

CHAPTER XLVI - MISCELLANEOUS

539. Courts and persons before whom affidavits may be sworn. Affidavits and affirmations to be used before any High court or any officer of such Court may be sworn and affirmed before such Court [...] or any Commissioner or other person appointed by such court for that purpose, or any Judge, or any Commissioner for taking affidavits in any Court of Record in Pakistan.

539-A. Affidavits in proof of conduct of public servant. (1) When any application is made to any Court in the course of any inquiry, trial or other proceeding under this Code, and allegations are made therein respecting any public servant, the applicant may give evidence of the facts alleged in the applications by affidavit, and Court may, if it thinks fit, order that evidence relating to such facts be so given.

An affidavit to be used before any Court other than a High court under this section may be sworn or affirmed in the manner prescribed in section 539, or before any Magistrate.

Affidavits under this section shall be confined to, and shall state separately, such facts as the deponent is able to prove from his own knowledge and such as he has reasonable grounds to believe to be true, and in

the latter case, the deponent shall clearly state the grounds of such belief.

(2) The Court may order any scandalous and irrelevant matter in a affidavit to be struck out or amended.

539-B. Local inspection. (1) Any Judge or Magistrate may at any stage of any inquiry, trial or other proceeding, after due notice to the parties visit and inspect any place in which an offence is alleged to have

been committed, or any other place which it is in his opinion necessary to view for the purpose of property

appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection.

(2) Such memorandum shall form part of the record of the case. If the Public Prosecutor complainant or accused so desires , a copy of the memorandum shall be furnished to him free of cost.

540. Power to summon material witness or examine persons present. Any Court may, at any stage of any inquiry, trial or other proceeding under this Code, summon any person as a witness, or examine any

person in attendance, though not summoned as a witness, or recall and re-examine any person already examined; and the Court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case.

540-A. Provision for inquiries an trial being held in the absence of accused in certain cases. (1) At any stage of an inquiry or trial under this Code, where two or more accused are before the court, if the Judge or

Magistrate is satisfied for reason to be recorded, that any one or more of such accused is or incapable of remaining before the Court, he may, if such accused is represented by a pleader, dispense with his attendance and proceed with such inquiry or trial in his absence, and may, at any subsequent stage of the

proceedings, direct the personal attendance of such accused.

(2) If the accused in any such case is not represented by a pleader, or if the Judge or Magistrate considers his personal attendance necessary, he may, if he thinks fit, and for reasons to be recorded by him either adjourn such inquiry or trial, or order that the case of such accused be taken up or tried separately.

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541. Power to appoint place of imprisonment. (1) Unless when other-wise provided by any law for the time being in force, the Provincial Government may direct in what place any person liable to be imprisoned or committed to custody under this Code shall be confined.

(2) Removal to criminal pi! of accused or convicted person who are in confinement in civil jail, and their return to the civil jail. If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate ordering the imprisonment or committal may direct that

the person be removed to a criminal jail.

(3) When a person is removed to a criminal jai! under sub-section (2) he shall, on being released therefrom,

be sent back to the civil jail, unless either:

(a) three years have elapsed since he was removed to the criminal jail in which case he shall be deemed to

have been discharged from the civil jail under (section 58 of the Code of Civil Procedure 1908); or

(b) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be discharged under [section 58 of the Code of Civil Procedure 1908].

542. [Power of Presidency Magistrate to order prisoner in jail to be brought up for examination]:

Rep, by (he Federal Laws (Revision and Declaration Act. 1951), S. 3 and II Schedule.

543. Interpreter to be bound to Interpret truthfully. When the services of an Interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true

interpretation of such evidence or statement.

544. Expenses of complainants and witness. Subject to any rules made by the Provincial Government any Criminal Court may, if it thinks fit, order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial, or other proceeding

before such Court under this Code.

[544-A. Compensation to the heirs of the person killed, etc. [(1) Whenever a person is convicted of an offence in the commission whereof the death of or hurt, injury, or mental anguish or psychological damage

to, any person is caused or damage to or loss or destruction of any property is caused, the court shall when

convicting such person, unless for reasons to be recorded in writing it otherwise directs, order the person

convicted to pay to the heirs of the person whose death has been caused, or to the person hurt or injured, or

to the person to whom mental anguish or psychological damage has been caused, or to the owner of the property damaged, lost or destroyed, as the case may be, such compensation as the court may determine

having regard to the circumstances of the case';] and

(2) The compensation payable under sub-section (1) shall be recoverable as [an arrear of land revenue] and

the court may further order that, in default of payment or of recovery as aforesaid the person ordered to pay

such compensation shall suffer imprisonment for a period not exceeding six months, or if it be a Court of the Magistrate of the third class, for a period not exceeding thirty days.

(3) The compensation payable under sub-section (1) shall be in addition to any sentence which the court may impose for the offence of which the person directed to pay compensation has been convicted.

(4) The provisions of sub-sections (28), (2C), (3), and (4) of section 250, shall, as far as may be, apply to payment of compensation under this section.

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(5) An order under this section may also be made by an appellate Court or by a Court when exercising its powers of revision.

545. Power of Court to pay expenses, compensation out of fine. (1) Whenever under any law in force for the time being a Criminal Court imposes a fine or confirms in appeal, revision or otherwise a sentence

of fine, or a sentence of which fine forms a part, the court may, when passing judgment, order the whole or

any part of the fine recovered to be applied:

(a) in-defraying expenses properly incurred in the prosecution;

(b) in the payment of any person of compensation for any loss, [injury or mental anguish or psychological damage] caused by the offence, when substantial compensation is, in the opinion of the court, recoverable

by such person in a Civil Court;

(c) when any person is convicted of any offence which includes theft, criminal misappropriation, breach

of

trust, or cheating or of having dishonestly received or retained or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating

any bona fide purchaser, of such property for the loss of the same if such property is restored to the possession of the person entitled thereto.

(2) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed or, if an appeal be presented, before the decision of

the appeal.

546. Payments to be taken into account in subsequent suit. At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under section [544-A or section] 545.

546-A. Order of payment of certain fees paid by complainant in non-cognizable cases.

(1) Whenever any complaint of a non-cognizable offence is made to a Court, the Court, if it convicts the accused, may, in addition to the penalty imposed upon him, order him to pay to the complainant:

(a) the fee (if any) paid on the petition of complaint or the examination of the complainant, and

(b) any fees paid by the complainant for serving processes on his witnesses or on the accused, and may further order that, in default of payment, the accused shall suffer simple imprisonment for a period not exceeding thirty days.

(2) An order under this section may also be made by an Appellate Court, or by the High Court, when exercising its powers of revision.

547. Money ordered to be paid recoverable as fines. Any money (other than a fine) payable by virtue of any order made under this Code, and the method of recovery of which is not otherwise expressly provided

for shall be recoverable as if it were a fine.

548. Copies of proceeding. If any person affected by a judgment or order passed by a Criminal Court

desires to have a copy of any order or deposition or other part of the record he shall, on applying for such copy, be furnished therewith:

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Provided that he pays for the same unless the Court, for some special reason, thinks fit to furnish it free of

cost.

549. Delivery to military authorities of persons liable to be tried by Court martial. (1)The Central Government may make rules consistent with this Code and the [Pakistan Army Act, 1952 (XXXIX of 1952), the Pakistan Air Force Act, 1953 (VI of 1953, and the Pakistan Navy Ordinance, 1961 (XXXV of 1961] and any similar law for the time being in force as to the cases in which person subject to military naval or air force law shall be tried by a Court to which this Code applies, or by Court-martial, and when any person is brought before a Magistrate and charged with an offence for which he is liable to be tried either by a Court to which this Code applies or by a Court-martial, such Magistrate shall have regard to such rules and shall in proper cases deliver him together with a statement of the offence of which he is accused to the commanding officer of the regiment, corps, ship or detachment to which he belongs, or to

the commanding officer of the nearest military, naval or air force station, as the case may be, for the purpose of being tried by Court-martial.

(2) Apprehension of such persons. Every Magistrate shall, on receiving a written application for that purpose by the commanding officer of any body of soldiers, sailors or airmen stationed or employed at any

such place, use his utmost endeavour to apprehend and secure any person accused of such offence.

(3) Notwithstanding anything contained in this Code, if the person arrested by the Police is a person subject to the Pakistan Army Act, 1952 (XXXIX of 1952) and the offence for which he is accused is triable by a Court-martial, the custody of such person and the investigation of the offence of which he is accused

may be taken over by the Commending Officer of such person under the said Act.]

550. Powers to Police to seize property suspected to be stolen. Any police-officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence. Such police-officer, if subordinate

to the officer in charge of a police-station, shall forthwith report the seizure to that officer.

551. Powers of superior officers of police. Police officers superior in rank to an officer in charge of a police-station may exercise the same powers, throughout the local area to which they are appointed, as may

be exercised by such officer within the limits of his station.

552. Power to compel restoration of abducted females. Upon complaint made to a District Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child under the age of sixteen years,

for any unlawful purpose, he may make an order for the immediate restoration of such woman to her liberty or of such female child to her husband, parent, guardian or other person having the lawful charge of

such child, and may compel compliance with such order, using such force as may be necessary.

553. [Compensation to persons groundlessly given in charge in presidency-town]. Rep. by the Federal Laws (Revision and Declaration Act, 1954 (XXVI of 1951) S. and II Schedule.

554. Power of (x x) High courts to make rules for Inspection of records of subordinate courts. (1)

With the previous sanction of the Provincial Government, any High Court may from time to time, make rules for the inspection of the records of subordinate Courts.

(2) Power of other High Courts to make rules for other purposes. Every High Court may, from time to time, and with the previous sanction of Provincial Government:

(a) make rules for keeping all books, entries and accounts to be kept in all Criminal Courts subordinate to it

and for the preparation and transmission of any returns or statements to be prepared and submitted by such

Courts:

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(b) frame forms for every proceeding in the said Courts for which it thinks that a form should be provided:

(c) make rules for regulating its own practice and proceedings and the practice and proceedings of all Criminal Courts subordinate to it; and

(d) make rules for regulating the execution of warrants issued under this Code for the levy of fines:

Provided that the rules and forms made and framed under this section shall not be inconsistent with this Code or any other law in force for the time being.

(3) All rules made under this section shall be published in the official Gazette.

555. Forms. Subject to the power conferred by section 554 and by [Articles 202 and 203] of the Constitution, the forms set forth in the Fifth Schedule, with such variation as the circumstances of each require, may be used for the respective purposes therein mentioned, and if used shall be sufficient.

556. Case in which Judge or Magistrate is personally interested. No Judge or Magistrate shall, except with the permission of the Court to which an appeal lies from his Court, try any case to or in which he

is a party, or personally interested, and no Judge or Magistrate shall hear an appeal from an judgment or order passed or made by himself.

Explanation. A Judge or Magistrate shall not be deemed a party, or personally interested, within the meaning of this section, to or in any case by reason only that he is a Municipal Commissioner or otherwise

concerned therein in a public capacity or by reason only that he has viewed the place in which an offence is

alleged to have been committed, or any other place in which any other transaction material to the case is

alleged to have occurred, and made an inquiry in connection with the case.

Illustration

A., as Collector, upon consideration of information furnished to him, directs the prosecution of B for a breach of the Excise Laws A is disqualified for trying this case as a Magistrate.

557. Practising pleader not to sit as Magistrate in certain Courts. No pleader who practises in the Court of any Magistrate in a district, shall sit as a Magistrate in such Court or in any Court within the jurisdiction of such Court,

558. Power to decide language of Courts. The Provincial Government may determine what for the purposes of this Code, shall be deemed to be the language of each Court within the territories administered

by such Government, other than the High Courts.

559. Provision for powers of Judges and Magistrate being exercised by their successors in office. (1) Subject to the other provisions of the Code, the powers and duties of a Judge or Magistrate may be exercised or performed by his successor in office.

(2) When there is any doubt as to who is the successor in office of any Magistrate, [the Sessions Judge in the case of Judicial Magistrate, and the District Magistrate in the case of Executive Magistrate] shall determine by order in writing the Magistrate who shall, for the purposes of this Code or of any proceedings

or order thereunder, be deemed to be the successor in office of such Magistrate.

(3) When there is any doubt as to who is the successor in office of any Additional or Assistant Sessions Judge, the Sessions Judge shall determine by order in writing the Judge who shall, for the purposes of this

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Code or of any proceedings or order thereunder, be deemed to be the successor in office of such Additional

or Assistant Sessions Judge.

560. Officers concerned in sales not to purchase or bid for property. A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property.

561. [xxxxxxx]

561-A. Saving of inherent power of High Court. Nothing in this Code shall be deemed to limit or affect the inherent power of the High Court to make such orders as may be necessary to give effect to any order

under this Code; or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.