - Sec. 245 (1). 4) If not discharged as above, a charge to be framed - Sec. 246 (1). (The expression “Evidence” in Ss. 244 to 246 does not include the unchallenged depositions of the complainant and his witnesses U/Ss. 200 and 202. (2013) 9 SCC 209). 5) Conviction – if accused pleads guilty - S. 246 (3). 6) If the accused pleads not guilty, then TRIAL – S. 246 (4). <ol style="list-style-type: none"> a) Chance to be given to the accused to further cross examine any witness - 246 (4). b) 313 examination. c) Calling upon the accused to enter on his defence -Section. 247. d) Defence Evidence - Sec. 247 r/w Sec. 243. e) Acquittal or conviction - Sec. 248. f) Accused to be heard on the proposed sentence - 248 (2) 7) Compensation may be awarded to accused if accusation is without reasonable cause - Sec. 250. 	