

**265-L Power of Advocate-General to stay prosecution.** At any stage of any trial before a High Court under this Code, before the sentences is passed, the Advocate-General may, if he thinks fit, inform the Court on behalf of Government that he will not prosecute the accused upon the charge, and thereupon all proceedings against the accused shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal unless the presiding judge otherwise directs.

**265-M. Time of holding sittings.** For the exercise of its original criminal jurisdiction, every High Court shall hold sittings on such days and at such convenient intervals as the Chief Justice of such Court from time to time appoints.

**265-N. Place of holding sittings.** (1) The High Court shall hold its sittings at the place at which it held them immediately before the commencement of the Law Reforms Ordinance, 1972, or at such other place (if any) as the Provincial Government may direct.

(2) But the High Court may, from time to time, with the consent of the Provincial Government, hold sittings at such other places within the local limits of its appellate jurisdiction as the High Court appoints.

(3) Such officer as the Chief Justice directs shall give prior notice in the Official Gazette of all sittings intended to be held for the exercise of the original criminal jurisdiction of the High Court].

## CHAPTER XXIII - OF TRIALS BEFORE HIGH COURTS AND COURTS OF SESSIONS

**266-336.** \*\*\*\*\* [Omitted by Law Reforms Ordinance, 1972. item 105].

## CHAPTER XXIV - GENERAL PROVISIONS AS TO INQUIRIES AND TRIALS

**337. Tender of pardon to accomplice.** (1) In the case of any offence triable exclusively by the High Court or Court of Sessions, or any offence punishable with the imprisonment which may extend to ten years, or any offence punishable under section 211 of the Pakistan Penal Code with imprisonment which may extend to seven years, or any offence under any of the following sections of the Pakistan Penal Code, namely, sections 216A, 369, 401, 435 and 477A, (the District Magistrate or a Sub-divisional Magistrate] may, at any stage of the investigation or inquiry into, or the trial of the offence, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether, as principal or abettor, in the commission thereof:

[ x xx x xx ]

[Provided that no person shall be tendered pardon who is involved in an offence relating to hurt or qatl without permission of the victim or, as the case may be, of the heirs of the victim.]

(1A) Every Magistrate who tenders a pardon under subsection (1) shall record his reasons for so doing, and shall, on application made by the accused, furnish him with a copy of such record:

Provided that the accused shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.

[(2) Every person accepting a tender under this section shall be examined as a witness in the subsequent trial, if any.]

(2A) In every case where a person has accepted a tender of pardon and has been examined under subsection (2), the Magistrate before whom the proceedings are pending shall, if he is satisfied that there are reasonable grounds for believing that the accused is guilty of an offence, commit him for trial to the Court of Sessions or High Court, as the case may be.

(3) Such person, unless he is already on bail, shall be detained in custody until the termination of the trial.

**[338. Power to grant or tender of pardon.** At any time before the judgment is passed, the High Court or the Court of Sessions trying the case may, with the view of obtaining on the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender, or order the District Magistrate to tender, a pardon on the same condition to such person.]

[Provided that no person shall be tendered pardon who is involved in an offence relating to hurt or qatl without permission of the victim or, as the case may be, of the heirs of the victim.]

**339. Trial of person to whom pardon has been tendered.** (1) Where a pardon has been tendered under section 337 or section 338, and the Public Prosecutor certifies that in his opinion any person who has accepted such tender has, either by willfully concealing anything essential or by giving false evidence, not complied with the condition on which the tender was made such person may be tried for the offence in respect of which the pardon was so tendered, or for any other offence of which he appears to have been guilty in connection with the same matter:

Provided that such person shall not be tried jointly with any of the other accused, and that he shall be entitled to plead at such trial that he has complied with the conditions upon which such tender was made; in which case it shall be for the prosecution to prove that such conditions have not been complied with.

(2) The statement made by a person who has accepted a tender of pardon may be given in evidence against him at such trial.

(3) No prosecution for the offence of giving false evidence in respect of such statement shall be entertained without the sanction of the High Court,

**[339-A. Procedure in trial of person under section. 339.** (1) The Court trying under section 339 a person who has accepted a tender of pardon shall, before the evidence of the witnesses for the prosecution is taken, ask the accused whether he pleads that he has complied with the conditions on which the tender of the pardon was made.

(2) If the accused does so plead, the Court shall record the plea and proceed with the trial, and shall, before judgment is passed in the case, find whether or not the accused has complied with the conditions of the pardon, and, if it is found that he has so complied, the Court shall, notwithstanding anything contained in this Code, pass judgment of acquittal.]

**340. Right of person against whom proceedings are instituted to be defended and his competency to be a witness.** (1) Any person accused of an offence before a Criminal Court or against whom proceedings are instituted under this Code in any such Court, may of right be defended by a pleader.

[(2) Any person accused of an offence before a Criminal Court or against whom proceedings are instituted under this Code in any such Court shall if he does not plead guilty, give evidence on oath in disproof of the charges or allegations made against him or any person charged or tried together with him at the same trial:

Provided that he shall not be asked, and if asked, shall not be required to answer, any question tending to show that he has committed or been convicted of any offence other than the offence with which he is being tried, or is of bad character, unless

(i) the proof that he has committed or been convicted of such offence is admissible in evidence to show that he is guilty of the offence with which he is charged or for which he is being tried ; or

(ii) he has personally or by his pleader asked questions of any witness for the prosecution with a view to establishing his own good character or has given evidence of his good character; or

(iii) he has given evidence against any other person charged with or tried for the same offence.']

**341. Procedure where accused does not understand proceedings.** If the accused, though not insane, cannot be made to understand the proceedings, the Court may proceed with the [...] trial; and, in the case of a Court other than a High Court, [...] if such trial results in a conviction, the proceedings shall be forwarded to the High Court with a report of the circumstances of the case, and the High Court shall pass thereon such order as it thinks fit.

**342. Power to examine the accused.** (1) For the purpose of enabling the accused to explain any circumstances appearing in the evidence against him, the Court may, at any stage of any inquiry or trial without previously warning the accused, put such questions to him as the Court considers necessary, and shall for the purpose aforesaid, question him generally on the case after the witnesses for the prosecution have been examined and before he is called on for his defence.

(2) The accused shall not render himself liable to punishment by refusing to answer such questions or by giving false answers to them; but the Court [...] may draw such inference from such refusal or answer as it thinks just.

(3) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed.

[(4) Except as provided by subsection (2) of S. 340 no oath shall be administered to the accused.]

**343. No influence to be used to induce disclosures.** Except as provided in sections 337 and 338, no influence, by means of any promise or threat or otherwise shall be used to an accused person to induce him to disclose or with-hold any matter within his knowledge.

**344. Power to postpone or adjourn proceedings.** (1) If, from the absence of a witness or any other reasonable cause, it becomes necessary or advisable to postpone the commencement of or adjourn any inquiry or trial, the Court may, if it thinks fit, by order in writing, stating the reasons therefore from time to time, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody :

**Remand.** Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time.

(2) Every order made under this section by a Court other than a High Court shall be in writing signed by the Presiding Judge or Magistrate.