

265K. Power of Court to acquit at any stage. Nothing in this Chapter shall be deemed to prevent a Court from acquitting an accused at any stage of the case, if, after hearing the prosecutor and the accused and for reasons to be recorded, it considers that there is no probability of the accused being convicted of any offence.

COMMENTARY

Object. Object of exercise of powers is to prevent abuse of law available to the appellate Court, however in a case where sufficient prima facie evidence is available the powers may not be exercised as to throttle the process of justice. [PLJ 2009 SC 1134]

Application. Accused has a legal right to file application for his acquittal u/S. 265-K, Cr.P.C. and that would not hold the hands of the Court to proceed with the trial. [2004 SCMR 1805].

Exercise of Jurisdiction. Exercise of such a jurisdiction is the right of an aggrieved party. Court must come forward to the rescue of a person who is being subjected to unnecessary harassment through legal proceedings which is an abuse of the process of Court. [PLJ 2009 FSC 401]

Power discretionary. Court can acquit even if witnesses not examined. [1991 PCr.LJ 644]. Proceeding to be stopped calling sanction within reasonable time. [PLD 1991 SC 1068]. Exercise of powers-Principles stated [1991 PCr.LJ 2177 at p. (1381)]. Whole case based on perception-Charge groundless. [1991 PCr.LJ 1368]. In the language in which recorded. [1992 PCr.LJ 1645]. *Suo motu* action unwarranted. [1992 PCr.LJ 1795]. Provision cannot be invoked on ground of delay. [1992 PCr.LJ 1112]. Power co-extensive with power of High Court under Section 561-A, Cr.P.C. [1992 PCr.LJ 1112].

An exception to be construed strictly. [1992 MLD 256]. To attract provision of this section, it is necessary for trial Court to have recorded reasons for acquittal. [PLJ 1993 Cr.C. (SAC) 5]. While proceeding under Section 265-K, Cr.P.C., it is necessary for the Trial Court to record reasons for acquittal of accused. [1993 PCr.LJ 5]. "At any stage" includes before charge is framed. [1995 PCr.LJ 1424]. Conclusion required by the Court to be drawn should not be based on prima facie or imaginary reason, but should be founded on the basis of appraisal of entire material available on record. [1998 PCr.LJ 1563]. Court to exercise powers sparingly and judicially and in no way arbitrarily and capriciously. [2000 PCr.LJ 1054]. Application u/S. 265-K was rightly dismissed on the ground that prosecution had recorded nine PWs which prima facie connected accused with the offence. [2006 PCr.LJ 1424]. Section 265-K was an exception and same had to be construed strictly. [2006 PCr.LJ 1292]. Trial Court rightly rejected application filed under Section 265-K, Cr.P.C. When all accusations were existing on record which constitute a prima facie case. [2006 PCr.LJ 1424].

Under provisions of Section 265-F(7), Cr.P.C., it was mandatory for the Court to issue process for compelling the attendance of said police-officer as a witness for examination. If application for summoning a witness was made for the purpose of vexation or delay or to defeat the ends of justice, the Court could refuse to recall defence witness, but the Court was obliged to record reasons for declining to issue process for production of defence witness. Whether evidence of intended police-officer was helpful to the accused persons and could be relied upon, was a question which could be decided by