

**264.**(1) In every case tried summarily by a Magistrate or Bench in which an appeal lies, such Magistrate or Bench shall, before passing sentence, record judgment embodying the substance of the evidence and also the particulars mentioned in section 263.

Record in appealable cases

(2) Such judgment <sup>1</sup>[and memorandum of the substance of the evidence as required by section 355] shall be the only record in cases coming within this section.

**265.**(1) Records made under section 263 and judgments recorded under section 264 shall be written by the presiding officer, either in English or in the language of the Court, or, if the Court to which such presiding officer is immediately sub-ordinate so directs, in such officer's mother-tongue.

Language of record and judgment

(2) The Government may authorize any Bench of Magistrates empowered to try offences summarily to prepare the aforesaid record or judgment by means of an officer appointed in this behalf by the Court to which such Bench is immediately subordinate, and the record or judgment so prepared shall be signed by each member of such Bench present taking part in the proceedings.

Bench may be authorized to employ clerk

(3) If no such authorization be given, the record prepared by a member of the Bench and signed as aforesaid shall be the proper record.

(4) If the Bench differ in opinion, any dissentient member may write a separate judgment.

### <sup>2</sup>[CHAPTER XXIII

#### OF TRIALS BEFORE COURTS OF SESSION

**265A.** In every trial before a Court of Session, the prosecution shall be conducted by a Public Prosecutor.

Trial to be conducted by Public Prosecutor

**265B.** When the accused appears or is brought before the Court in pursuance of section 205C, the prosecutor shall open his

Opening case for prosecution

<sup>1</sup> The words and figure "and memorandum of the substance of the evidence as required by section 355" were inserted by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

<sup>2</sup> The CHAPTER XXIII was substituted, for CHAPTER XXIII by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

case by describing the charge brought against the accused and stating by what evidence he proposes to prove the guilt of the accused.

Discharge

**265C.** If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Court considers that there is no sufficient ground for proceeding against the accused, it shall discharge the accused and record the reasons for so doing.

Framing charge

**265D.**(1) If, after such consideration and hearing as aforesaid, the Court is of opinion that there is ground for presuming that the accused has committed an offence, it shall frame in writing a charge against the accused.

(2) Where the Court frames a charge under sub-section (1), the charge shall be read and explained to the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried.

Conviction on plea of guilty

**265E.** If the accused pleads guilty, the Court shall record the plea and may, in its discretion, convict him thereon.

Date for prosecution evidence

**265F.** If the accused refuses to plead, or does not plead, or claims to be tried or is not convicted under section 265E, the Court shall fix a date for the examination of witnesses, and may, on the application of the prosecution, issue any process for compelling the attendance of any witness or the production of any document or other thing.

Evidence of prosecution

**265G.**(1) On the date so fixed, the Court shall proceed to take all such evidence as may be produced in support of the prosecution.

(2) The Court may, in its discretion, permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined or recall any witness for further cross-examination.

Acquittal

**265H.** If, after taking the evidence for the prosecution, examining the accused and hearing the prosecution and the defence on the point, the Court considers that there is no evidence that the accused committed the offence, the Court shall record an order of acquittal.

**265-I.**(1) Where the accused is not acquitted under section 265H, he shall be called upon to enter on his defence and adduce any evidence he may have in support thereof.

Entering upon  
defence

(2) If the accused puts in any written statement, the Court shall file it with the record.

(3) If the accused applies for the issue of any process for compelling the attendance of any witness or the production of any document or thing, the Court shall issue such process unless he considers for reasons to be recorded, that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice.

**265J.** When the examination of the witnesses (if any) for the defence is complete, the prosecutor shall sum up his case and the accused or his pleader shall be entitled to reply:

Arguments

Provided that where any point of law is raised by the accused or his pleader, the prosecution may, with the permission of the Court, make his submissions with regard to such point of law.

**265K.**(1) After hearing arguments and points of law (if any), the Court shall give a judgment in the case.

Judgment of  
acquittal or  
conviction

(2) [Omitted by section 3 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1983 (Ordinance No. XXXVII of 1983).]

**265L.** In a case where a previous conviction is charged under the provisions of sub-section (7) of section 221, and the accused does not admit that he has been previously convicted as alleged in the charge, the Court may, after it has convicted the said accused under section 265E or section 265K, take evidence in respect of the alleged previous conviction, and shall record a finding thereon:

Previous  
conviction

Provided that no such charge shall be read out by the Court nor shall the accused be asked to plead thereto nor shall the previous conviction be referred to by the prosecution or in any evidence adduced by it, unless and until the accused has been convicted under section 265E or section 265K.]