

## COMMENTARY

Trial Court granted bail U/S 249 Cr.P.C and order to attend Court when required. PWs absconded and not available. Trial could commence from the stage where it was discontinued. Accused is directed to attend the Court. [2002 PCr.LJ 159].

<sup>1</sup>[249-A. Power of Magistrate to acquit accused at any stage.--Nothing in this Chapter shall be deemed to prevent a Magistrate from acquitting an accused at any stage of the case if, after hearing the prosecutor and the accused and for reasons to be recorded, he considers that the charge is groundless or that there is no probability of the accused being convicted of any offence.]<sup>2</sup>

### SYNOPSIS

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1. **Acquittal.** Acquittal of accused is an acquittal whether it is on basis of declaration of a Court on conclusion of trial, or on basis of compromise. [2003 PCr.LJ 12].

2. **Application for acquittal.** Under the law, a person who lays information to police, is entitled to have his case judicially determined before he is called upon to answer the chance of giving false information. Charge levelled against the petitioner was groundless and there was no probability of the conviction of the petitioner. Both the Courts below committed illegality while dismissing the application u/S. 249-A, Cr.P.C. [PLJ 2010 Cr.C. (Lah.) 132].

3. **At any stage.** Order u/S. 249-A can be passed even before recording evidence. [2004 PCr.LJ 1068]. Application u/S. 249-A, Cr.P.C. can be moved at any stage of proceedings. [PLJ 2008 Cr.C. (Qta.) 518]. No distinction existed between acquittal under Section 249-A, Cr.P.C. or acquittal after recording of evidence under Section 245, Cr.P.C. Complainant/petitioner had an adequate remedy under Section 417(2)(2-A), Cr.P.C. of filing an appeal against the order of acquittal and the constitutional petition was also not maintainable. [2008 PCr.LJ 1067]. After submitting challan, accused could avail remedy. [1999 MLD 2239; PLD 1999 SC 1063]

4. **Malicious prosecution.** Dismissal of criminal case u/S. 249-A by itself is not sufficient to claim damages. [PLJ 2003 AJ&K 1].