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COURT OF SESSION UNDER THE BNSS: HOW SERIOUS CRIMINAL CASES REACH THE JUDGE

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When a serious crime takes place, the case may need more than a simple hearing before a Magistrate. Murder, rape, and other serious offences can involve many witnesses, medical reports, forensic evidence, and difficult questions of law. The court hearing such a case must examine the evidence carefully before deciding whether the accused is guilty. In India, the Court of Session plays an important role in dealing with many such cases.

The Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, which came into force on 1 July 2024, explains how the Court of Session is formed and how it conducts criminal trials. Sections 8 and 21 are important for understanding its place in the criminal justice system. Sections 248 to 260 explain the procedure for trials before this court.

The Court of Session is not simply a higher court for serious offences. It is also a place where the prosecution must prove its case, the accused gets an opportunity to defend themselves, and the judge must reach a decision based on the evidence and the law.

Why Serious Cases Need a Different Court

India has different levels of criminal courts because not every offence carries the same punishment or requires the same trial process. A minor offence may be dealt with by a Magistrate, while a serious offence may be tried by a Court of Session if the law says that the offence is exclusively triable by that court.

Section 6 of the BNSS lists the main classes of criminal courts, including Courts of Session, Judicial Magistrates of the first and second class, and Executive Magistrates.

Section 21 explains which courts can try different offences. It must be read along with the First Schedule of the BNSS and any special law that applies to the offence. This is important because the seriousness of an allegation alone does not decide which court will hear it. The law must give that court the power to conduct the trial.

For example, a murder case under the Bharatiya Nyaya Sanhita, 2023, will generally be tried by a Court of Session. The court may have to examine witness statements, medical evidence, forensic reports, and the circumstances surrounding the death. Its task is to decide whether the

prosecution has proved the charge beyond reasonable doubt.

Section 8: Who Establishes the Court?

Section 8 of the BNSS deals with the establishment of the Court of Session. The State Government must establish a Court of Session for every sessions division. A sessions division is a territorial area organised for the administration of criminal justice.

The court is presided over by a Sessions Judge appointed by the High Court. The High Court may also appoint Additional Sessions Judges to exercise jurisdiction in a Court of Session. In certain circumstances, a Sessions Judge may also be appointed as an Additional Sessions Judge in another sessions division.

This arrangement gives the High Court an important role in appointing judicial officers and managing the work of the courts. The State Government establishes the court, but the judicial officer who presides over it is appointed by the High Court.

This division is important for judicial independence. A judge must decide a case according to the evidence and the law, not according to pressure from the police, the government, or the public.

The BNSS also provides for the Sessions Judge to arrange the distribution of business among the courts in the sessions division, subject to the law. This helps manage cases when several judicial officers are available.

A Serious Case Usually Reaches the Sessions Court Through a Magistrate

A person may wonder why a serious criminal case does not always begin directly before a Sessions Judge. The BNSS provides a process for moving cases from a Magistrate to the Court of Session.

Section 213 states the general rule that a Court of Session cannot take cognizance of an offence as a court of original jurisdiction unless the case has been committed to it by a Magistrate, except where the BNSS or another law provides otherwise.

Section 232 explains how this commitment takes place when an offence is triable exclusively by the Court of Session. The Magistrate must first comply with the rules on supplying copies of the police report and relevant documents to the accused. The case records and documents must then be sent to the Sessions Court, and the Public Prosecutor must be informed.

Section 232 also introduces a time limit for this process. The commitment proceedings must generally be completed within **90 days from the date of taking cognizance**. The period may

be extended up to 180 days for reasons recorded in writing.

The section further states that applications filed by the accused, the victim, or a person authorised by them must be forwarded to the Sessions Court along with the case.

These steps help ensure that the Sessions Court receives the material needed to conduct the trial. They also give the accused access to important documents before the case moves forward.

The Public Prosecutor Must Present the Case

Section 248 of the BNSS states that every trial before a Court of Session must be conducted by a Public Prosecutor.

The Public Prosecutor presents the case on behalf of the State. This includes explaining the allegations, presenting witnesses, and producing evidence that supports the charge. The defence lawyer gets the opportunity to challenge the prosecution's evidence and present the accused's side according to the law.

The prosecutor's job is not simply to obtain a conviction at any cost. The case must be presented fairly, and the court must be able to assess the evidence without being misled.

Section 249 deals with the opening of the prosecution case. The prosecutor explains the charge and the evidence through which the prosecution intends to prove it.

After considering the relevant material, the court may discharge the accused under Section 250 if there is no sufficient ground for proceeding. If the court finds grounds to proceed, Section 251 deals with framing the charge.

This stage is important because the court must identify the accusation the accused will have to answer. A criminal trial should not continue without a proper legal basis.

The Trial Must Give Both Sides a Fair Chance

Once the charge is framed, the case moves towards evidence. Section 253 deals with fixing a date for the prosecution evidence, while Section 254 deals with taking that evidence.

The prosecution presents witnesses and other evidence. The defence can cross-examine witnesses to test whether their statements are reliable. For example, if a witness claims to have seen the accused at the scene of a crime, the defence may question the witness about distance, lighting, memory, or earlier statements.

After the prosecution evidence has been considered, Section 255 allows the court to acquit the accused if there is no evidence that the accused committed the offence. If the court does not acquit at that stage, Section 256 provides for the accused to enter their defence.

The accused may present defence evidence where permitted and explain why the prosecution's case should not be accepted. Section 257 deals with arguments by the prosecution and defence, after which the court considers the case.

These stages show why the Sessions Court is not supposed to accept the police version without examination. The prosecution must prove the case, and the accused must have a fair opportunity to challenge it.

What Can the Judge Decide?

Section 258 deals with the judgment of acquittal or conviction. After considering the evidence and arguments, the judge must decide whether the prosecution has proved the charge.

If the accused is acquitted, the court must follow the legal requirements relating to the acquittal.

If the accused is convicted, the court must consider the sentence permitted by law.

Section 22 explains the sentencing powers of High Courts and Sessions Judges. A Sessions Judge may pass any sentence authorised by law. However, a sentence of death passed by a Sessions Judge must be confirmed by the High Court before it can be carried out.

This is an important safeguard because the death penalty is the most severe punishment available under Indian criminal law. The High Court must examine the case and decide whether the death sentence should be confirmed.

The Supreme Court's decision in *Bachan Singh v. State of Punjab* (1980) is important here. The Court held that the death penalty should be imposed only in the "rarest of rare" cases, when the alternative option is unquestionably foreclosed. This principle limits the use of the death penalty and requires courts to consider the circumstances of the crime and the offender.

The case was not decided under the BNSS, but its constitutional principles remain relevant when courts consider sentencing in serious criminal cases.

One Trial or Two? The Court Must Look at the Facts

A recent example of the Sessions Court's role came in *Brajesh Kumar @ Birjesh Kumar Singh v. State of Bihar*, decided by the Supreme Court in 2026.

The case concerned separate committal orders in proceedings arising from the same alleged incident. The Sessions Court later conducted a joint trial. The Supreme Court explained that separate committal orders do not automatically require separate trials. The decision to conduct a joint or separate trial depends on the law and the circumstances, and the court must consider whether any prejudice has been caused to the accused.

This decision shows that the Sessions Court has to make practical decisions about how cases should be heard, while still respecting the accused's right to a fair trial.

It also shows why procedural rules matter. If related cases are handled in a suitable way, the court may avoid unnecessary repetition of evidence. But a joint trial must not be used if it would unfairly harm the rights of an accused person.

The Pressure of Pending Cases

The Court of Session works within a larger judicial system that faces a heavy workload. The National Judicial Data Grid's district-court dashboard showed **more than four crore pending criminal cases** when accessed in October 2026. The figure changes as courts file and dispose of cases, and it includes many kinds of criminal proceedings, not only cases before Sessions Courts.

The number helps explain why case management is important. Serious trials may involve many witnesses, expert reports, and long arguments. Delays can affect the accused, victims, and witnesses. A person accused of a crime may remain under trial for years, while a victim's family may wait a long time for a final decision.

The BNSS's 90-day rule for committal proceedings is one effort to reduce delay at an early stage. But timely trials also require enough judges, prosecutors, court staff, and proper handling of evidence.

At the same time, speed should not come at the cost of fairness. A rushed trial can lead to mistakes, while unnecessary adjournments can prolong the case. The court must manage both concerns carefully.

A Court That Must Be Firm but Fair

The Court of Session has an important place in India's criminal justice system. Sections 8 and 21 explain its position and the offences that may be tried by it. Section 232 sets out the process for committing a case to the court, while Sections 248 to 260 explain the main steps in a Sessions trial.

The court must hear the prosecution, give the accused a fair chance to defend themselves, examine the evidence, and give a reasoned judgment. Where the law permits a severe sentence, the court must also follow the safeguards that apply to it.

In the end, the Court of Session is not only a place for trying serious offences. It is also a place where the State must prove its allegations through a fair legal process. Its work matters because

criminal cases can affect freedom, family life, and public trust in the justice system. The real purpose is not simply to finish a case, but to reach a decision that can stand on the evidence and the law.

