

COMMENTARY

Scope. Provision not mandatory in nature and non-compliance has no consequence unless its breach is shown to have caused sufficient prejudice to an accused in his trial. [2002 PCr.LJ 1929].

¹[242. Charge to be framed.--When the accused appears or is brought before the Magistrate, a formal charge shall be framed relating to the offence of which he is accused and he shall be asked whether he admits that he has committed the offence with which he is charged.]

243. Conviction on admission of truth of accusation.--If the accused admits that he has committed the offence ²[with which he is charged], his admission shall be recorded as nearly as possible in the words used by him; and, if he shows no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly.

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Conviction. Conviction on admission of guilt, can be recorded at any stage. [PLD 1975 Lah 304]

While convicting accused u/S. 243, Cr.P.C. his admission must be recorded as nearly as possible in words used by him. After recording admission of accused, Court would not pass conviction without providing him yet another opportunity to show-cause its findings could not be maintained. [PLJ 2008 Cr.C. (Lah.) 702]. Formal charge framed. Once a formal charge is framed and put to accused who denies the same it becomes imperative to proceed u/S. 244. [1999 MLD 2450].

Sole admission. Accused not to be convicted on the sole admission of accusation, opportunity to show-cause must be given. [1991 PCr.LJ 365, 28, 2158, 1709, 1888; PLD 1991 Pesh. 18]. Magistrate is duty bound to issue show-cause even if the accused pleads guilty. [1997 PCr.LJ 1308; PLJ 1998 Kar. 38]. Plea of guilty--An admission. [1992 MLD 2455; KLR 1993 Cr.C. 8]. Requirement of show-cause notice is mandatory and the purpose behind the enactment of this provision is to avoid involuntary admission. Due to low literacy rate in our country an accused may not know the implications of plea of guilt. [PLJ 2008 Cr.C. (Lah.) 549]. If accused voluntarily pleaded guilty to charge trial Court could accept and convict him without recording of evidence. [2003 PCr.LJ 75]

244. Procedure when no such admission is made.--(1) If the Magistrate does not convict the accused under the preceding section or if the accused does not make such admission, the Magistrate shall proceed to hear the complainant (if any), and take all such evidence as may be produced in support of the prosecution, and also to hear the accused and take all such evidence as he produces in his defence:

Provided that the Magistrate shall not be bound to hear any person as a complainant in any case in which the complaint has been made by a Court.

³[(2) The Magistrate may, if he thinks fit, on the application of the complainant or accused, issue a summons to any witness directing him to attend or to produce any document or other thing.]

(3) The Magistrate may, before summoning any witness on such application, require that his reasonable expenses, incurred in attending for the purposes of the trial, be deposited in Court: