

372. When the accused appears to be of sound mind at the time of inquiry or trial, and the Magistrate is satisfied from the evidence given before him that there is reason to believe that the accused committed an act, which, if he had been of sound mind, would have been an offence, and that he was, at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act or that it was wrong or contrary to law, the Magistrate shall proceed with the case, and, if the accused ought to be tried by the Court of Session, commit him for trial before the Court of Session.

When accused appears to have been of sound mind.

373. Whenever any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

Judgment of acquittal on ground of unsoundness of mind.

374. (1) Whenever the finding states that the accused person committed the act alleged, the Magistrate or Court before whom or which the trial has been held, shall, if such act would, but for the incapacity found, have constituted an offence,—

Person acquitted on ground of unsoundness of mind to be detained in safe custody.

(a) order such person to be detained in safe custody in such place and manner as the Magistrate or Court thinks fit; or

(b) order such person to be delivered to any relative or friend of such person.

(2) No order for the detention of the accused in a public mental health establishment shall be made under clause (a) of sub-section (1) otherwise than in accordance with such rules as the State Government may have made under the Mental Healthcare Act, 2017.

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(3) No order for the delivery of the accused to a relative or friend shall be made under clause (b) of sub-section (1) except upon the application of such relative or friend and on his giving security to the satisfaction of the Magistrate or Court that the person delivered shall—

(a) be properly taken care of and prevented from doing injury to himself or to any other person;

(b) be produced for the inspection of such officer, and at such times and places, as the State Government may direct.

(4) The Magistrate or Court shall report to the State Government the action taken under sub-section (1).

375. The State Government may empower the officer in charge of the jail in which a person is confined under the provisions of section 369 or section 374 to discharge all or any of the functions of the Inspector-General of Prisons under section 376 or section 377.

Power of State Government to empower officer in charge to discharge.

376. If a person is detained under the provisions of sub-section (2) of section 369, and in the case of a person detained in a jail, the Inspector-General of Prisons, or, in the case of a person detained in a public mental health establishment, the Mental Health Review Board constituted under the Mental Healthcare Act, 2017, shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court, as the case may be, at such time as the Magistrate or Court appoints, and the Magistrate or Court shall deal with such person under the provisions of section 371; and the certificate of such Inspector-General or visitors as aforesaid shall be receivable as evidence.

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Procedure where prisoner of unsound mind is reported capable of making his defence.

377. (1) If a person is detained under the provisions of sub-section (2) of section 369, or section 374, and such Inspector-General or visitors shall certify that, in his or their judgment, he may be released without danger of his doing injury to himself or to any other person, the State Government may thereupon order him to be released, or to be detained in custody, or to be transferred to a public mental health establishment if he has not been already sent to such establishment; and, in case it orders him to be transferred to a public mental health establishment, may appoint a Commission, consisting of a Judicial and two medical officers.

Procedure where person of unsound mind detained is declared fit to be released.