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QUESTION:

1 STATE CLEARLY THE PROCEDURE FROM ARRIGNMENT TO IMPOSITION OF SENTENCE IN A CRIMINAL TRIAL IN THE HIGH COURT COMMENT ON THE REMEDY AVAILABLE TO THE ACCUSED AFTER THE IMPOSITION OF SENTENCE

2COMMENT ON VARIOUS METHODS BY WHICH CIVIL PROCEEDINGS MAYBE COMMENCED IN THE HIGH COURT

PROCEDURES FROM ARRAIGNMENT TO IMPOSITION OF SENTENCE

1. ARRAIGNMENT AND PLEA: arraignment is the registra 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 to make plea thereto instantly. It is called the arraignment of a person before a court.

An accused may plead as follows:

* AUTREFOIS ACQUIT: a plead that he has been try for the same offence and has been acquitted
* AUTREFOIS CONVICT: A plead that he has been tried and convicted for the same offence in previous occasion.
* HE MAY STAND MUTE: if he stands mute a plead of guilty is entered for him by the court.
* PLEA OF GUILTY TO A LESSER OFFENCE: while trying to plead “not guilty” to the initial offence he may plead to a lesser offence which is not in the information. If the plead is accepted by the prosecution the previous charge is drop then alloing the court to sentence him to the lesser offence he confessed for.
* HE MAY PLEAD GULITY TO THE OFFENCE CHARGED
* HE MAY PLEAD NOT GUITY.

1. PLEA OF GULITY: this when an accused person pleas guilty leaving the prosecution to give the court a summary of the evidence together with the accused details or criminal record if any.
2. PLEA OF NOT GULITY; where an accused person pleads not guilty given way for the trial to begin.
3. PLEA BARGAINING: it is negotiating and agreeing for an accused to plead guilty to lesser crime, in exchange fro the dismissal of the serious criminal charge brought against him and for the quick disposal of the entire criminal proceedings.
4. MENTALLY ILL PERSONS: some accused persons may be too mentally ill or disordered to make a plea to a criminal charged. This is usually referred to as “unfitness to plead”. Such accused may then be referred for psychiatric examination and treatment. On ground that truly the persons isn’t in a right frame of mind the person is taken care of in a psychiatric hospital at the pleasure of the president or governor in respect of federal or state offences ,as the case might resume when the person mentally fit to be release. Or the defence may put up defence of insanity and if successful, the accused is usually acquitted on grounds of insanity. The leading case on insanity is R v M’NAGHTEN.
5. PROSECUTION: the counsel for the prosecution always opens a criminal proceedings by calling evidence for the prosecution. The burden of proof on the prosecution in criminal proceedings is proof beyond doubt. Where the burden of proof is not discharged, thr charge or information is usually dismiised and the accused is legally entitled to be set free and is accordingly usually discharged and acquitted. This burden which rests on the prosecution to prove the guilt of the accused beyond reasonable doubt is never lowered or watered down. This for , for it is better for a guilty person to go scot-free and escape justice, than for an innocent person to be unjustly punished, due to a lowered standard of proof.
6. SUBMISSION OF “ NO CASE TO ANSWER”: at the close of 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.
7. 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 witness, if any, are, one after the other,led in evidence –in- chief by the cousel for the defence and are cross- examined by the prosecuting cousel and re-examined by the counsel for the defence as may be necessary.
8. CLOSING ADDRESSESS: after the close of the case for the counsel for both sides then make closing speeches by addressing the court from their filed wrritn addresses.
9. JUDGEMENT: after the closing address by both sides the judge fixes the judgement for a date provided that it is not a summary trial, and the court rises in adjournmrnt to enable it deliberate, consider, or evaluate the totality of evidence in the case. In the judgement the judge sums up, weighs , or reviews the evidence for both sides. He states his reason for believing and accepting the case for either side also gives his reason for disbelieving and rejecting the evidence for the other side.
10. DISCHARGE: where an acused person has not been found guilty, on merit, the judge will dismiss the information or chargesband accordingly discharge and acquit the accused person as provided under the criminal procedure law.
11. IMPOSITION OF SENTENCE OR SENTENCE: when an accused is found guilty of a crime, a court may under the criminal procedure act or law pass sentence and ,make one or more appropriate orders like:

* Imprisonment, usually with hard labour:
* Fine, in lieu of, that is, instead of imprisonment or both fine or jail
* Death sentence
* Caning
* Deportation.

1. COMMENT ON THE REMEDY AVAILABLE TO THE ACCUSED AFTER THE IMPOSITION OF SENTENCE.

* APPEAL AGAINST A SENTENCE: this is seen when an accused feels the judgement given is not right can appeal to a superior court.
* Apply for bail pending on the hearing of the appeal.
* They can apply to the governor for preoperative mercy.

2. COMMENT ON VARIOUS METHOD BY WICH CIVIL PROCCEDES MAYBE COMMENCED IN HIGH COURT.

1. FORMS AND COMMENCEMENT OF ACTION: an action may be commenced in high court by a counsel filing one or a combination of the following papers or originating processes in court:
   * + Writ of summons, or originating summons, together with the statement of clamin, or
     + Ex parte motion, with or without a writ of summons and a statement and a statement of clamin which maybe filed later.
     + Petition as may be necessary.
2. APPERANCE: A defendant may acknowledge the service of a writ, and then enter appearance in the caseby instructing his solicitor nor counselto file a memorandum of nappearence and then show up to defend or settle the case if he may wish.
3. STAY OF PROCCEDINGS: A court may order a stay that is a suspension of proceedings in an action temporaily.

* Until something requisite is done: or
* Where the clamin does not disclose a reasonable cause of action or ETC

DISCONTINUANCE: A notice of discontinuance is aprocess whereby a plaintiff voluntarily bputs an end to a legal action. However a paintiff after discontinuance may initiate another action for the same cause.

NON-SUIT: where a wrong person has been sued, a court will strike out his name at his application.

SETTLEMENT: parties to an anction may also settle the dispute for valuable consideration, or without consideration and withdraw the action without filing terms of settlement in which case the action wiil be struck out by court or by filing terms of settlement in court and terms of settlement will be pronounced as consent judgement of the court in conclusion of the action.

SUMMARY JUDGEMENT: summary of judgement is a procedure or device available for promptly and expeditiously obtaining judgement and disposing off a controversy, case or matter without going to trial. It is usually available where:

* There is default of appearance: and or
* Failure to file a defence
* When there is no dispute as to either material facts or interences
* Where the defendant has no defence, or
* There is indolent or lack of diligent prosecution, and so forth.

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.

The pleadings filed in court and exchanged between a plaintiff and a defendant are:

* Statement of claim, by the plaintiff
* Statement of defence, by a defendant, a defence may contain a:

1. Set off
2. Counter- claim; that is, a cross- claim; and

* Reply: no pleading subsequent to a reply may be filed without the leave of the court, such as an amendment and so forth. Every pleading must state:

1. Facts, that is, every and all material facts that the party is relying on to establish his case; and
2. Statement in a summary form, but without omitting necessary facts.