

CHAPTER XLIII - OF THE DISPOSAL OF PROPERTY

Pakistan: Code of Criminal Procedure 1898 108

ADB/OECD Anti-Corruption Initiative for Asia Pacific September 2007

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516-A. Order for custody and disposal of property pending trial in certain cases. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy or natural decay, may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

'[Provided that, if the property consists of explosive substances, the Court shall not order it to be sold or handed over to any person other than a Government Department or office dealing with, or to an authorized dealer in, such substances]'

(Provided further that if the property is a dangerous drug, intoxicant, intoxicating liquor or any other narcotic substance seized or taken into custody under the Dangerous Drugs Act, 1930 (II of 1930), the Customs Act, 1969 (IV of 1969), the Prohibition (Enforcement of Hadd) Order, 1979 (P.O. 4 of 1979), or any other law for the time being in force, the Court may, either on an application or of its own motion and

under its supervision and control obtain and prepare such number of samples of the property as it may deem fit for safe custody and production before it or any other Court and cause destruction of the remaining portion of the property under a certificate issued by it in that behalf:

Provided also that such samples shall be deemed to be whole of the property in an inquiry or proceeding in relation to such offence before any authority or Court.]

517. Order for disposal of property regarding which offence committed. (1) When an Inquiry or a trial

in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal by destruction, confiscation or delivery to any person claiming to be entitled to possession thereof or otherwise of any property or document produced before it or in its custody or regarding which any offence

appears to have been committed, or which has been used for the commission of any offence.

(2) When a High Court or a Court of Session makes such order and cannot through its own officers conveniently deliver the property to the person entitled thereto, such Court may direct that the order be carried effect by the District Magistrate.

(3) When an order is made under this section such order shall not, except, where the property is livestock

or subject to speedy and natural decay, and save as provided by subsection (4), be carried out for one month, or, when an appeal is presented, until such appeal has been disposed of.

(4) Nothing in this section shall be deemed to prohibit any Court from delivering any property under the provisions of sub-section (1) to any person claiming to be entitled to the possession thereof, on his executing a bond with or without sureties to the satisfaction of the Court, engaging to restore such property

to the Court if the order made under this section is modified or set aside on appeal.

Explanation. In this section the term 'property' includes in the case of property regarding which an offence

appears to have been committed, not only such property as has been originally in the possession or under

the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

518. Order may take form of reference to District or Sub-Divisional Magistrate. In lieu of itself passing an order under section 517 the Court may direct the property to be delivered to the district Magistrate or to a Sub Divisional Magistrate who shall in such case deal with it as if it had been seized by the police and the seizure had been reported to him in the manner hereinafter mentioned.

519. Payment to innocent purchaser of money found on accused. When any person is convicted of any offence which includes, or amounts to, theft or receiving stolen property, and, it is proved that any other person has bought the stolen property from him without knowing, or having reason to believe, that the same was stolen, and that any money has on his arrest been taken out of the possession of the convicted person, the Court may, on the application of such purchaser and on the restitution of the stolen property to

the person entitled to the possession thereof, order that out of such money a sum not exceeding the price

paid by such purchaser be delivered to him.

520. Stay of order under sections 517, 518, or 519. Any Court of appeal, confirmation, reference or revision may direct any order under section 517, section 518 or section 519 passed by a Court, subordinate

thereto, to be stayed pending consideration by the former Court, and may modify, alter or annul such order

and make any further orders that may be just

521. Destruction of libelous and other matter. (1) On a conviction under the Pakistan Penal Code, section 292 section 293, section 501 or section 502, the Court may order the destruction of all the copies of

the thing in respect of which the conviction was had, and which are in the custody of the Court or remain in the possession or power of the person convicted.

(2) The Court may, in like manner on a conviction under the Pakistan Penal Code, section 272, section 273, section 274, section 275, order the food, drink, drug or medical preparation in respect of which the conviction was had to be destroyed.

522. Power to restore possession of immovable property. (1) Whenever a person is convicted of an offence [of cheating forgery or of an offence] attended by criminal force or show of force or by criminal intimidation and it appears to Court that by such [cheating forgery force] or show of force or criminal

intimidation any person has been dispossessed of any immovable property, the Court may if it thinks fit, when convicting such person or at any time within one month from the date of the conviction order the person dispossessed to be restored to the possession of the same [whether such property is in the possession or under the control of the person convicted or of any other person to whom it may have been transferred for any consideration or otherwise'.]

(2) No such order shall prejudice any right or interest to or in such immovable property which any person may be able to establish in a civil suit.

(3) An order under this section may be made by any Court of appeal, confirmation, reference or revision.

[522-A. Power to restore possession of movable property.-(1) Whenever a person is convicted of an offence of criminal mis-appropriation of property or criminal breach of trust or cheating or forgery and it appears to the Court that, by such mis-appropriation, breach of trust, cheating or forgery, any person has been dispossessed or otherwise deprived of any movable property, the Court may, if it thinks fit, when convicting such person or at any time within one month from the date of the conviction, order the person dispossessed or deprived of the property, where such property can be identified, to be restored to the possession of such property, whether such property is in the possession or under the control of the person convicted or of any other person to whom it may have been transferred for any consideration or otherwise.

(2) Where the property referred to in sub-section (1) cannot be identified or has been disposed of by the accused so that it may not be identified, the Court may order such compensation to be paid to the person dispossessed or deprived of such property as it may determine in the circumstances of the case.

(3) No order referred to in sub-section (1) or sub-section (2) shall prejudice any right or interest in any movable property which any person may be able to establish in a civil suit'.]

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523. Procedure by police upon seizure of property taken under section 51 or stolen. (1) The seizure by any police-officer of property taken under section 51, or alleged or suspected to have been stolen, or found

under circumstances which create suspicion of the commission of any offence, shall be forthwith reported

to a Magistrate, who shall make such order as he thinks fit respecting the disposal of such property to the

person entitled to the possession thereof, or, if such person cannot be ascertained, respecting the custody

and production of such property.

(2) Procedure where owner of property seized unknown. If the person so entitled is known, the Magistrate

may order the property to be delivered to him on such condition (if any) as the Magistrate thinks fit. If such

person is unknown, the Magistrate may detain it and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto, to appear before him and establish his claim within six months from the date of such proclamation.

524. Procedure where no claimant appears within six months. (1) If no person within such period establishes his claim to such property, and if the person in whose possession such property was found, is unable to show that it was legally acquired by him, such property shall be at the disposal of the Provincial

Government and may be sold under the orders of the District Magistrate or Sub-divisional Magistrate or of

[any other Executive Magistrate] empowered by the Provincial Government in this behalf.

(2) In the case of every order passed under this section an appeal shall lie to the Court to which appeal against sentences of the Court passing such order would lie.

525. Power to sell perishable property. If the person entitled to the possession of such property is unknown or absent and the property is subject to speedy and natural decay or if the Magistrate to whom

its

seizure is reported is of opinion that its sale would be for the benefit of the owner, or that the value of such

property is less than ten rupees the Magistrate may at any time direct it to be sold; and the provisions of sections 523 and 524 shall, as nearly as may be practicable, apply to the net proceeds of such sale.