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1. A trial on indictment or information in a High Court is really an elaboration or amplification of a summary trial at the magistrate court. It is not much different from a summary trial, except for the elaboration of certain procedures. The procedures from arraignment to imposition of sentence in a criminal trial in the high court are;

\*Arraignment

\*Plea of guilty

\*Plea of not guilty

\*Prosecution

\*Submission of “No case to answer”

\*Defence

\*Closing Address

\*Judgment

\*Discharge

\*Sentence.

(a) Arraignment: This is the calling of an accused person formally before the court by name at the beginning of a criminal proceedings, to read to him the indictment ot information brought against him and to ask him whether he pleads guilty or not.

It means the registrar or other officer of the court calling the accused by name while the accused is standing in the dock and reading over and explaining the charge or information to the accused in a satisfactory way and asking the accused to make a plea thereto instantly. This is called the Arraignment of a person before a court.

(b) Plea of guilty: Where an accused person leads guilty, the counsel for the prosecution will give the court a summary of the evidence together with details of the accused person’s back ground, that is, character and his criminal record, if any. After this the counsel for the defence usually makes his allocutus or plea in mitigation of sentence and the court then passes its sentence.

(c) Plea of not guilty: Where an accused person pleads not guilty, the trial then proceeds.

Plea bargaining: Plea bargaining or plea negotiation means negotiating and agreeing and accused to plead guilty, so a lesser crime in exchange for the dismissal of the serious crime charge brought against him and for a quick disposal of the entire criminal proceedings.

A trial judge may also allow an accused person to change his plea, from guilty to not guilty, and thus avoid passing of sentence thereon, otherwise a refusal to allow a change of plea at that point in time usually becomes an issue for appeal. Where an accused changes his plead from guilty to not guilty, the trial then proceeds. Some accused person maybe too mentally ill or disordered to make a plea to a criminal charge. This is usually referred to as “unfitness to plea”. Alternatively, The defence may put of the defence of insanity and if successful, the accused is usually acquitted on ground of insanity, the leading case of insanity. R v. Naghten.

(d) Prosecution: The counsel for the prosecution always a criminal proceeding by calling evidence for the prosecution. He calls his witness and examines each in chief, and tenders any exhibit they may have. The witnesses are in then cross-examined by the defence counsel and re-examined by the prosecuting counsel as may be necessary and the case for the prosecution closes. The burden of proof on the prosecution in criminal proceeding is proof beyond reason able doubt.

(e) Submission of “no case to answer’: At the close of the case for the prosecution, the defence counsel may submit that the prosecution has not produced sufficient evidence or made out a prima facie case against the accused and consequently, the accused has no case to answer and therefore the case should not proceed further. The defence counsel makes the submission by addressing the court. The prosecuting counsel usually replies. The judge then makes a ruling on this submission.

(f) Defence: After the close of the case for the prosecution and the failure of a no case submission, if such submission was made, the case for the defence then opens. The accused and his witnesses, if any, are, one after the other, led in evidence-in-chief by the counsel for the defence and are cross-examined by the prosecuting counsel and re-examined by the counsel for the defence as may be necessary. Each witness undergoes the whole process, before another witness is called. It is never mixed up. This is always the procedure. Generally, unless a witness has finished his testimony and undergone necessary cross-examination and re-examination, another witness may not be called, except there are good reasons to do so. Some good reason to call a witness out of turn, include the need to take the evidence of a witness who is obviously very busy or who may not be readily available to testify, who lives in a distant town or place, or who is suffering from ill-health, travelling to afar place and so forth.

(g) Closing addresses: After the close of the case for the defence, the counsel for both sides then make closing speeches by addressing the court from their few written addresses. The prosecuting counsel is always the first to address the court. He sums up or review the case on both sides.

(h) Judgment: After the closing addresses by counsel for both sides, the judge fixes the judgment for a date provided that it is not a summary trial, and the court rises in adjournment to enable it deliberately, consider or evaluate the totality of evidence in the case. On the adjourned the court resumes sitting, the case is called and the judge begins to deliver his judgment on the case. However, were a trial is by summary procedure the judge may deliver judgment there and then or he may retire to his chamber to consider judgment and resume sitting to deliver it on that same day, as the case maybe, or an adjourned date.

(i) Discharge: When an accused person has not been found guilty on merit, the judge will dismiss the information or charges and accordingly discharge and acquit the accused person as provided under the criminal procedure law. On the other side, if the prosecution failed on a technicality then the court will usually accused but not acquit him.

(j) Sentence: Where an accused is found guilty, before passing sentence and allocutus, plead for mercy or leniency is usually made by the counsel for the defence. After the allocutus the judgment passes sentence on the accused.

When an accused has been found guilty of a crime, a court any under the criminal procedure Act or law and make one or more appropriate other as follows; Imprisonment, fine, death sentence, caning, deportation, binding over(suspension), order of detention during the pleasure of the President or Governor a the case may be, Order for disposal of property, order for costs, award of damages and probation order.

# Remedy to the accused after the imposition of sentence.

Remedies can be gotten through;

* Appeal.
* Discretionary powers of the authority involved. (President in federal matters and governor in state matters.)

APPEAL

An appeal is a request made to a higher court to review and change the decision of the original court. The prosecution may appeal against the sentence, while the defence may appeal against the conviction, the sentence or against both the conviction and the sentence.

The *Criminal Procedure Act 2009* governs the process of appeals against imposed sentences in the Magistrates', County, and Supreme Courts.

The Court of Appeal, normally comprising two or three Judges of Appeal, conducts hearings of prosecution and offender sentence appeals. In some cases, five judges may hear the appeal.

The Court of Appeal will review the sentence and determine whether the judge who originally sentenced the offender has made an error.

In determining whether a sentencing error has been made, the Court of Appeal considers such matters as:

* the maximum sentence available to the original sentencing judge
* how the original sentencing judge exercised the sentencing discretion
* other sentences in similar cases
* the seriousness of the offence
* the personal circumstances of the offender.

The Court of Appeal may identify a specific error in the original sentence, for example, the sentencing judge’s failure to have regard to a sentencing factor required by the law. Alternatively, the Court of Appeal may assume an error has been made on the basis that the result imposed by the original sentencing judge is plainly unreasonable or unjust.

If the Court of Appeal decides that an error has been made and that the offender should receive a different sentence, it will allow the appeal. It can then set aside the original sentence and either impose a new sentence or send the matter back to the original sentencing court for the offender to be resentenced.

If a person appeals against a sentence of imprisonment, that person can make an application to be released on bail. However, bail pending appeal is only granted in exceptional circumstances.

DISCRETIONARY POWERS

The President or Governor may decide at their mercy to let the sentence imposed on the accused pass by due to certain facts or reasons or even evidences as the case may be. These authorities exercise discretionary powers

2. METHODS BY WHICH CIVIL PROCEEDINGS MAY BE COMMENCED IN THE HIGH COURT.

\*Consultation

\*Form of comm.encement

\*Appearance of parties

\*Stay of proceedings

\*Pleadings

\*Trial

\*Judgment

\*Enforcement.

(a) Consultation: A party who has been wronged or is aggrieved and wishes to seek relieve in the high court, usually consult a lawyer for legal advice, who takes down the fact of his case and instruction. If the matter ius not urgent and does not need immediate action in court to forestall irreparable damage, the lawyer may as a first step write a letter of demand to the would-be-defendant demanding that a debt be paid, a wrong be put right and or monetary compensation be paid to his aggrieved client as the case may be, and given a period of time for the demand to be met, failure of which action is thereafter filed, with or without giving further notice to the would-be-defendant.

(b) Form of commencement: An act may be commenced in a high court by a counsel filing one or a combination of the Writ of summons, Ex parte motion and Petition.

A writ of summons when filed is sealed or stamped with the court’s name on it for service by a bailiff on the defendant to give him notice of the claim, made against him and require him to acknowledge service and to defend it, if he does not admit the claim. A statement may be filed along with the writ or later on within 14 days of the service of the writ on the defendant.

(c) Appearance of the parties: A defendant may acknowledge the service of a writ, and then enter appearance in the case by instructing his solicitor or counsel to file a memorandum of appearance, and then show up to defend it or settle the case as he may wish to do. However, where a defendant fail to enter appearance, within the time limited, the plaintiff, may by a motion on notice obtain interlocutory or final judgment against the defendant in default of appearance and other failure to defend the action.

(d) Stay of proceedings: A court may order a stay, that is a suspension of proceedings in an action temporarily:

\* Until something requisite is done

\* Until a party has complied with an order, however a stay of proceedings maybe permanent by way of a strike out or dismissal of the claim.

\* To proceed with the action would be improper or would amount to contempt of another court or superior court

\* The suit is scandalous, frivolous, vexatious or an abuse of court process, that is an abnormal use of court process.

\* The suit is brought to prejudice

\* When the claim does not dispose a reasonable course of action

\* Where the defendant does not have a good defence.

A court has an inherent jurisdiction or power to stay proceedings in a claim for any of the above reasons.

(e) Pleadings: Pleadings are written statement of material facts a party is relying on for his claim, defence, or reply in a suit, and which are filed and exchanged by parties to a suit. A pleadings is a comprehensive statement or narration of a party’s claim or case.

(f) Trial: On the fixed date of trial, the parties and their witness assembles before the copurt for trial, they come to court with the documents or any other required thing to be tendered as exhibit. Where a witness refuses to appear in court, a subpoena may be issued on him to attend court. A subpoena is a summon to appear in court and give evidence, that is, testify and or tender an exhibit, such as a document and so forth, in evidence, on the condition that reasonable expenses will be paid to him, by the party calling him as a witness, Witnesses, who ignore are in contempt of court for disobedience and may be punished for such contempt, by a fine or imprisonment.

(g) Judgment: After the closing speeches or addresses of counsel, the judge sums up, that is, he considers or evaluates the evidence given in the case and then gives judgment on the same day. Where a judge requires more time to consider the case, he may reserve judgment and adjourn the matter for judgment to such later date.

(h) Enforcement of judgment: When judgment has been entered in favourn of a party, the judgment, declaration of rights, order of reinstatement, order of forfeiture, award of damages, offer of apology and so forth, if not satisfied within the time limited by law, appealed against nor otherwise stayed, the plaintiff may enforce the judgment by one or a combination of the following ways;

Judgment for payment of money; may be enforced by; A writ of Fifa, charging order, writ of sequestration, appointment of a receiver, garnishee order, attachment or earnings.

Judgment for possession of land or other property; A writ of possession, a vesting order, specific performance and so forth.

Judgment for delivery of goods; A writ of delivery, an order of specific performance and so forth.

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