

statements filed by the prosecution, the Court is of opinion that there is ground for proceeding with the trial of the accused it shall frame in writing a charge against the accused.

COMMENTARY

Duty Judge. Not competent to summon accused whose name mentioned in column 2 of the report under Section 173, Cr.P.C. [1992 PCr.LJ 2603].

Framing of charge. Not only report u/S. 173, Cr.P.C. or FIR but also the documents showing commission of offence to be seen which includes recovery memo, site plan, statement of witnesses u/Ss. 161 and 164, Cr.P.C. Framing of charge means commencement of trial, object to make accused aware, abreast and alert about the allegations and the basis on which allegations are levelled against him. [2004 MLD 1752]

Trial Court had not only to consider the police report or the complaint before framing of charge, but Court had to consider all other documents and statements available on record. [2004 YLR 1802].

265E. Plea.—(1) The charge shall be read and explained to the accused, and he shall be asked whether he is guilty or has any defence to make.

(2) If the accused pleads guilty, the Court shall record the plea, and may in its discretion convict him thereon.

COMMENTARY

Section 265-E(2). Not mandatory for the Court to pass an order of conviction where accused pleads guilty and even then Court can summon prosecution witnesses. [PLJ 1998 Cr.C. (Pesh) 499]. Court has discretion to record or not to record conviction of accused on his having pleaded guilty to the charge framed and in case conviction is not recorded Court may record evidence in the case. [2000 PCr.LJ 837].

Discretion of trial Court. Such discretion is to be exercised with extra care and caution, and ordinarily on such admission, awarding capital sentence of death shall be avoided and to prove guilt of an accused, evidence of complainant or prosecution has to be recorded, in interest of safe administration of justice. [PLJ 2017 SC 388]

Plea of guilty. Under Section 265-E, the Court is required to explain to an accused the charge framed under Section 265-D and under sub-section (2) of this section, it is provided that if the accused pleads guilty, the Court shall record the plea and may in its discretion convict him thereon, however, under provision of Section 265-F(1) if the accused does not plead guilty and claims trial, then the Court is bound to hold the trial in the manner laid down therein. The right of an accused to claim trial is an indefeasible and it is for the accused alone to forfeit or surrender such right at a later stage of the trial and if he communicates to the Court to that effect and intends to admit the guilt then in that case the proper procedure is to record a full statement/confession of the accused as nearly as possible in the same manner as laid down in Section 364, Cr.P.C. and Court shall also probe into the mind of the accused as to what were the reasons which prompted or induced him in making a confession at a later stage when he has earlier denied the charge. This exercise must be carried out because of the requirements of principle of justice as the Court must be satisfied that the subsequent confession made