

149. Police to prevent cognizable offences. Every police-officer may interpose for the purpose of preventing and shall, to the best of his ability prevent, the commission of any cognizable offence.

150. Information of design to commit such offences. Every police-officer receiving information of a design to commit any cognizable offence, shall communicate such information to the police officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

151. Arrest to prevent such offences. A police-officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

152. Prevention of injury to public property. A police-officer may of his own authority interpose to prevent any injury attempted to be committed in his view to any public property, movable or immovable, or the removal or injury of any public landmark or buoy or other mark used for navigation.

153. Inspection of weights and measures. (1) Any officer incharge of a police-station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures or instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false.

(2) If he finds in such place any weights, measures or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a Magistrate having jurisdiction.

PART V - INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE

CHAPTER XIV

154. Information in cognizable cases. Every information relating to the commission of a cognizable offence If given orally to an officer incharge of a police-station, shall be reduced to writing by him or under his direction, and be read over to the informant, and every such information, whether given in writing or reduced to writing as aforesaid shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer In such form as the Provincial Government may prescribe in this behalf.

155. Information in non-cognizable cases. (1) When information is given to an officer incharge of a police-station of the commission within the limits of such station of a non-cognizable offence, he shall enter in a book to be kept as aforesaid the substance of such information and refer the informant to the [Magistrate].

(2) Investigation into non-cognizable cases. No police-officer shall investigate a non-cognizable case without the order of a Magistrate of first or second class having power to try such case [or send the same for trial to the Court of Session].

(3) Any police-officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer incharge of a police station may exercise in a cognizable case.

156. Investigation into cognizable case. (1) Any officer incharge of a police-station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XV relating to the place of inquiry or trial.

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under section 190 may order such an Investigation as above mentioned.

[(4) Notwithstanding anything contained in sub-sections (1) (2) or (3), no police-officer shall investigate an offence under section 497 or section 498 of the Pakistan Penal Code, except upon a complaint made by the husband of the woman, or, in his absence, by some person who had the care of such woman on his behalf at the time when such offence was committed.]

157. Procedure where cognizable offence suspected. (1) If, from information received or otherwise an officer incharge of a police-station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police-report, and shall proceed in person, or shall depute one of his subordinate officers not being below such rank as the Provincial Government may, by general or special order, prescribe in this behalf to proceed, to the spot, to investigate the facts and circumstances of the case, and, if necessary to take measures for the discovery and arrest of the offender:

Provided as follows:

(a) Where local Investigation dispensed with. When any information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer Incharge of a police-station need not proceed in person or depute a subordinate officer to make an investigation on the spot;

(b) Where police officer incharge sees no sufficient ground for investigation, if it appears to the officer Incharge of a police-station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

(2) In each of the cases mentioned in clauses (a) and (b) of the proviso to sub-section (1). the officer incharge of the police-station shall state in his said report his reasons for not fully complying with the requirements of that sub-section, and, in the case mentioned in clause (b). such officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the Provincial Government, the fact that he will not investigate the case or cause it to be Investigated.

158. Report* under section 157 how submitted. (1) Every report sent to a Magistrate under section 157 shall, if the Provincial Government so directs, be submitted through such superior officer of police as the Provincial Government, by general or special order appoints in that behalf.

(2) Such superior officer may give such instructions to the officer incharge of the police-station as he thinks fit, and shall, after recording such instructions on such report, transmit the same without delay to the Magistrate.

159. Power to hold investigation of preliminary inquiry. Such Magistrate, on receiving such report, may direct an investigation or, if he thinks fit, at once proceed, or depute any Magistrate subordinate to him to proceed to hold a preliminary inquiry into, or otherwise to dispose of, the case in manner provided in this Code.

160. Police-officer's power to require attendance of witnesses. Any police-officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or

otherwise, appears to be acquainted with the circumstances of the case; and such person shall attend as so required.

161. Examination of witnesses by police. (1) Any police-officer making an investigation under this Chapter or any police-officer not below such rank as the Provincial Government may, by general or special order, prescribe in this behalf, acting on the requisition of such officer, may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such person shall be bound to answer all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(3) The police-officer may reduce into writing any statement made to him in the course of an examination, under this section, and if he does so he shall make a separate record of the statement, of each such person whose statement he records.

162. Statements to police not to be signed: Use of statements in evidence. (1) No statement made by any person to a police-officer in the course of an investigation under this Chapter shall, if reduced into writing, be signed by the person making it; nor shall any such statement or any record thereof, whether in a police-diary or otherwise or any part of such statement or record, be used for any purpose (save as hereinafter provided) at any inquiry or trial in respect of any offence under investigation at the time when such statement was made.

Provided that, when any witness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, the Court shall on the request of the accused be furnished with a copy thereof, in order that any part of such statement, if duly proved, may be used to contradict such witness in the manner provided by section 145 of the Evidence Act, 1872. When any part of such statement is so used, any part thereof may also be used in the re-examination of such witness, but for the purpose only of explaining any matter referred to in his cross-examination.

Provided, further that, if the Court is of opinion that any part of any such statement is not relevant to the subject-matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice and is inexpedient in public interests, it shall record such opinion (but not the reasons therefore) and shall exclude such part from the copy of the statement furnished to the accused.

(2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of section 32, clause (1), of the Evidence Act, 1872 [or to affect the provisions of section 27 of that Act].

163. No inducement to be offered. (1) No police-officer or other person in authority shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in the Evidence Act, 1872, section 24.

(2) But no police-officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Chapter any statement which he may be disposed to make of his own free will.

164. Power to record statements and confessions. (1) Any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by the Provincial Government may, if he is not a police-officer, record any statement or confession made to him in the course of an investigation under this Chapter or at any time afterwards before the commencement of the inquiry or trial.

[(1A) Any such statement may be recorded by such Magistrate in the presence of the accused, and the accused given an opportunity of cross-examining the witness making the statement.]

(2) Such statement shall be recorded in such of the manners hereinafter prescribed for recording evidence as is, in his opinion, best fitted for the circumstances of the case. Such confessions shall be recorded and signed in the manner provided in section 364, and statements of confessions shall then be forwarded to the Magistrate by whom the case is to be inquired into or tried.

(3) A Magistrate shall, before recording any such confession, explain to the person making it that he is not bound to make a confession and that if he does so it may be used as evidence against him and no Magistrate shall record any such confession unless, questioning the person making, it, he has reasons to believe that it was made voluntarily: and, when he records any confession, he shall make a memorandum at the foot of such record to the following effect: 'I have explained to (name) that he is not bound to make a confession and that, if he does so, any confession he may make may be used as evidence against him and. I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it and admitted by him to be correct, and it contains a full and true account of the statement made by him. (Signed) A.B., Magistrate

Explanation. It is not necessary that the Magistrate receiving and recording a confession or statement should be a Magistrate having jurisdiction in the case.

165. Search by police-officer. (1) Whenever an officer incharge of a police-station or a police-officer making an investigation has reasonable grounds for believing that anything necessary for the purpose of an investigation into any offence which he is authorized to investigate may be found In any place within the limits of the police-station of which he is Incharge, or to which he is attached and that such thing cannot in his opinion be otherwise obtained without undue delay, such officer may, after recording in writing the grounds of his belief and specifying in such writing, so far as possible, the thing for which search is to be made, search or cause search to be made, for such thing in any place within the limits of such station.

[Provided that no such officer shall search, or cause search to be made, for anything which is In the custody of any bank or banker as defined in the Bankers Books Evidence Act, 1891 (XVIII of 1891), and relates or might disclose any information which relates, to the bank account of any person except:-

(a) for the purpose of investigating an offence under sections 403, 406 and 409 and sections 421 to 424 (both inclusive) and sections 465 to 477-A (both inclusive) of the Pakistan Penal Code, with the prior permission in writing of a Sessions Judge; and

(b) in other cases, with the prior permission in writing of the High Court.]

(2) A police-officer proceeding under sub-section (1) shall, if practicable, conduct the search in person.

(3) If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, he may after recording in writing his reasons for so doing require any officer sub-ordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing specifying the place to be searched, and, so far as possible, the thing for which search is to be made: and such subordinate officer may thereupon search for such things in such place.

(4) The provisions of this Code as to search-warrants and the general provisions as to searches contained in section 102 and section 103 shall, so far as may be, apply to a search made under this section.

(5) Copies of any record made under sub-section (1) or sub-section (3) shall forthwith be sent to the nearest Magistrate empowered to take cognizance of the offence and the owner or occupier of the place searched shall on application be furnished with a copy of the same by the Magistrate:

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.

Punjab Amendment. In section 165, for proviso to sub-section (1), the following proviso, shall be substituted namely: ['Provided that no such officer shall search, or cause a search to be made, for anything which is in the custody of a bank or a banker as defined in the Bankers' Books Evidence Act 1891 (XVIII of 1891) and relates, or might disclose any Information which relates, to the bank account of any person except with the prior permission in writing of the High Court or the Sessions Judge within whose jurisdiction such bank or banker, as the case may be, is situated or carries on business.']

166. When officer incharge of police-station may require another to issue search warrant. (1) An officer incharge of a police-station or a police officer not being below the rank of sub-inspector making an investigation may require an officer incharge of another police-station, whether in the same or a different district, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made, within the limits of his own station.

(2) Such officer, on being so required, shall proceed according to the provisions of section 165, and shall forward the thing found, if any, to the officer at whose request the search was made.

(3) Whenever there is reason to believe that the delay occasioned by requiring an officer incharge of another police-station to cause a search to be made under sub-section (1) might result in evidence of the commission of an offence being concealed or destroyed, it shall be lawful for an officer incharge of a police-station or a police-officer making an investigation under this Chapter to search, or cause to be searched, any place in the limits of another police-station, in accordance with the provisions of section 165, as if such place were within the limits of his own station.

(4) Any officer conducting a search under sub-section (3) shall forthwith send notice of the search to the officer incharge of the police-station within the limits of which such place is situate, and shall also send with such notice a copy of the list (if any) prepared under section 103 and shall also send to the nearest Magistrate empowered to take cognizance of the offence, copies of the records referred in section 165, sub-sections (1) and (3).

(5) The owner or occupier of the place searched shall, on application, be furnished with a copy of any record sent to the Magistrate under sub-section (4):

Provided that he shall pay for the same unless the Magistrate for some special reason thinks fit to furnish it free of cost.

167. Procedure when investigation cannot be completed in twenty-four hours. (1) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 61, and there are grounds for believing that the accusation or information is well-founded, the officer incharge of the police-station or the police-officer making the investigation if he is not below the rank of sub-inspector shall forthwith transmit to the [nearest Magistrate] a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.

[Explanation:- For this purpose of this section, in the cases triable by the Executive magistrates, the expression 'nearest Magistrate' means the Executive Magistrate and in all other cases, the Judicial Magistrate.]

(2) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case from time to time authorize the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole. If he has not jurisdiction to try the case or [send] it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction:

Provided that no Magistrate of the third class, and no Magistrate of the second class not specially empowered in this behalf by the Provincial Government shall authorize detention in the custody of the police.

(3) A Magistrate authorizing under this section detention in the custody of the police shall record his reasons for so doing.

[(4) The Magistrate giving such order shall forward a copy of his order, with his reasons for making it, to the Sessions Judge.]

[(5) Notwithstanding anything contained in sections 60 and 61 or hereinbefore to the contrary, where the accused forwarded under subsection (2) is a female, the Magistrate shall not, except in the cases involving Qatl or dacoity supported by reasons to be recorded in writing, authorize the detention of the accused in police custody, and the police officer making in investigation shall interrogate the accused referred to in subsection (1) in the prison in the presence of an officer of jail and a female police officer.

(6) The officer incharge of the prison shall make appropriate arrangements for the admission of the investigating police officer into the prison for the purpose of interrogating the accused.

(7) If for the purpose of investigation, it is necessary that the accused referred to in subsection (1) be taken out of the prison, the officer incharge of the police station or the police officer making investigation not below the rank of Sub-Inspector, shall apply to the Magistrate in that behalf and the Magistrate may, for the reasons to be recorded in writing, permit taking of accused out of the prison in the company of a female police officer appointed by the Magistrate:

Provided that the accused shall not be kept out of the prison while in the custody of the police between sunset and sunrise.']

168. Report of investigation by subordinate police-officer. When any subordinate police-officer has made any investigation under this Chapter, he shall report the result of such investigation to the officer incharge of police-station.

169. Release of accused when evidence deficient. If, upon an investigation under this Chapter, it appears to the officer incharge of the police-station, or to the police-officer making the investigation that there is no sufficient evidence or reasonable ground or suspicion to justify the forwarding of the accused to a Magistrate, such officer shall, if such person is in custody, release him on his executing a bond, with or without sureties, as such officer may direct, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence on a police-report and to try the accused or 11 [send] him for trial.

170. Case to be sent to Magistrate when evidence is sufficient. (1) If, upon an investigation under this Chapter, it appears to the officer incharge of the police-station that there is sufficient evidence or reasonable ground as aforesaid, such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police-report and to try the accused or [send] him for trial or, if the offence is bailable and the accused is able to give security, shall take security from him for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed.

(2) When the officer incharge of police-station forwards an accused person to a Magistrate or takes security for his appearance before such Magistrate under this section, he shall send to such Magistrate any weapon or other article which it may be necessary to produce before him, and shall require the complainant (if any) and so many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think necessary to execute a bond to appear before the Magistrate as thereby directed and prosecute or give evidence (as the case may be) in the matter of the charge against the accused.

[(3) If the Court of District Magistrate or Sub-divisional Magistrate Is mentioned in the bond, such Court shall be held to include any Court to which such Magistrate may refer the cases for inquiry or trial, provided reasonable notice of such reference is given to such complainant or persons.]

(4) x x x x x x x

(5) The officer in whose presence the bond is executed shall deliver a copy thereof to one of the persons who executed it, and shall then send to the Magistrate the original with his report.

171. Complainants and witnesses not to be required to accompany police-officer. No complainant or witness on his way to the Court of the Magistrate shall be required to accompany a police-officer. Complainants and witnesses not to be subject to restraint, or shall be subjected to , unnecessary restraint or inconvenience, or required to give any security for his appearance other than his own bond: Recusant complainant or witnesses may be forwarded in custody. Provided that, if any complainant or witness refuses to attend or to execute a bond as directed in section 170, the officer incharge of the police-station may forward him in custody to the Magistrate, who may detain him in custody until he executes such bond, or until the hearing of the case is completed.

172. Diary of proceedings in investigation. (1) Every police-officer making an investigation under this Chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained through his investigation.

(2) Any Criminal Court, may send for the police-diaries of a case under inquiry or trial in such Court, and may use such diaries not as evidence in the case, but to aid it in such inquiry or trial. Neither the accused nor his agents shall be entitled to call for such diaries, nor shall he or they be entitled to see them merely because they are referred to by the Court; but if they are used by the police-officer who made them, to refresh his memory, if the Court uses them for the purpose of contradicting such police-officer the provisions of the Evidence Act, 1872 section 161 section 145 as the case may be, shall apply.

173. Report of police-officer. (1) Every investigation under this Chapter shall be completed, without unnecessary delay, and, as soon as it is completed, the officer incharge of the police-station shall, [through the public prosecutor]. is

(a) forward to a Magistrate empowered to take cognizance of the offence on a police-report a report, in the form prescribed by the Provincial Government, setting forth the names of the parties, the nature of the information and the names of the persons who appear to be acquainted with the circumstances of the case

and stating whether the accused (if arrested) has been forwarded in custody or has been released on his bond and, if so, whether with or without sureties, and

(b) communicate, in such manner as may be prescribed by the Provincial Government, the action taken by him to the person, if any, by whom the information relating to the commission of the offence was first given.

Provided that, where investigation is not completed within a period of fourteen days from the date of recording of the first information report under section 154, the officer incharge of the police station shall, within three days of the expiration of such period, forward to the Magistrate through the Public prosecutor, an interim report in the form prescribed by the Provincial Government stating therein the result of the investigation made until then and the court shall commence the trial on the basis of such interim report, unless, for reasons to be recorded, the court decides that the trial should not so commence.

(2) Where a superior officer of police has been appointed under section 158, the report shall, in any cases in which the Provincial Government by general or special order so directs, be submitted through that officer, and he may pending the orders of the Magistrate, direct the officer incharge of the police-station to make further investigation.

(3) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Magistrate shall make such order for the discharge of such bond or otherwise as he thinks fit.

(4) A copy of any report forwarded under this section shall, on application, be furnished to the accused before the commencement of the inquiry or trial:

(5) Where the officer incharge of a police-station forwards a report under sub-section (1), he shall along with the report produce the witnesses in the case, except the public servants, and the Magistrate shall bind such witnesses for appearance before him or some other court on the date fixed for trial.

Provided that the same shall be paid for unless the Magistrate for some special reason thinks fit to furnish it free of cost.

174. Police to inquire on suicide, etc. (1) The officer incharge of a police-station or some other police-officer specially empowered by the Provincial Government in that behalf, on receiving information that a person:

(a) has committed suicide, or

(b) has been killed by another, or by an animal, or by machinery, or by an accident, or

(c) has died under circumstances raising a reasonable suspicion that some other person has committed an offence, shall immediately give intimation thereof to the nearest Magistrate empowered to hold inquests, and, unless otherwise directed by any rule prescribed by the Provincial Government, or by any general or special order of the District or Sub-Divisional Magistrate, shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable Inhabitants of the neighborhood, shall make an investigation, and draw up a report of the apparent cause of death describing such wounds fractures, bruises and other marks of Injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted.

(2) The report shall be signed by such police officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the District Magistrate or the Sub-Divisional Magistrate.

(3) When there is any doubt regarding the cause of death, or when for any other reason the police officer considers it expedient so to do, he shall, subject to such rules as the Provincial Government may prescribe in this behalf, forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other qualified medical man appointed in this behalf by the Provincial Government, if the state of the weather and the distance admit of its being so forwarded without risk of such putrefaction on the road as would render such examination useless.

(4) [Omitted by A.O. 1949].

(5) The following Magistrates are empowered to hold inquests, namely, any District Magistrate, Sub-divisional Magistrate [or any other Executive Magistrate] especially empowered in this behalf by the Provincial Government or the District Magistrate.

175. Power to summon person. (1) A Police-officer proceeding under section 174, may, by order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case. Every person so summoned shall be bound to attend and to answer truly all questions other than questions the answers to which would have a tendency to expose him to a criminal charge, or to a penalty or forfeiture.

(2) If the facts do not disclose a cognizable offence to which section 170 applies, such persons shall not be required by the police-officer to attend a Magistrate's Court.

176. Inquiry by Magistrate into cause of death. (1) When any person dies when in the custody of the police, the nearest Magistrate empowered to hold inquests shall, and, in any other case mentioned in section 174, clauses (a), (b) and (c) of sub-section (1), any Magistrate so empowered may hold an inquiry into the cause of death either instead of, or in addition to, the investigation held by the police-officer, and if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence. The Magistrate holding such an inquiry shall record the evidence taken by him in connection therewith in any of the manners hereinafter prescribed according to the circumstances of the case.

(2) Power to disinter corpses. Whenever such Magistrate considers it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of his death, the Magistrate may cause the body to be disinterred and examined.

PART VI - PROCEEDINGS IN PROSECUTIONS

CHAPTER XV - OF THE JURISDICTION OF THE CRIMINAL COURTS IN INQUIRIES AND TRIALS

A. Place of Inquiry or Trial

177. Ordinary place of inquiry and trial. Every offence shall ordinarily be inquired in and tried by a Court within the local limits of whose jurisdiction it was committed.

178. Power to order cases to be tried in different sessions divisions. Notwithstanding anything contained in section 177, the Provincial Government may direct that any cases or class of cases [in any district sent for trial to a Court of sessions] may be tried in any sessions division:

[Provided that such direction is not repugnant to any direction previously issued by the High Court under section 526 of the Code or any other law for the time being in force]