

Criminal Procedure Code (Archives) Tome XXIV

(Commission 1934 presided by Phya Isara)

Text containing some further modifications requested by the Government¹

Division III

PROCEDURE IN FIRST INSTANCE

Title I

ENTRY OF CHARGE

Chapter 1

GENERAL RULES

Section 161 When a charge is entered in court if it is found not in conformity with the law, the court shall make an order directing the prosecutor to make good the defects in the charge, dismissing or rejecting the charge or returning it for reentry in the competent court. The prosecutor shall be entitled to appeal against any such order of the court.

If the charge is found conformity with the law :

a) in the case where it is entered by a private prosecutor, the court shall make a preliminary investigation to find whether there is a prima facie case. If there is no prima facie case, the court shall dismiss the charge. If there is a prima facie case, the court shall accept the charge for trial

¹ ที่มา สำนักงานคณะกรรมการกฤษฎีกา

b) in the case where it is entered by the public prosecutor, the court need not hold a preliminary investigation before accepting the charge for trial, but it may hold one if it thinks fit.

When a charge is accepted, the court shall order a copy thereof to be served on the accused or, if there are several accused, on each of them.

Section 162 At the preliminary investigation , if the accused pleads guilty the court shall accept the charge for trial without hearing any evidence for the prosecutor

Section 163 When the charge has been accepted. The court shall, if the accused has not been brought before it, issue a summons to appear to be served upon him or a warrant of arrest, as the case may be, in order to try the case.

Section 164 The prosecutor may by motion apply to the court to alter or add to any charge at anytime before the judgment is pronounced, in which case such alteration or addition shall be read over to the accused, if the new or altered or added charge is such as will prejudice the defence of the accused, the court may either direct a separate investigation or trial of such charge or adjourn the case for such period as may be necessary.

The accused may always by motion apply to amend his statement before judgment is pronounced, in which case the prosecutor shall be informed by the court of the amendment.

Section 165 Neither the correction of any mistake made in stating either the offence or the particulars required to be stated in the charge nor the making good of any omission to state the offence or such particulars shall be considered, at any stage of the case, as prejudicing the defence of the accused, unless the accused was actually misled by such error or omission.

In the case stated above, it shall not bar the right of the prosecutor to withdraw the charge and enter a new charge.

Title II

PROCEEDINGS IN COURT

Chapter 1

PRELIMINARY INVESTIGATION

Section 166 In the case where the charge is entered by a public prosecutor, on the day fixed for holding the preliminary investigation, the accused shall appear or be brought before the Court and the Court shall first satisfy itself as to the identity. Then the charge shall be read out to him in Court, and he shall then be asked whether he is guilty of the offence charged and whether the preliminary investigation, the accused shall appear or be brought before the Court and the Court shall first satisfy itself as to the identity. Then the charge shall be read out to him in Court, and he shall then be asked whether he is guilty of the offence charged and whether he wishes to make any statement concerning the charge. Any statement made by the accused shall be put on record.

The accused is refused the right to adduce any evidence, but he can have the assistance of a counsel to help to cross-examine the witnesses of the prosecution.

In the case where the charge is entered by a private prosecutor, the Court may hold the preliminary investigation without the presence of the accused, but the Court shall serve on him a copy of the charge and notify him of the day fixed for the preliminary investigation. The accused may attend the investigation or not, if he thinks fit. If he chooses to attend, he may have the assistance of a counsel and may cross-examine the witnesses of the prosecutor.

The Court shall not ask for the accused's statement and, before acceptance of the charge, the accused shall not be treated by the Court as such.

Section 167 If the prosecutor does not appear on the day appointed for his appearance, the charge shall be dismissed unless the Court sees reason to believe that he was prevented from being present by circumstances beyond his control, in which case it may adjourn the hearing of the case. In case of any such dismissal of a charge by a private prosecutor on the same charge by the private prosecutor, but such dismissal shall not debar the public prosecutor from the right to take up the case afterwards.

Section 168 If, according to the evidence, the Court is of opinion that the accused has not committed the offence, it shall dismiss the charge.

If there is a prima facie case, it shall accept the charge for trial.

Section 169 The order of the Court to the effect that there is a prima facie case is final

An appeal shall lie from any order of dismissal closing a preliminary investigation. If the accused is under provisional release or detention, the Court may, upon application (by motion) of the prosecutor submitted at the time of pronouncement of the order of dismissal, make an order maintaining him under detention or provisional release during appeal and dika appeal.

Section 170 Save as herein before provided, the provisions concerning the proceeding of the preparatory enquiry shall apply to preliminary investigation by the Court mutatis mutandis.