

15. *Definition of Haraabah.*—When any one or more persons, whether equipped with arms or not, make show of force for the purpose of taking away the property of another and attack him or cause wrongful restraint or put him in fear of death or hurt, such person or persons, are said to commit 'haraabah'.

16. *Proof of Haraabah.*—The provisions of section 7 shall apply 'mutatis mutandis' for the proof of 'haraabah'.

17. *Punishment for Haraabah.*—(1) Whoever, being an adult, is guilty of 'haraabah' in the course of which neither any murder has been committed nor any property has been taken away shall be punished with whipping not exceeding thirty stripes and with rigorous imprisonment until the Court is satisfied of his being sincerely penitent:

Provided that the sentence of imprisonment shall in no case be less than three years.

(2) Whoever, being an adult, is guilty of 'haraabah' in the course of which no property has been taken away but hurt has been caused to any person shall, in addition to the punishment provided for in subsection (1), be punished for causing such hurt in accordance with such other law as may for the time being be applicable.

(3) Whoever, being an adult, is guilty of 'haraabah' in the course of which no murder has been committed but property the value of which amounts to or exceeds, the 'nisab' has been taken away shall be punished with amputation of his right hand from the wrist and of his left foot from the ankle:

Provided that, when the offence of 'haraabah' has been committed conjointly by more than one person, the punishment of amputation shall be imposed only if the value of share of each one of them is not less than the 'nisab':

Provided further that, if the left hand or the right foot of the offender is missing or is entirely unserviceable, the punishment of amputation of the other hand or foot, as the case may be, shall not be imposed, and the offender shall be punished with rigorous imprisonment for which may extend to fourteen years and with whipping not exceeding

(4) Whoever, being an adult, is guilty of 'haraabah' in the course of which he commits murder shall be punished with death imposed as 'hadd'.

(5) Punishment under subsection (3), except that under the second proviso thereto, or under subsection (4), shall not be executed unless it is confirmed by the Court to which an appeal from the order of conviction lies, and if the punishment be of amputation until it is confirmed and executed, the convict shall be dealt with in the same manner as if sentenced to simple imprisonment.

(6) The provisions of subsection (6) and subsection (7) of section 9 shall apply to the execution of the punishment of amputation under this section.

18. *Cases in which punishment of amputation or death for haraabah shall not be imposed or enforced.*—The punishment of amputation or death shall not be imposed or enforced for the offence of 'haraabah' in cases in which 'hadd' may not be imposed for theft liable to 'hadd' and the provisions of section 10 and section 11 shall apply '*mutatis mutandis*' to such cases.

19. *Return of property taken away during haraabah.*—The provisions of section 12 shall apply, '*mutatis mutandis*' for return of the property taken away during 'haraabah' so, however, that subsection (2) of the said section shall have effect as if, for the word "Hadd" therein, the words "punishment of amputation or death" were substituted.

20. *Punishment for haraabah liable to tazir.*—Whoever commits Haraabah which is not liable to the punishment provided for in section 17, or for which proof in either of the forms mentioned in section 7 is not available, or for which punishment of amputation or death may not be imposed or enforced under this Ordinance, shall be awarded, the punishment provided in the Pakistan Penal Code (Act XLV of 1860) for the offence of dacoity, robbery or extortion, as the case may be.

21. *Punishment for "Rassagiri" or "Patharidari".*—(1) Whoever extends patronage, protection or assistance in any form to, or harbours, any person or group of persons engaged in the theft of cattle, on the understanding that he shall receive one or more of the cattle in respect of which the offence is committed, or a share in the proceeds thereof is said to commit "*Rassagiri*" or "*Patharidari*".

(2) Whoever commits "*Rassagiri*" or "*Patharidari*" shall be punished with rigorous imprisonment for a term which may extend to fourteen years, or with whipping not exceeding seventy stripes, and with confiscation of all his immovable property and with fine.

22. *Punishment for attempts to commit offence punishable by this Ordinance.*—Whoever attempts to commit an offence punishable under this

Ordinance, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall where no express provision is made by this Ordinance for the punishment of such attempt, be punished with imprisonment of either description for a term which may extend to ten years.

Illustrations

(a) A makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box that there is no jewel in it. He has done an act towards the commission of theft and therefore, is guilty under this section.

(b) A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket A is guilty under this section.

23. *Application of certain provisions of Pakistan Penal Code (Act XLV of 1860).*—(1) Unless otherwise expressly provided in this Ordinance, the provisions of sections 34 to 38 of Chapter II, section 71 and section 72 of Chapter III and section 140 of Chapter VIII of the Pakistan Penal Code (Act XLV of 1860), shall apply, 'mutatis mutandis' in respect of offences under this Ordinance.

(2) Whoever is guilty of the abetment of and offence liable to Hadd under this Ordinance shall be liable to the punishment provided for such offence as 'tazir'.

24. *Application of Code of Criminal Procedure, 1898 (Act V of 1898).*—(1) The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898). shall apply, 'mutatis mutandis' in respect of cases under this Ordinance:

Provided that, if it appears in evidence that the offender has committed a different offence under any other law, he may, if the Court is competent to try that offence and to award punishment therefore, be convicted and punished for that offence:

Provided further that an offence punishable under section 9 or section 17 shall be triable by a Court of Session and not by a Magistrate authorized under section 30 of the said Code and an appeal from an order under either of the said sections or from an order under any provision of this Ordinance which impose a sentence of imprisonment for a term exceeding two years shall lie to the Federal Shariat Court:

Provided further that a trial by a Court of Session under this Ordinance shall ordinarily be held at the headquarters of the Tehsil in which the offence is alleged to have been committed.

(2) The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), relating to the confirmation of the sentence of death, shall, apply, '*mutatis mutandis*' to confirmation of sentences under this Ordinance.

(3) The provisions of subsection (3) of section 391 or section 393 of the Code of Criminal Procedure, 1898 (Act V of 1898), shall not apply in respect of the punishment of whipping awarded under this Ordinance.

(4) The provisions of Chapter XXIX of the Code of Criminal Procedure, 1898 (Act V of 1898), shall not apply in respect of punishments awarded under section 9 or section 17 of this Ordinance.

25. Presiding Officer of Court be a Muslim.—The Presiding Officer of the Court by which a case is tried, or an appeal is heard, under this Ordinance shall be a Muslim:

Provided that, if the accused is a non-Muslim, the Presiding Officer may be a non-Muslim.

26. Saving.—Nothing in this Ordinance shall be deemed to apply to cases pending before any Court immediately before the commencement of this Ordinance, or to offences committed before such commencement.