Summary Trials are the trials which are speedily disposed and with the simplified procedure of recording the trials. The principle of the summary trial is based on the legal maxim ‘justice delayed is justice denied’. It is important to note that the summary is only in recording the proceedings and not in conducting the proceedings. The proceedings in every case have to be done cautiously and prudently. A summary trial implies that the case is tried and disposed at once. Such a trial is not available to cases which are complicated and require a lengthy process of inquiry. The access to summary trial even in small cases prevent a miscarriage of justice which would have otherwise taken several years to complete the proceedings.

Section 260 to 265 of the Code of Criminal Procedure, 1973 (Cr.P.C.) deals with the provisions related to summary trials.

### Power to try Summarily

Section 260 of the Code confers any Chief Judicial Magistrate,Metropolitan Magistrate and Magistrate of the first class with the power to try trial summarily. However, a Magistrate of the first class in order to try summarily has to take special permission from the High Court. As per section 261, any High Court may empower any Magistrate of the second class to try summarily any offence punishable only with fine or with imprisonment for a term not exceeding 6 months with or without fine and any attempt or abetment of such offences.

### Offences which can be tried Summarily

A Magistrate who is empowered to trial summarily, if thinks fit may try all or any of the following offences summarily:

1. Offences which are not punishable with death or imprisonment with life or imprisonment for a term exceeding 2 years;
2. Offences relating to theft prescribed under sections 379, 380 and 381 of the Indian Penal Code (IPC), where the stolen property is not valued more than two thousand rupees;
3. Offences relating to receiving or retaining any stolen property, under section 411 of the IPC, where the value of the property does not exceed two thousand rupees;
4. Assisting in the concealment or disposal of any stolen property as prescribed under section 414 of the IPC, where the value of such property does not exceed two thousand rupees;
5. Offences which are embodied under sections 454 and 456 of the IPC;
6. An offence relating to insulting with intent to provoke a breach of peace, under section 504 of the IPC;
7. The offence as prescribed under section 506 of the IPC relating to criminal intimidation punishable with imprisonment for a term which may extend to 2 years or with fine or with both;
8. Any abetment of the abovementioned offences;
9. Any attempt to commit the above mentioned offences, where the attempt of such offence is punishable;
10. Any offence committed within the meaning of section 20 of the Cattle – Trespass Act, 1871[[1]](http://lawtimesjournal.in/summary-trials/" \l "_ftn1).

It is the discretionary power of the Magistrate to try specified offence in a summary way. Section 260 of the Code only does not empower the Magistrate to try such cases which he is not competent to try. It empowers him to try the cases that he is already competent to try by a particular procedure.[[2]](http://lawtimesjournal.in/summary-trials/" \l "_ftn2) The subsection (2) of 260 provides that any witness can be recalled for examining and to re-hear when it appears necessary to the Magistrate that the case should not be tried summarily.  If the mode of the trial is sought to be altered in the midstream on the ground that the offence is such which cannot be tried in a summary way, the trial must from its inception be conducted in a regular manner.[[3]](http://lawtimesjournal.in/summary-trials/" \l "_ftn3)

Offences to be tried summarily need not be punishable under the Penal Code, offences under special or local Acts can be tried summarily if they fulfil the condition of punishment laid down.[[4]](http://lawtimesjournal.in/summary-trials/" \l "_ftn4)

### Procedure for Summary Trials

The provisions of section 262 of the Code are imperative and a breach thereof amounts an illegality and not an irregularity.[[5]](http://lawtimesjournal.in/summary-trials/" \l "_ftn5) Section 262 (1) strictly provides that the procedure for summary trials shall be conducted as per the procedure established for conducting the trials of summons-case, except otherwise provided. Adherence to this provision has to be done irrespective of the nature of the case, that is, whether it is a warrant-case or summons-case. Further, it prohibited by section 262 (2) of the Code to pass any sentence of imprisonment for a term exceeding 3 months for any conviction in respect of summary trials. A sentence exceeding the period fixed by this section is illegal.[[6]](http://lawtimesjournal.in/summary-trials/" \l "_ftn6) In the case of Asghar Ali,***[[7]](http://lawtimesjournal.in/summary-trials/" \l "_ftn7)*** it was held that the limit of imprisonment refers only to the substantive sentence, not to an alternative sentence of imprisonment in default of payment of a fine. A magistrate can impose a sentence of imprisonment in default of payment of fine in addition to the maximum sentence of three months imprisonment which he has imposed for the offence.

This sub-section only imposes a limit as to imprisonment and not as to the amount of fine to be imposed.

### Records and Judgment in Summary Trials

Section 263[[8]](http://lawtimesjournal.in/summary-trials/" \l "_ftn8) of the Code states the following particulars to be recorded by the Magistrate:

1. the serial number of the case;
2. the date of the commission of the offence;
3. the date of the report or complaint;
4. the name of the complainant (if any);
5. the name, parentage and address of the accused;
6. the offence complained of and the offence (if any) proved, and in cases coming under clause (ii), clause(iii) or clause (iv) of sub-section (1) of section 260, the value of the property in respect of which the offence has been committed;
7. the plea of accused and his examination (if any);
8. the finding;
9. the sentence or other final order;
10. the date on which proceedings terminated.

All these particulars have to be recorded in the form as may be prescribed by the State Government. It is the duty of the Magistrate to record the particulars himself. He cannot depute that duty to his clerk, nor is he authorized to affix his signature to the record or judgment by a stamp.[[9]](http://lawtimesjournal.in/summary-trials/" \l "_ftn9)

Section 264 requires the Magistrate, where the accused had not pleaded guilty, to record the substance of evidence and judgment and its reasons thereof in brief. The substance of evidence is to be recorded at the time when such evidence is produced before the Court. The Allahabad High Court in the case of Karan Singh,***[[10]](http://lawtimesjournal.in/summary-trials/" \l "_ftn10)*** held that if the evidence is not so set forth, the Magistrate may be required to do so even after examining the witness, or a re-trial may be ordered.

Moreover, all the records and judgment has to be written in the language if the Court. The Magistrate must write his full name and the mere putting in of the initials is not sufficient.[[11]](http://lawtimesjournal.in/summary-trials/" \l "_ftn11)

### Difference between Summary and Regular trials:

A summary trial is very much dissimilar to any regular trials as follows:

1. A summary trial can be conducted only for specified offences which are minor in nature whereas more complicated and serious nature of offences is tried in regular trials.
2. In summary trials, only the substance of evidence and the disposition is briefly recorded but in regular trials, the evidence is recorded carefully and in full.
3. No formal charge is required to be framed by Magistrate in summary trials but in regular trials, a formal charge sheet is required to be drawn up.

***[References]***

*[[1]](http://lawtimesjournal.in/summary-trials/" \l "_ftnref1)*The Cattle-Trespass Act, 1871, No. 1, Acts of Parliament, 1871 (India).

*[[2]](http://lawtimesjournal.in/summary-trials/" \l "_ftnref2)*Balachand v. Madsam Municipality, AIR 1960 MP 20.

*[[3]](http://lawtimesjournal.in/summary-trials/" \l "_ftnref3)* D.N. Patel, 1971 Cr LJ 1244.