

**273. Evidence to be taken in presence of accused.**—Except as otherwise expressly provided, all evidence taken in the course of the trial or other proceeding shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in the presence of his pleader:

<sup>1</sup>[Provided that where the evidence of a woman below the age of eighteen years who is alleged to have been subjected to rape or any other sexual offence, is to be recorded, the court may take appropriate measures to ensure that such woman is not confronted by the accused while at the same time ensuring the right of cross-examination of the accused.]

*Explanation.*—In this section, “accused” includes a person in relation to whom any proceeding under Chapter VIII has been commenced under this Code.

## STATE AMENDMENT

### Gujarat

In the Code of Criminal Procedure, 1973 (hereinafter referred to as “the principal Act”), in section 273, after the words “in the presence of his pleader”, the words “or, as the case may be, through the medium of Electronic Video Linkage when the court on its own motion or on an application so directs in the interests of justice” shall be added.

[*Vide* Gujarat Act 31 of 2017, sec. 2.]

**274. Record in summons-cases and inquiries.**—(1) In all summons-cases tried before a Magistrate, in all inquiries under sections 145 to 148 (both inclusive), and in all proceedings under section 446 otherwise than in the course of a trial, the Magistrate shall, as the examination of each witness proceeds, make a memorandum of the substance of the evidence in the language of the Court:

Provided that if the Magistrate is unable to make such memorandum himself, he shall, after recording the reason of his inability, cause such memorandum to be made in writing or from his dictation in open Court.

(2) Such memorandum shall be signed by the Magistrate and shall form part of the record.

**275. Record in warrant-cases.**—(1) In all warrant-cases tried before a Magistrate, the evidence of each witness shall, as his examination proceeds, be taken down in writing either by the Magistrate himself or by his dictation in open Court or, where he is unable to do so owing to a physical or other incapacity, under his direction and superintendence, by an officer of the Court appointed by him in this behalf:

<sup>2</sup>[Provided that evidence of a witness under this sub-section may also be recorded by audio-video electronic means in the presence of the advocate of the person accused of the offence.]

(2) Where the Magistrate causes the evidence to be taken down, he shall record a certificate that the evidence could not be taken down by himself for the reasons referred to in sub-section (1).

(3) Such evidence shall ordinarily be taken down in the form of a narrative; but the Magistrate may, in his discretion take down, or cause to be taken down, any part of such evidence in the form of question and answer.

(4) The evidence so taken down shall be signed by the Magistrate and shall form part of the record.

**276. Record in trial before Court of Session.**—(1) In all trials before a Court of Session, the evidence of each witness shall, as his examination proceeds, be taken down in writing either by the presiding Judge himself or by his dictation in open Court, or under his direction and superintendence, by an officer of the Court appointed by him in this behalf.

<sup>3</sup>[(2) Such evidence shall ordinarily be taken down in the form of a narrative, but the presiding Judge may, in his discretion, take down, or cause to be taken down, any part of such evidence in the form of question and answer.]

(3) The evidence so taken down shall be signed by the presiding Judge and shall form part of the record.

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1. Proviso ins. by Act 13 of 2013, s. 20 (w.e.f. 3-2-2013).

2. Ins. by Act 5 of 2009, s. 20 (w.e.f. 31-12-2009)

3. Subs. by Act 45 of 1978, s. 20, for sub-section (2) (w.e.f. 18-12-1978).