**EXTRADITION PROCESS IN INDIA**

In India, the extradition of a fugitive (accused or convicted) is governed by the Extradition Act,1962. The extradition of a fugitive depends upon the treaties/ conventions/ arrangements entered into by India with other countries. Thus, the extradition act has to be read along with the treaty/convention/arrangement that India has with other countries.

It must be noted that it is not essential to have the treaty to extradite a person from India. If there is no extradition treaty made by India with any foreign state, the Central Government may treat any convention as an extradition treaty only to the extent of offences mentioned in the convention to which India and the foreign country is a party.

The initial procedure for extradition involves:

1. The extradition process is put in motion by the receipt of information/requisition regarding fugitive criminals wanted in foreign countries. The source of information may be directly from the diplomatic channel of the concerned country, General Secretariat of ICPO/Interpol in the form of red notices or other settled modes of communication.
2. After the requisition/information is received, a magistrate is asked to carry forward the inquiry in that particular case. The inquiry is not supposed to decide the guilt or innocence of the fugitive offender and does not go into the merits of the matter. The main purpose of the inquiry is to determine whether there is a prima facie case or reasonable grounds that warrant the fugitive criminal being sent to the requesting state, by verifying the authenticity of the evidence presented before the court by the requesting state and considering the evidence produced by the fugitive offender to contest the extradition request.
3. After a detailed inquiry, the magistrate shall issue a warrant of arrest against the fugitive.
4. A formal request by one sovereign nation to another sovereign nation is made on the basis of the warrant. The extradition request must contain an order of the Magistrate justifying the accused person’s committal to trial on the basis of the evidence made available in the charge-sheet, with directions seeking to secure the presence of the accused in Court to stand trial in the said court from the country of present stay, along with a copy of the First Information Report (FIR) duly counter-signed by the competent judicial authority. Such request must be accompanied by an original and open-dated warrant of arrest stating clearly the offences for which the accused has been charged and that the Court has taken cognisance of the said sections.
5. If the accused person is found guilty in the country where the request for the same has been made, the accused may be arrested.
6. The country that arrests the accused may subject him/her to the extradition process where he/she may be deported to the country who has made the request.
7. It is to be taken into consideration that the accused is subjected to the laws of the nation in which he/she is found.

In Sarabjit Rick Singh vs Union Of India[[1]](#footnote-0) the Supreme Court held that If the State has been able to prima facie establish that a case has been made out for bringing an accused to trial, it will be for the accused to show that no such case is made out of the offences complained or for extradition.

In Abu Salem Abdul Qayoom Ansari vs State Of Maharashtra & An[[2]](#footnote-1)r the Supreme Court held that The term `extradition' denotes the process whereby under a concluded treaty one State surrenders to any other State at its request, a person accused or convicted of a criminal offence committed against the laws of the requesting State, such requesting State being competent to try the alleged offender. Though extradition is granted in implementation of the international commitment of the State, the procedure to be followed by the courts in deciding, whether extradition should be granted and on what terms, is determined by the municipal law of the land. Extradition is founded on the broad principle that it is in the interest of civilised communities that criminals should not go unpunished and on that account it is recognised as a part of the comity of nations that one State should ordinarily afford to another State assistance towards bringing offenders to justice.

1. Appeal (crl.) 1705 of 2007 [↑](#footnote-ref-0)
2. CRIMINAL APPEAL NO. 990 OF 2006 [↑](#footnote-ref-1)