

## CHAPTER XLIV - OF THE TRANSFER OF CRIMINAL CASES

526. High Court may transfer case or itself try it. (1) Whenever it is made to appear to the High Court:-

(a) that a fair and impartial inquiry or trial cannot be had in any Criminal Court subordinate thereto, or

(b) that some question of law of unusual difficulty is likely to arise, or

(c) that a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into or trial of the same, or

(d) that an order under this section will tend to the general convenience of the parties or witnesses, or

(e) that such an order is expedient for the ends of justice, or is required by any provision of this Code; it may order:

(i) that any offence be inquired into or tried by any Court not empowered under sections 177 to 184 (both

inclusive), but in other respects competent to inquire into or try such offence.

(ii) that any particular case or appeal, or class of cases or appeals, be transferred from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction;

(iii) that any particular case or appeal be transferred to and tried before itself; or

Pakistan: Code of Criminal Procedure 1898 111

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(iv) that an accused person be sent for trial to itself or to a Court of Session.

(2) When the High Court withdraws for trial before itself any case from any Court [...] it shall observe in such trial the same procedure which that Court would have observed if the case had not been so withdrawn.

(3) The High Court may act either on the report of the lower Court, or the application of a party interested,

or on its own initiative.

(4) Every application for the exercise of the power conferred by this section shall be made by motion, which shall, except when the applicant is the Advocate-General, be supported by affidavit or affirmation.

(5) When an accused person makes an application under this section the High Court may direct him to execute a bond, with or without sureties, conditioned that he will, if so ordered, pay any amount which the

High Court may under this section award by way of compensation to the person opposing the application.

(6) Notice to Public Prosecutor of application under this section. Every accused person making any such application shall give to the Public Prosecutor notice in writing of application, together with a copy of the

grounds on which it is made; and no order shall be made on the merits of the application unless at least twenty four hours have elapsed between the giving of such notice and the hearing of the application.

(6A) When any application for the exercise of the power conferred by this section is dismissed, the High Court may if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding [five hundred

rupees] as it may consider proper in the circumstances of the case.

(7) Nothing in this section shall be deemed to affect any order made under section 197.

[(8) In an inquiry under Chapter VIII or any trial, the fact that any party intimates to the Court at any stage

that he intends to make an application under this section shall not require the Court to adjourn the case; but

the Court shall not pronounce its final judgment or order until the application has been finally disposed of

by the High Court and if the application is accepted by the High Court, the proceedings taken by the Court

subsequent to the intimation made to it shall, at the option of the accused, be held afresh]

(9) x x x x x

(10) If, before the argument (if any) for the admission of an appeal begins, or, in the case of an appeal admitted, before the argument for the appellant begins, any party interested intimates to the Court that he

intends to make an application under this section, the Court shall, upon such party executing, if so required,

a bond without sureties of an amount not exceeding (five hundred rupees] that he will make such application within a reasonable time to be fixed by the Court, postpone the appeal for such a period as will afford sufficient time for the application to be made and an order to be obtained thereon.

526-A. High Court to transfer for trial to itself in certain cases. [Omitted by Ordinance XX of 1969]. S.

2.

527. Power of Provincial Government to transfer cases and appeal. (1) The Provincial Government may, by notification in the official Gazette direct the transfer of any particular case or appeal from one High Court to another High Court or from any Criminal Court subordinate to one to another High Court, or from any Criminal Court subordinate to one High Court, to any other Criminal Court, of equal or superior jurisdiction subordinate to another High Court, whenever it appears to it that such transfer will promote the ends of justice, or tend to the general convenience of parties or witnesses.

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Provided that no case or appeal shall be transferred to a High Court or other Court in another Province without the consent of the Provincial Government of that Province.

(2) The Court to which such case or appeal is transferred shall deal with the same as if it had been originally instituted in, or presented to, such Court.

528. Sessions Judge may withdraw cases from Assistant Sessions Judge. (1) Any Sessions Judge may withdraw any case from, or recall any case which he has made over to, any Assistant Sessions Judge subordinate to him.

(1A) At any time before the trial of the case or the hearing of the appeal has commenced before the

Additional Sessions Judge, any Sessions Judge may recall any case or appeal which he has made over to any Additional Sessions Judge.

(1B) Where a Sessions Judge withdraws or recalls a case under sub-section (1) or recalls a case or appeal under sub section (1A), he may either try the case in his own Court or hear the appeal himself, or make it over in accordance with the provisions of this Code to another Court for trial or hearing, as the case may be.

(1C) Any Sessions Judge may withdraw any case from, or recall any case which he has made over to, any Magistrate subordinate to him, and may refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

Explanation. Omitted by Law Reforms Act 1997 (Act No. XXIII of 1997).

(2)&(3) [Omitted by Act XXI of 1976. ]

(4) Any Magistrate may recall any case made over by him under section 192, sub-section (2), to any other Magistrate and may inquire into or try such case himself.

(5) A Magistrate making an order under [preceding sub-section] shall record in writing his reasons for making the same.

[528-A. Powers of District Magistrate for transfer of cases, etc. (1) A District Magistrate may withdraw or recall any case which he has made over to a Magistrate subordinate to him.

(2) Where a District Magistrate withdraws or recalls a case under sub-section (1), he may either try the case himself or make it over in accordance with the provisions of this Code for trial to any other Magistrate subordinate to him.']