

When accused shall be discharged.

**268.** (1) If, upon taking all the evidence referred to in section 267, the Magistrate considers, for reasons to be recorded, that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him.

(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.

Procedure where accused is not discharged.

**269.** (1) If, when such evidence has been taken, or at any previous stage of the case, the Magistrate is of opinion that there is ground for presuming that the accused has committed an offence triable under this Chapter, which such Magistrate is competent to try and which, in his opinion, could be adequately punished by him, he shall frame in writing a charge against the accused.

(2) The charge shall then be read and explained to the accused, and he shall be asked whether he pleads guilty or has any defence to make.

(3) If the accused pleads guilty, the Magistrate shall record the plea, and may, in his discretion, convict him thereon.

(4) If the accused refuses to plead, or does not plead or claims to be tried or if the accused is not convicted under sub-section (3), he shall be required to state, at the commencement of the next hearing of the case, or, if the Magistrate for reasons to be recorded in writing so thinks fit, forthwith, whether he wishes to cross-examine any, and, if so, which, of the witnesses for the prosecution whose evidence has been taken.

(5) If he says he does so wish, the witnesses named by him shall be recalled and, after cross-examination and re-examination (if any), they shall be discharged.

(6) The evidence of any remaining witnesses for the prosecution shall next be taken, and after cross-examination and re-examination (if any), they shall also be discharged.

(7) Where, despite giving opportunity to the prosecution and after taking all reasonable measures under this Sanhita, if the attendance of the prosecution witnesses under sub-sections (5) and (6) cannot be secured for cross-examination, it shall be deemed that such witness has not been examined for not being available, and the Magistrate may close the prosecution evidence for reasons to be recorded in writing and proceed with the case on the basis of the materials on record.

Evidence for defence.

**270.** The accused shall then be called upon to enter upon his defence and produce his evidence; and the provisions of section 266 shall apply to the case.

#### *C.—Conclusion of trial*

Acquittal or conviction.

**271.** (1) If, in any case under this Chapter in which a charge has been framed, the Magistrate finds the accused not guilty, he shall record an order of acquittal.

(2) Where, in any case under this Chapter, the Magistrate finds the accused guilty, but does not proceed in accordance with the provisions of section 364 or section 401, he shall, after hearing the accused on the question of sentence, pass sentence upon him according to law.

(3) Where, in any case under this Chapter, a previous conviction is charged under the provisions of sub-section (7) of section 234 and the accused does not admit that he has been previously convicted as alleged in the charge, the Magistrate may, after he has convicted the said accused, take evidence in respect of the alleged previous conviction, and shall record a finding thereon:

Provided that no such charge shall be read out by the Magistrate nor shall the accused be asked to plead thereto nor shall the previous conviction be referred to by the prosecution or in any evidence adduced by it, unless and until the accused has been convicted under sub-section (2).