OF PROCESSES TO COMPEL THE PRODUCTION OF DOCUMENTS AND

OTHER MOVABLE PROPERTY AND FOR THE DISCOVERY OF

PERSONS WRONGFULLY CONFINED

A—Summons to produce

94. Summons to produce document or other thing: (1) Whenever any Court, or, any

officer incharge of a police-station considers that the production of any document or other

thing is necessary or desirable for the purposes of ,any investigation, inquiry, trial or other

proceeding under this Code by or before such Court or officer, such Court may issue a

summons, or such officer a written order, to the person in whose possession or power

such document or thing is believed to be, requiring him to attend and produce it or to

produce it, at the time and place stated in the summons or order:

Provided that no such officer shall issue any such order requiring the production of any

document or other thing which is in the custody of a bank or banker as defined in the

Banker's Books Evidence Act, 1891 (XVII 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, 408 and 409 and.

Sections 421 to 424 (both inclusive) and Sections 465 to 477-A (both inclusive) of the

Pakistan Penal Code, with prior permission in writing of a Sessions Judge ; and

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

(2) Any person required under this section merely to produce a document or other thing

shall be deemed to have complied with the requisition if he causes such document or

thing to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be deemed to affect the Evidence Act, 1872, Sections 123

and 124, or to apply to a letter, postcard, telegram or other document or any parcel or

thing in the custody of the Postal or Telegraph Authorities.

95. Procedure as to letters and telegrams: (1) If any document, parcel or thing in such

custody is, in the opinion of any Magistrate, High Court or Court of Session wanted

for the purpose of any investigation, inquiry, trial or other proceeding under this Code,

such Magistrate or Court may require the Postal or Telegraph Authorities, as the case

may be, to deliver such document, parcel or thing to such person as such Magistrate or

Court directs.

(2) If any such document, parcel or thing is, in the opinion of any Other Magistrate, or

District Superintendent of Police wanted for any such purpose he may require the Postal

or Telegraph Department, as the case may be, to cause search to be made for and to

detain such document, parcel or thing pending the orders of any such Court.

B. —Search-warrants

96. When search warrant may be issued: (1) Where any Court has reason to believe

that a person to whom a summons or order under Section 94 or a requisition under

Section 95, sub-section (1), has been or might be addressed, will not or would not

produce the document or thing as required by such summons or requisition,

or where such document or thing is not known to the Court to be in the possession of any

person,

or where the Court considers that the purposes of any inquiry, trial or other proceedings

under this Code will be served by a general search or inspection,

it may issue a search-warrant; and the person to whom such warrant is directed, may

Search or inspect in accordance therewith and the provision hereinafter contained,

[Omitted by the Ordinance XXXVII of 2001, dt. 13.8.2001]

97. Power to restrict warrant: The Court may, if it thinks fit, specify in the warrant the

particular place or part thereof to which only the search or inspection shall extend; and the

person charged with the execution of such warrant shall then search or inspect only tfte

place or part so specified.

98. Search of house suspected to contain stolen property, forged documents, etc.:

(1) If a Magistrate of the First Class, upon information and after such inquiry as he thinks

necessary, has reason to believe that any place is used for the deposit or sale of stolen

property,

or for the deposit or sale or manufacture of forged documents, false seals or counterfeit

stamps, [bank notes, currency notes] or coins or instruments or materials for counterfeiting

coin or stamps, [bank notes or currency notes] for forging,

or that any forged documents, false seals or counterfeit stamps, [bank notes, currency

notes] or coins, or instruments or materials for counterfeiting coins or Stamps or [bank

notes. currency notes] for forging, are kept or deposited in any place,

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or for the deposit, sale, manufacture or production of any obscene object such as is

referred to in Section 292 of the Pakistan Penal Code or that any such obscene objects

are kept or deposited in any place ;

he may by his warrant authorize any police-officer above the rank of a constable-

(a) to enter with such assistance as may he required, such place, and

(b) to search the same in manner specified in the warrant, and .

(c) to take possession of any property, document, seals, stamps or [bank notes, currency

notes] or coins therein found which he reasonably suspects to be stolen, unlawfully

obtained, forged, false or counterfeit and also of any such instruments and material or of

any such obscene objects as aforesaid, and

(d) to convey such property, documents, seals, stamps, [bank notes, currency notes],

coins, instruments or materials or such obscene objects before a Magistrate, or to guard

the same on the spot until the offender is taken before a Magistrate or, otherwise to

dispose thereof in some place of safety and

(e) to take into custody and carry before a Magistrate every person, found in such place"

who appears, to have been privy to the deposit, sale or manufacture or keeping of any

such property, documents, seals, stamps, 3o[bank notes, currency notes], coins,

instruments or materials or such obscene objects knowing or having reasonable cause to

suspect the said property to have been stolen or otherwise unlawfully obtained or the said

documents, seals, stamps, [bank notes, currency notes], coins, instruments or materials to

have been forged, falsified or counterfeited, or the said instruments or materials to have

been or to be intended to be used for counterfeiting coin or stamps, [bank notes, currency

notes] or for forging or the said obscene objects to have been or to be intended to be sold,

let to hire, distributed, publicly exhibited, circulated, imported or exported.

(2) The provisions of this section with respect to-

(a) counterfeit coin,

(b) coin suspected to be counterfeit, and

(c) instruments or materials for counterfeiting coin,

shall so far as they can be made applicable, apply respectively to

(a) pieces of metal made in contravention of the Metal Tokens Act, 1889, or brought into

Pakistan in contravention of any notification for the time being in force under Section 16 of

the Customs Act, 1969;

(b) pieces of metal suspected to have been so made or to have been so brought, into

Pakistan or to be intended to be issued in contravention of the former of those Acts, and

(c) instruments or materials for making pieces of metal in contravention of that Act.

Words subs. by Law Reforms Ordinance, (XII of 1972)

99. Disposal of things found in search beyond jurisdiction: When, in the execution of

a search-warrant at any place beyond the local limits of the jurisdiction of the Court

which issued the same any of the things for which search is made are found, such things

together with the list of the same, prepared under the provisions hereinafter contained,

shall be immediately taken before the Court issuing the warrant unless such place is

nearer to the Magistrate having jurisdiction herein than to such Court, in which case the

list and things shall be immediately taken before such Magistrate; and unless there be

good cause to the contrary, such Magistrate shall make an order authorizing them to he

taken to such Court.

99-A. Power to declare certain publications forfeited and to issue search-warrants

for the same: (1) Where-

(a) any newspaper, or book as defined in the [West Pakistan Press and Publications

Ordinance, 1963, or any other- law relating to press-and publication for the

time being in force], .

(b) any document,

wherever printed, appears to the Provincial Government to contain any treasonable or

seditious matter or any matter which is prejudicial to national integration or any matter

which promotes or is intended to promote, feelings of enmity or hatred between different

classes of the citizens of Pakistan or which is deliberately and maliciously intended to

outrage the religious feelings of any such class, by inputting the religion or religious belief

of that class, [or any matter, of the nature referred 1to in clause (ii) of sub-section (1) of

Section 24 of the West Pakistan Press and Publication Ordinance,1963] that is to say, any

matter the publication of which is punishable under Section 123-A or Section 124-A-or

Section 154-A or Section 295-A [or Section 298-A or Section 298-B or Section 298-C]

of the Pakistan Penal Code, the Provincial Government may, by notification in the official

Gazette stating the grounds of its opinion, declare every copy of the issue of the

newspaper containing such platter and every copy of such book or other document to be

forfeited to Government ,and thereupon any police-officer may seize the same wherever

found in Pakistan and any Magistrate may by warrant authorize any police-officer not

below the rank of sub-Inspector to enter upon and search for the same in any premises

where any copy of such issue or any such book or other document may be reasonably

suspected to be-

(2) In sub-section (1) "document" includes also any painting, drawing or photograph, or

other visible representation.

Substituted by Law Reforms Ordinance (XlI of 1972).

Inserted by Anti-Islamic Activities of Quadiani Group, Lahori Group and Ahmadis (Prohibition and Punishment)

Ordinance (XX of 1984).

33. Inserted by Anti-Islamic Activities of Quadiani Group, Lahori Group and

Ahmadis (Prohibition and Punishment) Ordinance (XX of 1984),

99-B. Application to High Court to set aside order of forfeiture: (1) Any person having

any interest in any newspaper, book or other document, In respect of which an order of

forfeiture has been made under Section 99-A [or any other law for the time being in force]

may, within two months from the date of such order, apply, to the High Court to set aside

such order on the ground that the issue of the newspaper, or the book or other document

in respect of which the order was made, did not contain any treasonable or seditious or

other matter of such a nature as is referred to in sub-section (1) of Section 99-A.

[(2) Nothing in subsection (1), shall apply to a case where the order of forfeiture has been

made--

(a) in respect of a newspaper, book or other document printed outside Pakistan ; or

(b} in respect of a newspaper, book or other document on the conviction in respect of such

newspaper, book or other document, of the author or editor thereof for any of the offences

referred to in sub-section (1) of Section 99-A.]

99-C. [Omitted by Law Reforms Ordinance, XII of 1972].

99-D. Order of [High Court] setting aside forfeiture: (1) On receipt of the application,

the [High Court] shall, if it is not satisfied that the issue of the newspaper, or the book or

other document, in respect of which the application has been made,: contained

treasonable or seditious or other matter of such a nature as is referred to in sub-section

(1) of Section 99-A, set aside the order of forfeiture.

(2) [Omitted by Law Reforms Ordinance, XIl of 1972].

Words inserted/substituted by Law Reforms Ordinance (XII of 1972).

99-E. Evidence to prove nature or tendency of newspaper: On the hearing of any such

application with reference to any newspaper, any copy of such newspaper may be given

in evidence in aid of the proof of the nature or tendency of the words, signs or visible

representations contained in such newspaper, in respect or which the order of forfeiture

was made.

99-F. Procedure in High Court: Every High Court shall as soon as conveniently may be,

frame rules to regulate the procedure in the case of such applications, the amount of the

costs thereof and the execution of orders passed thereon, and until such rules are framed,

the practice of such Courts in proceedings other than suits and appeals shall apply, so far

as may be practicable to such applications.

99-G. Jurisdiction barred: No order passed or action taken under Section 99-A shall be

called in question in any Court otherwise than in accordance with the provisions of

Section 99-B.

C.—Discovery of persons wrongfully confined

100. Search for persons wrongfully confined: If any Magistrate of the First Class has

reason to believe that any person is confined under such circumstances that the

confinement amounts to an offence, he may issue a search warrant, and the person to

whom such warrant is directed may search for the person so confined; and such search

shall be made in accordance therewith, and the person, if found, shall be immediately

taken before a Magistrate, who shall make such order as in the circumstances of the case

seems proper.

D. -Genera/ Provisions relating to Searches

101. Direction, etc., of search-warrants; The provisions of Sections 43, 75, 77, 79, 82,

83 and 84 shall, so far as may be, apply to alt search-warrants issued under Section 96,

Section 98, Section 99-A or Section 100.

102. Persons incharge of closed place to allow search: (1) Whenever any place liable

to search or inspection under this chapter is dosed, any person residing in, or being

incharge of such place shall, on demand of the officer or other person executing the

warrant, and on production of the warrant, allow him free ingress thereto, and afford all

reasonable facilities for a search therein.

(2) If ingress into such place cannot be so obtained, the officer or other person executing

the warrant may proceed in manner provided by Section 48.

(3) Where any person in or about such place is reasonably suspected of concealing about

his person any article for which search should be made, such person may be searched. If

such person is a woman, the directions of Section 52 shall be observed.

103. Search to be made in presence of witnesses: (1) Before making a search under

this chapter, the officer or other person about to make it shall call upon two or more

respectable inhabitants of the locality in which the place to be searched is situate to attend

and witness the search and may issue an order in writing to them or any of them so to do.

(2) The search shall be made in their presence, and a list of all things seized in the course

of such search and of the places in which they are respectively found shall be prepared

by such officer or other person signed by such witnesses; but no person witnessing a

search under this section shall be required to attend the Court as a witness of the search

unless specially summoned by it.

(3) Occupant of place searched may attend: The occupant of the place searched, or

some person in this behalf, shall, in every instance, be permitted to attend during the

search, and a copy of the list prepared under this section, signed by the said witnesses,

shall be delivered to such occupant or person at his request.

(4) When any person is searched under Section 102, sub-section (3), a list of all things

taken possession of shall be prepared, and a copy thereof shall be delivered to such

person, at his request.

(5) Any person who, without reasonable cause, refuses or neglects to attend and witness

a search under this section, when called upon to do so by any order in writing delivered or

tendered to him, shall be deemed to have committed an offence under Section 187 of the

Pakistan Penal Code.

E. —Miscellaneous

104. Power to impound document, etc., produced: Any Court may, if it thinks fit,

impound any document or thing produced before it under this Code.

105. Magistrate may direct search in his presence: Any Magistrate may direct a search

to be made in his presence of any place for the search of which he is competent to issue a

search warrant.

PART IV

PREVENTION OF OFFENCES

CHAPTER VIII

OPSECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR

A. —Security for keeping the Peace on Conviction

106. Security for keeping the peace on conviction: (1) Whenever any person accused

of any offence punishable under Chapter VIll of the Pakistan Penal Code, other than an

offence punishable under Section 143, Section 149, Section 153-A or Section 154 thereof,

or of .assault or other offence involving a breach of the peace, or of abetting the same, or

any person accused of committing criminal intimidation, is convicted of such offence

before a High Court, a Court of Session, or the Court of a Magistrate of the First Class,

and such Court is of opinion that it is necessary to require such person to; execute a bond

for keeping the peace, such Court may, at the time of passing sentence on such person,

order him to execute a bond for a sum proportionate to his means, with or without

sureties, for keeping the peace during such period/not exceeding three years, as it thinks

fit to fix.

(2) if the conviction is set aside on appeal or otherwise, the bond so executed shall

become void.

(3) An order under this section may also be made by an Appellate Court [or by a Court]

exercising its powers of revision.

Words subs. by Law Reforms Ordinance (XII of 1972).

B-Security for keeping the peace in other cases and security for good

behaviour

107. Security for keeping the peace in other cases: Whenever [Magistrate of the First

Class] is informed that any person is likely to commit a breach of the peace, disturb the

public tranquillity or to do any wrongful act that may probably occasion a breach of the

peace or disturb the public tranquillity, the Magistrate if in his opinion there is sufficient

ground for proceeding may, in manner hereinafter provided, require such person to show

cause why he should not be ordered to execute a bond, with or without sureties, for

keeping the peace for such period not exceeding one year as the Magistrate thinks fit to

fix.

(2) Proceeding shall not be taken under this section unless either, the person informed

against or the place where the breach of the peace or, disturbance is apprehended, is

within the local limits of such Magistrate's jurisdiction, and no proceedings shall be taken

before any Magistrate [except with the approval of the Sessions Judge], unless both the

persons informed against and the place where the breach of the peace or disturbance is

apprehended, are within the local limits of the Magistrate's jurisdiction.

(3) Procedure if Magistrate not empowered to act under sub-section (1): When any

Magistrate not empowered to proceed under sub-section (1) has reason to believe that

any person is likely to commit a breach of the peace or disturb the public tranquillity or to

do any wrongful act that may probably occasion a breach of the peace or disturb the

public tranquillity, and that such breach of the peace, or disturbance, cannot be prevented

otherwise than by detaining such person in custody, such Magistrate may, after recording

his reasons; issue a warrant for his arrest if he is not already in custody or before the

Court and may send him before a Magistrate empowered to deal with the case together

with a copy of his reasons.

(4) A Magistrate before whom a person is sent under sub-section (3) may in his discretion

detain such person in custody pending further action by himself under this Chapter.

Subs. by Ordinance, XXXVII of 2001, dt. 13-8-2001.

108. Security for good behaviour from persons disseminating seditious matter: Whenever

[Magistrate of the First Class] has information that there is within the limits of his

jurisdiction any person who, within or without such limits, either orally or in writing or in any

other manner intentionally disseminates or attempts to disseminate, or in any wise abets

the dissemination of-

(a) any seditious matter, that is to say, any matter the publication of which is punishable

under Section 123-A or Section 124-A of the Pakistan Penal Code, or

(b) any matter the publication of which is punishable under Section 153-A of the Pakistan

Penal Code, or

(c) any matter concerning a Judge which amounts to criminal intimidation or defamation

under the Pakistan Penal Code,

such Magistrate if in his opinion there is sufficient ground for proceeding may (in manner

hereinafter provided) require such person to show cause why he should not be ordered to

execute a bond with or without sureties, for his good behaviour for such period, not

exceeding one year, as the Magistrate thinks fit to fix.

No proceedings shall be taken under this section against the editor, proprietor, printer or

publisher of any publication registered under, and edited, printed and published in

conformity with, [the provisions of the Press and Publications Ordinance, 1960, the West

Pakistan Press and Publications Ordinance, 1963, or any other law relating to Press and

Publication for the time being in force] with reference to any matters contained in such

publication, except by the order or under the authority of the Provincial Government or

some officer empowered by the Provincial Government in this behalf.

Subs. by Ordinance, XXXVII of 2001, dt. 13-8-2001

Words subs. by Law Reforms Ordinance (XIl of 1972).

109. Security for good behaviour from vagrants and suspected persons: Whenever a

[Magistrate of the First Class] receives information-

(a) that any person is taking precautions to conceal his presence within the local limits of

such Magistrate's jurisdiction, and that there is reason to believe that such person is taking

such precautions with a view to committing any offence, or

(b) that there is within such limits a person who has no ostensible means of subsistence,

or who cannot give a satisfactory account of himself,

such Magistrate may, in manner hereinafter provided, require such person to show cause

why he should not be ordered to execute a bond, with sureties, for his good behaviour for

such period, not exceeding [three years,] as the Magistrate thinks fit to fix.

Subs. by Ordinance, XXXVtl of 2001, dt. 13-8-2001.

Substituted for the words "one year" by Item 44 (ii) of Punjab Notification No. SO(J-11) 1-8/75 (P-V), dated 21-3-1996 for

Punjab and by same Item No- of Islamabad Notification No. S.R.O. 255(i)/96, dated 8-4-1996 for Islamabad only,

110. Security for good behaviour from habitual offenders: Whenever a [Magistrate of

the First Class] receives information that, any person within the local limits of his

jurisdiction—

(a) is by habit robber, house-breaker, thief or forger, or

(b) is by habit a receiver of stolen property knowing the same to have been stolen, or

(c) habitually protects or harbours thieves or aids, in the concealment or disposal of stolen

property, or

(d) habitually commits or attempts to commit, or abets the commission of the offence of

kidnapping, abduction, extortion, cheating or mischief, or any offence punishable under

Chapter XII of the Pakistan Penal Cede, or under Section 489-A, Section 489-B.

Section 489-C or Section 489-D of that Code, or

(e) habitually commits, or attempts to commit, or abets the commissions of, offences

involving a breach of the

(f) 1s so desperate and dangerous as to render his being at large without security

hazardous to the community.

such Magistrate may, in manner hereinafter provided, require such person to show cause

why he should not be ordered to execute a bond, with sureties, for his good behaviour for

such period, not exceeding three years, as the Magistrate thinks fit to fix.

Subs by Ordinance, XXXVII of 2001, dt. 13-8-2001.

111. Proviso as to European vagrants: [Rep. by the Criminal Law Amendment Act, 1923

(XI of'1923), Section 8}.

112. Order to be made: When a Magistrate acting under Section 107, Section 108,

Section 109 or Section 110 deems it necessary to require any person to show cause

under such section, he shall make an order in writing, setting forth the substance of the

information received, the amount of the bond to be executed, the term for which it is to be

in force, and the number, character and class of sureties (if any) required.

113. Procedure in respect of person present in Court: If the person in respect of whom

such order is made is present in Court, it shall be read over to him or, if he so desires, the

substance thereof shall be explained to him.

114. Summons or warrant in case of person not so present: If such person is not

present in Court, the Magistrate shall issue a summons requiring him to appear, or, when

such person is in custody, a warrant directing the officer in whose custody be is, to bring

him before the Court:

Provided that whenever it appears to such Magistrate, upon the report of a police officer or

upon other information (the substance of which report of information shall be recorded by

the Magistrate), that there is reason to tear the commission of a breach of the peace, and

that such breach of the peace cannot be prevented otherwise than by the immediate

arrest of such person, the Magistrate may at any time issue a warrant for his arrest.

115. Copy of order under Section 112 to accompany summons or warrant: Every

summons or warrant issued under Section 114 shall be accompanied by a copy of the

order made under Section 112, and such copy shall be delivered by the officer serving or

executing such summons or warrant to the person served with, or arrested under, the

same.

116. Power to dispense with personal attendance: The Magistrate may, if he sees

sufficient cause, dispense with the personal attendance of any person called upon to show

cause why he should not be ordered to execute a bond for keeping the peace, and may

permit him to appear by a pleader.

117. Inquiry as to truth of information: When an order under Section 112 has been

read or explained under Section 113 to a person present in Court, or when any person

appears or is brought before a Magistrate in compliance with, or in execution of, a

summons or warrant, issued, under Section 114, the Magistrate shall proceed to inquire

into the truth of the information upon which action has been taken, and to take such

further evidence as may appear necessary.

[(2) Such inquiry shall be made, as nearly as may be practicable, in the manner

prescribed in Chapter XX for conducting trial and recording evidence except that no

charge need be framed].

(3) Pending the completion of the inquiry under sub-section (1) the Magistrate, if he

considers that immediate measures are necessary for the prevention of a breach of the

peace or disturbance of the public tranquillity or the commission of any offence or for the

public safety, may, for reasons to be recorded in writing, direct the person in respect of

whom the order under Section 112 has been made, to execute a bond, with or without

sureties, for keeping the peace or maintaining good behaviour until the conclusion of the

inquiry, and may detain him in custody until such bond is executed or, in default of

execution, until the inquiry is concluded:

Provided that-

(a) no person against whom proceedings are not being taken under Section 108, Section

109, or Section 110, shall be directed to execute a bond for maintaining good behaviour,

and

(b) the conditions of Such ^bond, whether as to the amount-thereof or as to the provision

of sureties or the number thereof or the pecuniary extent of their liability, shall not be more

onerous that those specified in the , order under Section 112.

(4) For the purposes of this section the fact that a person is an habitual offender or is so

desperate and dangerous as to render him being at large without security hazardous to

the community may be proved by evidence of general repute or otherwise.

(5) Where two or more persons have been- associated together in the matter under

inquiry, they may be dealt with in the same or separate inquiries as the Magistrate shall

think just.

Sub-sec. (2) substituted by Law Reforms Ordinance (XII of 1972).

118. Order to give security: (1) If, upon such inquiry, it is proved that it is necessary for

keeping the peace or maintaining good behaviour, as the case may be, that the person in

respect of whom the inquiry is made should execute a bond, with or without sureties the

Magistrate shall make an order accordingly:

Provided--

first, that no person shall be ordered to give security of a nature different from, or of an

amount larger than or for a period longer than, that specified in the order made under

Section 112;

secondly, that the amount of every bond shall be fixed with due regard to the

circumstances of the case and shall not be excessive ;

thirdly, that when the person in respect of whom the inquiry is made is a minor, the bond

shall be executed only by his sureties.

119. Discharge of person informed against: If, on an inquiry under Section 117, it is not

proved that it is necessary for keeping the peace or maintaining good behaviour, as the

case may be, that the person in respect of whom the inquiry is made, should execute a

bond the Magistrate shall make an entry on the record to that effect, and if such person is

in custody, only for the purpose of the inquiry, shall release him, or, if such person is not in

custody, shall discharge him.

C.—Proceedings in all cases subsequent to order to furnish security

120. Commencement of period for which security is required: (1) If any person, in

respect of whom an order requiring security is made under Section 106 or Section 118,

is, at the time such order is made, sentenced to, or undergoing a sentence of

imprisonment, the period for which such security is required shall commence on the

expiration of such sentence.

(2) In other cases such period shall commence on the date of such order unless the

Magistrate, for sufficient reason, fixes a later date.

121. Contents of bond: The bond to be executed by any such person shall bind him to

keep the peace or to be of good behaviour, as the case may be, and in the latter case the

commission, or attempt to commit, or the abetment of, any offence punishable with

imprisonment, wherever it may be committed, is a breach of the bond.

122. Power to reject sureties: (1) A Magistrate may refuse to accept any surety offered,

or may reject any surety previously accepted by him or his predecessor under this chapter

on the ground that such surety is an unfit person for the purposes of the bond :

Provided that, before so refusing to accept or rejecting any such surety, he shall either

himself hold an inquiry on oath into the fitness of the surety, or cause such inquiry to be

held and a report to be made thereon by a Magistrate subordinate to him.

(2) Such Magistrate shall, before holding inquiry, give reasonable notice to the surety and

to the person by whom the surety was offered and shall in making the inquiry record the

substance of the evidence adduced before him.

(3) If the Magistrate is satisfied, after considering the evidence so adduced either before

him or before a Magistrate deputed under sub-section (1), and the report of such

Magistrate (if any) that the surety is an unfit person for the purpose of the bond, he shall

make an order refusing to accept or rejecting, as the case may be, such surety and

recording his reasons for so doing:

Provided that, before making an order rejecting any surety who has previously been

accepted, the Magistrate shall issue his summons or warrants, as he thinks fit, and cause

the person for whom the surety is bound to appear or to be brought before him.

123. Imprisonment in default of security: (1) If any person ordered to give security

under Section 106 or Section 118 does not give such security on or before the date on

which the period for which such security is to be given commences, he shall, except in the

case next hereinafter mentioned, be committed to prison, or, if he is already in prison be

detained in prison until such period expires or until within such period he gives the.,

security to the Court or Magistrate who made the order requiring it.

(2) Proceedings when to be laid before High Court or Court of Session: When such

person has been ordered by a Magistrate to give security for a period exceeding one year,

such Magistrate shall, if such person does not give such security as aforesaid, issue a

warrant directing him to be detained in prison pending the orders of the Sessions Judge;

and the proceedings shall be laid, as soon as conveniently may be; before such Judge.

(3) The Sessions Judge, after examining such proceedings and requiring from the

Magistrate any further information or evidence which he thinks necessary, may pass

such order on the case as he thinks fit:

Provided that the period (if any) for which any person is imprisoned for failure to give

security shaft not exceed three years.

(3-A) If security has been required in the course of the same proceedings from two or

more persons in respect of any one of whom the proceedings are referred to the Sessions

Judge under sub-section (2), such reference shall also include the case of any other of

such persons who has been ordered to give security, and the provisions of sub-sections

(2) and (3) shall, in that event, apply to the case of such other person also, except that the

period (if any) for which he may be imprisoned shall not exceed the period for which he

was ordered to give security.

(3-B) A Sessions Judge may in his discretion transfer any proceedings laid before him

under sub-section (2) or sub-section (3-A) to an Additional Sessions Judge or Assistant

Sessions Judge and upon such transfer, such Additional Sessions Judge or Assistant

Sessions Judge may exercise the powers of a Sessions Judge under this section in

respect of such proceedings.

(4) If the security is tendered to the officer incharge of the jail. he shall forthwith refer the

matter to the Court or Magistrate who made the border, and shall await the orders of

such Court or Magistrate.

(5) Kind of imprisonment: Imprisonment for failure to give security for keeping the peace

shall be simple.

(6) Imprisonment for failure to give security for good behaviour shall, where the

proceedings have been taken under Section 108 be simple and, where the proceedings

have been taken under Section 109 or Section 110, be rigorous or simple as the Court of

Magistrate m each case directs.

124. Power to release persons imprisoned for failing to give security: (1) Whenever

the [Sessions Judge] is of opinion that any person imprisoned for failing to give security

under this Chapter may be released without hazard to the community or to any other

person, he may order such person to be discharged.

(2) Whenever any person has been imprisoned for failing to give security under this

Chapter, the [Sessions Judge] may (unless the order has been made by some Court

superior to his own) make an order reducing the amount of the security or the number of

sureties or the time for which security has been required.

(3) An order under sub-section (1) may direct the discharge of such person either without

conditions or upon any conditions, which such person accepts:

Provided that any condition imposed shall cease to be operative when the period for which

such person was ordered to give security has expired.

(4) The Provincial Government may prescribe the conditions upon which a conditional

discharge may be made.

(5) If any condition upon which any such person has been discharged is, in the opinion of

the [Sessions Judge] by whom the order of discharge was made or of his successor, not

fulfilled, he may cancel the same.

(6) When a conditional order of discharge has been cancelled under sub-section (5) such

person may be arrested by any police-officer without warrant, and shall thereupon be

produced before the [Sessions Judge.]

Unless such person then gives security in accordance with the terms of the original order

for the unexpired portion of the term for which he was in the first instance committed or

ordered to be detained (such portion being deemed to be a period equal to the period

between the date of the breach of the conditions of discharge and the date on which,

except for such conditional discharge, he would have been entitled to release), the

[Sessions Judge] may remand such person to prison to undergo such unexpired portion.

A person remanded to prison under this sub-section shall, subject to the provisions of

Section 122 be released at any time on giving security in accordance with the terms of the

original order for the unexpired portion aforesaid to the Court or Magistrate by whom such

order was made, or to its or his successor.

Subs. by Ordinance, XXXVII of 2001, dt. 13-8-2001.

125. Power to District Magistrate to cancel any bond for keeping the peace or good

behaviour: The [Sessions Judge] may, at any time, for Sufficient reasons to be recorded

in writing, cancel any bond for keeping the peace or for good behaviour executed under

this Chapter by order of any Court in his district riot superior to his Court.

Subs. by Ordinance, XXXVII of 2001, dt. 13-8-2001.

126. Discharge of sureties: (1) Any surety for the peaceable Conduct or good behaviour

of another person may at any time apply to [concerned Magistrate of the First Class] to

cancel any bond executed under this Chapter within the local limits of his jurisdiction.

(2) On such application being made, the Magistrate shall issue his summons or warrant,

as he thinks fit, requiring the person for whom such surety is bound to appear or to be

brought before him.

Subs. by Ordinance, XXXVII of 2001, dt. 13-8-2001.

[126-A. Security for unexpired period of bond: When a person for whose appearance a

warrant or summons has been issued under the proviso to sub-section (3) of Section 122

or under Section 126, sub-section (2), appears or is brought before him, the Magistrate

shall cancel the bond executed by such person and shall order such person to give, for

the unexpired portion of the term of such bond, fresh security of the same description as

the original security. Every such order shall, for the purposes of Sections 121, 122, 123

and 124 be deemed to be an order made under Section 106 or Section 118, as the case

may be.]

S. 126-A. inst. by Code of Criminal Procedure (Amendment) Act, XVIII of 1923.

CHAPTER IX

UNLAWFUL ASSEMBLIES AND MAINTENANCE OF PUBLIC PEACE

AND SECURITY

127. Assembly to disperse on command of Magistrate or police officer: (1) Any

officer incharge of a police station may command any unlawful assembly, or any assembly

of five or more persons likely to cause a disturbance of the public peace, to disperse; and

it shall thereupon be the duty of the members of such assembly to disperse accordingly.

(2) [Omitted by A.O., 1949, Sch.]

128. Use of civil force to disperse: If, upon being so commanded, any such assembly

does not disperse, or if, without being so commanded, it conducts itself in such a manner

as to show a determination not to disperse, any officer incharge of a police-station, may

proceed to disperse such assembly by force and may require the assistance of any male

person, not being an officer, soldier, sailor or airman in the Armed Forces of Pakistan and,

acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting

and confining the persons who form part of it, in order to, disperse such assembly or that

they may be punished according to law:

[provided that for diapering any assembly, firing shall not be resorted to except under the

specific directions of an officer of the police not below the rank of an Assistant

Superintendent or Deputy Superintendent of Police.]

Proviso added by the Ordinance. XXXVII of 2001. dt. 13-8-2001.

129. Use of military force: If any such assembly cannot be otherwise dispersed, and if it

is necessary for the public security that it should be dispersed, the (the police officer of the

highest rank not below an Assistant Superintendent, or Deputy Superintendent, of Police]

who is present may cause it to be dispersed by the armed forces.

130. Duty of officer commanding troops required by Magistrate to disperse

assembly: [(1) When 2o[a police officer of the highest rank not below an Assistant

Superintendent, or Deputy Superintendent, of Police] determines to disperse any such

assembly by the armed forces; he may require any officer thereof in command of any

group of persons belonging to the armed forces to disperse such assembly with the help

of the armed forces under his command and to arrest and-confine such persons forming

part of it as the Magistrate [or such Police officer] may direct, or as it may be necessary to

arrest and confine in order to disperse the assembly or to have them punished according

to law].

(2) Every such officer shall obey such requisition in such manner as he thinks fit, but in so

doing he shall use as little force, and do as little injury to person and property, as may be

consistent with dispersing the assembly and arresting and detaining such persons.

Sub-sec: (1) substituted by Code of Criminal Procedure (Amendment) Act, XLIX of 1975.

Subs. & ins. by Ordinance, XXXVII) of 2001, dt. 13-8-2001.

131. Power of commissioned military officers to disperse assembly: When the public

security is manifestly endangered by any such assembly, and when [no police officer of

the highest rank not below an Assistant Superintendent, or Deputy Superintendent, of

Police] can be communicated with, any commissioned officer of the Pakistan Army may

disperse such assembly by military force, and may arrest and confine any persons forming

part of it, in order to disperse such assembly or that they may be punished according to

law; but if, white, he is acting under this section, it becomes practicable for him to

communicate with [a Police officer not below the rank of Assistant Superintendent or

Deputy Superintendent of Police.] he shall do so, and shall thenceforward obey the

instructions of the [such Police officer] as to whether he shall or shall not continue such

action.

[131-A. Power to use military force for public security and maintenance of law and

order: (1) If the Provincial Government is satisfied that, for the public security, protection

of life and property, public peace and the maintenance of law and order, it is necessary to

secure the assistance of the armed forces; the Provincial Government may require, with

the prior approval of the Federal Government, or the Federal Government may, on the

request of the Provincial Government, direct, any officer of the armed forces or civil armed

forces to render such assistance with the help of the forces under his command, and such

assistance shall include the exercise of powers specified in Sections 46 to 49, 53,54, 55

(a) and (c). 58, 63 to 67, 100.102,103 and 156:

Provided that such powers shall not include the powers of a Magistrate.

(2) Every such officer shall obey such requisition or direction, as the case may be, and in

doing so may use such force as the circumstances may require.

(3) In rendering assistance relating to exercise of powers specified in sub-section (1),

every officer shall, as far as may be, follow the restrictions and conditions laid down in the

Code.]

Section 131-A inserted by Code of Criminal Procedure (Second Amendment) Ordinance, LXI of 1996, Section 3.

Subs. & ins. by Ordinance, XXXVII) of 2001, dt. 13-8-2001.

132. Protection against prosecution for acts done under this Chapter: No

prosecution against any person for any act purporting to be done under this Chapter shall

be instituted in any Criminal Court, except with the sanction of the Provincial Government;

and

(a) no police officer acting under this Chapter in God faith,

(b) no officer acting under Section 131 in good faith,

(c) no person doing any act in good faith, in compliance with a requisition under Section

128 or Section 130 [or Section 131-A]; and

(d) no inferior officer, or soldier, [sailor or airman in the armed forces] doing any act in

obedience to any order which he was bound to obey, shall be deemed to have thereby

committed an offence:

Provided that no such prosecution shall be instituted in any Criminal Court against any

officer or [sailor or airman in the armed forces] except with the sanction of the Federal

Government.

Words inserted by Code of Criminal Procedure (Second Amendment) Order, LXt of 1996, Section 5.

[l32-A. Definitions: In this Chapter--

(a) the expression "armed forces" means the military, naval and air forces, operating as

land forces and includes any other armed forces of Pakistan so operating;

(b) "officer", in relation to the armed forces, means a person commissioned, gazetted or in

pay as an officer of the armed forces and includes a junior commissioned officer, a

warrant officer, a petty officer and a non-commissioned officer; and

(c) "soldier" includes a member of the force constituted under the Act referred to in clause

(a).]

S. 132-A inserted by Code of Criminal Procedure (Amendment) Act, XUX of 1975, SectionsCHAPTER X

PUBLIC NUISANCES

133. Conditional order for removal of nuisance: (1) Whenever a [Magistrate of the First

Class] considers, on receiving a police-report or other information and on taking

such evidence (if any) as he thinks fit, that any unlawful obstruction or nuisance should be

removed from any way, river or channel which is or may be lawfully used by the public,

or from any public place, or

that the conduct of any trade or occupation, or the keeping of any goods or merchandise,

is injurious to the health or physical comfort of the community, and: that in consequence of

such trade or occupation should be prohibited or regulated or such goods or merchandise

should be removed or the keeping thereof regulated, or

that the construction of any building, or the disposal of any substance, as is likely to

occasion conflagration or explosion, should be prevented or stopped, or

that any building, tent or structure, or any tree is in such a condition that it is likely to fait

and thereby cause injury to persons living or carrying on business in the neighbourhood or

passing by, and that in consequence the removal, repair or support of such building, tent

or structure, or the removal or support of such tree, is necessary, or

that any tank, well or excavation adjacent to any such way or public place should be

fenced in such manner as to prevent danger arising to the public, or

that any dangerous animal should be destroyed, confined or otherwise disposed of,

such Magistrate may make a conditional order requiring the person causing-such

obstruction or nuisance or carrying on such trade or occupation, or keeping any such

goods or merchandise, or owning, possessing or controlling such building, tent, structure,

substance, tank, well or excavation, or owning or possessing such animal or tree, within a

time to be fixed in the order,

to remove such obstruction or nuisance; or

to desist from carrying on, or to remove or regulate in such manner as maybe directed,

such trade or occupation, or

to remove such goods or merchandise, to regulate the keeping thereof in such manner as

may be directed; or

to prevent or stop the erection of, or to remove, repair or support, such building, tent or

structure; or

to remove or support such tree, or to alter the disposal of such substance; or

to fence such tank, well or excavation, as the case may be; or .

to destroy, confine or dispose of such dangerous animal in the manner provided in the

said order;

or, if he objects so to do,

to appear before himself or some other [Magistrate of the First Class] or Second Class, at

a time and place to be fixed by the order, and move to have the order set aside or

modified in the manner hereinafter provided.

(2) No order duty made by a Magistrate under this section shall be called in question in

any Civil Court.

Explanation : A "public place" includes also property belonging to the State, camping

grounds and grounds left unoccupied for sanitary or recreative purposes.

Subs. by Ordinance, XXXVII of 2001, dt. 13-8-2001.

134. Service or notification of order: (1) The order shall, if practicable, be served on the

person against whom it is made, in manner herein provided for service-of a summons.

(2) If such order cannot be so served, it shall be notified by proclamation published in such

manner as the Provincial Government may by rule direct, and a copy thereof shall be

stuck up at such place or places as may be fittest for conveying the information to such

person.

135. Person to whom order is addressed to obey or show cause or claim jury: The

person against whom such order is made shall

(a) perform within the time and in the manner specified in the order, the act directed

thereby; or

(b) appear in accordance with such order and either show cause against the same, or

apply to the Magistrate by whom it was made to appoint a jury to try whether the

same is reasonable and proper.

136. Consequence of his failing to do so: If such person does not perform such act or

appear and show cause or apply for the appointment of a jury as required by Section

135, he shall be liable to the penalty prescribed in that behalf in Section 188 of the

Pakistan Penal Code and the order shall be made absolute.

137. Procedure where he appears to show cause: (1) If he appears and shows' cause

against the order, the Magistrate shall take evidence [in the manner provided in Chapter

XX].

 (2) If the Magistrate is satisfied that the order is not reasonable and proper, no further

proceedings shall be taken in the case.

(3) If the Magistrate is not so satisfied, the order shall be made absolute.

Words subs. by Law Reforms Ordinance, XII of 1972.

138. Procedure when he claims Jury : (1) On receiving an application, under Section

135 to appoint a jury, the Magnate shall;

(a) forthwith appoint a jury consisting of an uneven number of persons not jess than five,

of whom the foreman and one-half of the remaining members shall be nominated by such

Magistrate, and the other members by the applicant;

(b) summon such foreman and members to attend at such place and time as the

Magistrate thinks fit; and

(c) fix a time within which they are to return their verdict-

(2) The time so fixed may, for good cause shown, be extended by the Magistrate.

139. Procedure where jury finds Magistrate's order to be reasonable: If the jury or a

majority of the jurors find that the order of the Magistrate is reasonable and proper as

originally made, or subject to a modification which the Magistrate accepts, the Magistrate

shall make the order absolute, subject to such modification (if any).

(2) In other cases no further proceedings shall be taken under this Chapter.

139-A. Procedure where existence of public right is denied: (1) Where an order is

made under Section 133 for the purpose of preventing obstruction, nuisance or danger to

the public in the use of any way, river; channel or place, the Magistrate shall, on the

appearance before him of the person against whom the order was made, question him as

to whether he denies the existence of any public right in respect of the way, river, channel

or place, and if he does so, the Magistrate shall, before proceeding under Section 137 or

Section 138 inquire into the matter.

(2) If in such inquiry the Magistrate finds that there is any reliable evidence in support of

such denial, he shall stay the proceeding until the matter of the existence of such right has

been decided by a competent Civil Court; and, if he finds that there is no such evidence,

he shall proceed as laid down in Section 137 or Section 138, as the case may require.

(3) A person who has, on being questioned by the Magistrate under sub-section (1) failed

to deny the existence of a public right of the nature therein referred to, or who, having

made such denial, has failed to adduce reliable evidence in support thereof, shall not in

the subsequent proceedings be permitted to make any such denial, nor shall any question

in respect of the existence of any such public right be inquired into by any jury appointed

under Section 138.

140. Procedure on order being made absolute: (1) When an order has been made

absolute under Section 136, Section 137 or Section 139, the Magistrate shall give notice

of the same to the person against whom the order was made, and shall further require him

to perform the act directed by the order within a time to be fixed in the notice, and inform

him that, in case of disobedience, he will be liable to the penalty provided by Section 188

of the Pakistan Penal Code.

(2) Consequences of disobedience to order: if such act is not performed within the time

fixed, the Magistrate may cause it to be performed, and may recover the costs of

performing it, either by the sate of any building, goods or other property removed by his

order, or by the distress and sale of any other movable property of such person within or

without the local limits of such Magistrate's jurisdiction. If such other property is without

such limits, the order shall authorise its attachment and sale when endorsed by the

Magistrate within the local limits of whose jurisdiction the property to be attached is found.

(3) No suit shall lie in respect of anything done in good faith under this section.

141. Procedure on failure to appoint jury or omission to return verdict: If the

applicant, by neglect or otherwise, prevents the appointment of the jury, or if from any

cause the jury appointed do not return their verdict within the time fixed or within such

further time as the Magistrate may in his discretion allow, the Magistrate may pass such

order as he thinks fit, and such order shall be executed in the manner provided by Section

140.

142. Injunction pending Inquiry: (1) If a Magistrate making an order under Section 133

considers that immediate measures should be taken to prevent imminent danger or injury

of a serious kind to the public, he may, whether a jury is to be or has appointed w not,

issue such an injunction to the person against whom the order was made, as is required to

obviate or prevent such danger or injury pending the determination of the matter.

(2) In default of such person forthwith obeying such injunction, the Magistrate may himself

use, or cause to be used, such means as he thinks fit to obviate such danger or to prevent

such injury.

(3) No suit shall lie in respect of anything done in good faith by a Magistrate under this

section.

143. Magistrate may prohibit repetition or continuance of public nuisance: A

[Magistrate of the First Class]; may order any person not to repeat or continue a public

nuisance, and defined in the Pakistan Penal Code or any special or Local law.

Subs by Ordinance, XXXVII of 2001, dt. "13-8-2001,

CHAPTER XI

TEMPORARY ORDERS IN URGENT CASES OF NUINANCE OR

APPREHANDED DANGER

144. Power to issue order absolute at once in urgent cases of nuisance or

apprehended danger: (1) in cases where, in the opinion of [the Zila Nazim upon the

written recommendation of the District Superintendent of Police or Executive District

Officer] there is sufficient ground for proceeding under this section and immediate

prevention or speedy remedy is desirable.

[the Zila Nazim] may, by a written order stating the material facts of the case and served in

manner provided by Section 134, direct any person to abstain from a certain act or take

certain order with certain property in his possession or under his management, if such

Magistrate considers that such direction is likely to prevent, or tends to prevent,

obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person

lawfully employed, or clanger to human life, health or safety, or a disturbance of the public

tranquillity, or a riot, or an affray.

 (2) An order under this section may, in case of emergency or In cases where the

circumstances do not admit of the serving in due time of a notice upon the person against

whom the order is directed, be passed, exparte.

(3) An order under this section may be directed to a particular individual, or to the public

generally when frequenting or visiting a particular place.

(4) [The Zila Nazim] may, either, on his own motion or on the application of any person

aggrieved, rescind or alter any order made under this section by himself or by his

predecessor-in-office.

(5) Where such an application is received, the Magistrate shall afford to the applicant an

early opportunity of appearing before him either in person or by pleader and showing

cause against the order; and, if the [Zila Nazim] rejects the application wholly or in part, he

shall record in writing his reasons for so doing.

(6) No order under this section shall remain in force for more than two 39[consecutive

days and not more than seven days in a month] from the making thereof; unless, in cases

of danger to human life, health or safety, or a likelihood of a riot or an affray, the Provincial

Government, by notification in the official Gazette, otherwise directs.

[(7) In the application of sub-sections (1) to (6) to the districts where the local Government

elections have not been held, or the Zila Nazim has not assumed charge of office, any

reference in those provisions to the Zila Nazim shall be read as a reference to the District

Coordination Officer in relation to such districts:

Provided that this sub-section shall cease to have effect, and shall be deemed to have

been repealed, at the time when local Governments are installed in the districts as

aforesaid.]

Subs. by Ordinance. XXXVII of 2001, dt. 13-8-2001.

Sub-section (7) 2 Proviso added by Ordinance, XLMI of 2001, . dt. 29-8-2001.

CHAPTER XII

DISPUTES AS TO IMMOVABLE PROPERTY

145. Procedure where dispute concerning land, etc., is likely to cause breach of

peace: (1) Whenever a [Magistrate of the First Class] is Satisfied from a police report

or other information that a dispute likely to cause a breach of the peace exists concerning

any land or water or the boundaries thereof within the local limits of his jurisdiction, he

shall make an order in writing, stating the grounds of his being so satisfied, and requiring

the parties concerned in such dispute to attend his Court in person or by pleader, within a

time to be fixed by such Magistrate and to put in written statements of their respective

claims as respects the fact of actual possession of the subject of dispute.

(2) For the purposes of this section the expression "land or water" includes buildings,

markets, fisheries, crops or other produce of land. and the rents or profits of any such

property.

(3) A copy of the order shall be served in manner provided by this Code for the service of

a summons upon such person or persons as the Magistrate may direct, and at least one

copy shaft be published by being affixed to some conspicuous place at or near the subject

of dispute.

(4) Inquiry as to possession: The Magistrate shall then, without reference to the merits

or the claims of any of such parties to a right to possess the subject of dispute peruse the

statements so put in, hear the parties, receive all such evidence as may be produced by

them respectively, consider the effect of such evidence, take such further evidence (if any)

as he thinks necessary, and, if possible, decide whether any and which of the parties was

at the date of the order before mentioned in such possession of the said subject:

Provided that, if it appears to the Magistrate that any party has within two months next

before the date of such order been forcibly and wrongfully dispossessed, he may treat the

party so dispossessed as if he had been in possession at such date:

Provided also, that if the Magistrate considers the case one of emergency, he may at any

time attach the subject of dispute, pending his decision under this section.

Subs. & omitted by Ordinance, XXXVII of 2001, dt-13-8-2001.

(5) Nothing in this section shall-preclude any party so required to attend or any other

person interested, from showing that no such dispute as aforesaid exists or has existed;

and in such case the Magistrate shall cancel his said order, and all further proceedings

thereon shall be stayed, but, subject to such cancellation, the order of the Magistrate

under sub-section (1) shall be final.

(6) Party in possession to retain possession until legally evicted: If the Magistrate

decides that one of the parties was or should under the first proviso to sub-section (4)

be treated as being in such possession of the said subject he shall issue an order

declaring such party to be entitled to possession thereof until evicted there from in due

course of law, and forbidding alt disturbance of such possession until such eviction and

when he proceeds under the first proviso to sub-section (4), may restore to possession the

party forcibly and wrongfully dispossessed.

(7) When any party to any such proceeding dies, the Magistrate may cause the legal

representative of the deceased party to be made a party to the proceeding and shall

thereupon continue the inquiry and if any question arises as to who the legal

representative of a deceased party for the purpose of such proceeding is, all persons

claiming to be representatives of the deceased party shall be made parties thereto.

(8) If the Magistrate is of opinion that any crop or other produce of the property, the

subject of dispute in a proceeding under this section pending before him, is subject to

speedy and natural decay, he may make an order for the proper custody or sale of such

property, and, upon the completion of the inquiry, shall make such order for the .disposal

of such property , or the sale-proceeds thereof, as he thinks fit.

(9) The Magistrate may, if he thinks fit, at any stage of the proceedings under this section,

on the application of either party, issue a summons to any witness directing him to attend

or to produce any document or thing.

(10) Nothing in this section shall be deemed to be in derogation of the powers of the

Magistrate, to proceed under Section 107.

146. Power to attach subject of dispute: (1) If the Magistrate decides that none of the

parties was then in such possession, or is unable to satisfy himself as to which of them

was then in such possession of the subject of dispute, he may attach it until a competent,

Court has determined the rights of the parties thereto, or the person entitled to possession

thereof:

Provided that the Magistrate who had attached the subject of dispute may withdraw the

attachment of any item if he is satisfied that there is no longer any likelihood of a breach of

the peace in regard to the subject of dispute.

(2) When the Magistrate attaches the subject of dispute. he may, if he thinks fit and if no

receiver of the property, the subject of dispute, has been appointed by any Civil Court

appoint a receiver thereof, who, subject to the control of the Magistrate, shall have all the

powers of a receiver appointed under the Code of Civil Procedure, 1908:

Provided that, in the event of a receiver of the property, the subject of dispute, being

subsequently appointed by any Civil Court, possession shall be made over to him by the

receiver appointed by the Magistrate, who shall thereupon be discharged.

147. Dispute concerning rights of use of immovable property, etc.: (1) Whenever any

[Magistrate of the First Class] is satisfied, from a police-report or other information that a

dispute likely to cause a breach of the peace exists regarding any alleged right of user of

any land or water as explained in Section 145, sub-section (2) (whether such rights be

claimed as an easement or otherwise) within the local limits of his Jurisdiction, he may

make an order in writing stating the grounds of his being so satisfied and requiring the

parties concerned in such dispute to attend the Court in person or by pleader within a time

to be fixed by such Magistrate and to put in writing statements of their respective claims,

and shall thereafter inquire into the matter in the manner provided in Section 145, and the

provisions of that section shall, as far as may be, be applicable in the case of such inquiry.

Subs, by Ordinance, XXXVII of 2001. dt. 13-8-2001.

(2) If it appears to such Magistrate that such right exists, he may make an order

prohibiting any interference with the exercise of such right:

Provided that no such order shall be made where the right is exercisable at all times of the

year, unless such right has been exercised within three months next before the institution

of the inquiry, or where the right is exercisable only at particular seasons or on particular

occasions, unless the right has been exercised during the last of such seasons or on

the last of such occasions before such institution.

(3) If it appears to such Magistrate that such right does not exist, he may make an order

prohibiting any exercise of the alleged right.

(4) An order under this section shall .be subject to any subsequent decision of a Civil

Court of competent jurisdiction.

148. Local inquiry: (1) Whenever a local inquiry is necessary for the purposes of this

Chapter, 44[a Sessions Judge] may depute any Magistrate subordinate to him to make

the inquiry and may furnish him with such written instructions as may seem necessary for

his guidance, and may declare by whom the whole or any part of the necessary expenses

of the inquiry shall be paid.

(2) The report of the person so deputed may be read as evidence rn the case.

(3) Order as to costs: When any costs have been incurred by any party to a proceeding

under this Chapter the Magistrate passing a decision under Section 145, Section 146

or Section 147 may direct by whom such costs shall be paid, whether by such party or by

any other party to the proceeding, and whether in whole or in part or proportion, such

costs may include any expenses incurred in respect of witnesses, and of pleader's fees,

which the Court may consider reasonable.

Subs. by Ordinance, XXXVIl of 2001, dt. 13-8-2001

CHAPTER XIII

PREVENTIVE ACTION OF THE POLICE

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

raise, he may seize the same, and shall forthwith give information of such seizure to a

Magistrate having jurisdiction.

PART V

INFORMATION TO POLICE AND THEIR POWERS TO INVESTIGATE

CHAPTER XIV

154. Information in cognizable cases: information relating to the, commission of a

cognizable offence if given orally to an officer incharge of a police station, shall reduced to

writing by him or under his direction and then 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: (l) When information is given to an officer

incharge of a police station of the commission within the limits of such station of a noncognizable offence, he shall enter in a book to, be kept as aforesaid the substance of such

information and refer the information the Magistrate.

(2) Investigation into non-cognizable cases: No police-officer shall investigate a noncognizable case without the order of a Magistrate of the 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.

Words subs. by Law Reforms Ordinance. XH of 1972.

156. Investigation into cognizable cases: (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-office 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.

Any Magistrate empowered under Section 190 may order such an investigation as above

mentioned.

[(4) Notwithstanding anything contained in sub-sections (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.]

Sub-section (4) added by Law Reforms Ordinance, XII of 1972.

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

circumstance 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. Reports under Section 157 how submitted: (1) Every report sent to a Magistrate

under Section 157 snail, 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 policestation 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 or 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 such 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, refer to such writing and direct that 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 crossexamination:

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 Enquiry or trial or that its disclosure to the accused is

not essential in the interests of justice and is inexpedient in the 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.

[(1-A) 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 statements 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

such statements or confessions shall then be forwarded to the Magistrate by whom the

case is to be inquired into or tried-

(3) A Magistrate shaft, before recording any such confessions 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,

upon questioning the person making it, he has reason 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.

Sub-section (1-A) added by Law Reforms Ordinance, XII of 1972.

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 purposes of an investigation into any offence which he is authorised 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 a 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, 408 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 subordinate 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 thing in such place.

(4) The provisions of this Code as to search warrants and the general provisions as to

searches contained in Section 102, Section 103 shall, so far 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.

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 to in Section 165, sub-sections (1) and (3).

(5) The owner or occupier of the place searcher 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 reasons

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 the 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 game time forward the accused to such Magistrate.

Explanation : [Omitted by the Ordinance, XXXVII of 2001, dt. 13-8-2001.]

(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 no 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 authorise 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 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 sub-section (2) is a female, the Magistrate

shall not except—in the cases involving QatI or dacoity supported by reasons to be

recorded in writing, authorise-the detention of the accused in police custody, and the

police officer making an 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 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].

Word subs. by Law Reforms Ordinance, XII of 1972.

Sub-sec. (4) subs. by Law Reforms Ordinance, XII of 1972.

Sub-sections (5) to (7) added by Code of Criminal Procedure (Second Amendment) Act. XX of 1994, 8.2,

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 the 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 of

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 cognisance of the offence on a police-report and to try the accused or

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 shall take security from him for

his appearance before such Magistrate on a day fixed and for his attendance from day-today before such Magistrate until otherwise directed.

(2) When the officer Incharge of a police station forwards an accused person to a

Magistrate or take 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) Omitted by item No. 65 (ii) of Punjab Notification No. SO(J-ff) 1-8/75 (P-V), dated

21.3.1996 for Punjab and by same Item No. of Islamabad Notification No. S.R.O. 255

(I)/96, dated 8-4-1996 for Islamabad only.]

(4) [Rep. by the Code of Criminal Procedure (Amendment Act II of 1926 Section 2]

(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 Magistrate shall be required to

accompany a police officer.

Complainants and witnesses not to be subjected 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.

Reseusant complainant witness 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 ©f

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 shaft 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, or

if the Court uses them for the purpose of contradicting such police-officer, the provisions

of the Evidence Act, 1872, Section 161 or 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]--

(a) forward to a Magistrate empowered to take cognizance of the offence on a policereport, 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

(6) 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:

Provided that the same shall be paid for unless the Magistrate for some special reason

thinks fit to furnish it free of cost.

[(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.]

Words added by Code of Criminal Procedure (Amendment) Act, XXV of 1992, S.2(i).

Proviso added by ibid., S. 2 (ii), dated 12-12-1992.

Sub-section (5) added by Code of Criminal Procedure (Amendment) Act, XXV of 1992.

174. Police to inquire to report in 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, 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 neighbourhood, 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 oil the body.

and stating in what manner, or by what weapons- 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 [concerned] 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, the 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

admits 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, Sch.]

(5) [The Magistrates of the First Class are empowered to hold inquests.]

175. Power to summon persons: (1) A police-officer proceeding under Section 174 may,

by order in writing summon two or more persons a& 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 abound 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 while 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 OF INQUIRIES AND

TRIALS

A-Place of Inquiry or Trial

177. Ordinary place of inquiry and trial: Every offence shall ordinarily be inquired into

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 Session 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].

179. Accused triable in district where act is done or where consequence ensues:

When a person is accused of the commission of offence by reason of anything, which has

been done, and of any consequence which has ensued, such offence may be inquired into

or tried by a Court within the local limits of whose jurisdiction any such thing has been

done, or any such consequence has ensued.

Illustrations

(a) A is wounded within the local limits of the jurisdiction of Court X, and dies within the

local limits of the jurisdiction of Court Z. The offence of the culpable homicide of A may be

inquired into or tried by X or Z.

(b) A is wounded within the local limits of the jurisdiction of Court X, and is, during ten

days within the local limits of the jurisdiction of Court Y. and during ten days more within

the local limits of the jurisdiction of Court Z, unable in the local limits of the jurisdiction of

either Court Y, or Court Z. to follow his ordinary pursuits. The offence of causing grievous

hurt to A may be inquired into or tried by X, Y or Z.

(c) A is put in fear of injury within the local limits of the jurisdiction of Court X, and is

thereby induced, within the local limits of the jurisdiction Court, Y, to deliver property to the

person who put him in fear. The offence of extortion committed on A may be inquired into

or tried either by X or Y.

 (d) A is wounded in the State of Junagadh and dies of his wounds in Karachi. The offence

of causing A's death may be Inquired into and tried in Karachi.

Words subs. by Law Reforms Ordinance, XII of 1972.

Proviso subs. by Law Reforms Ordinance, XII of 1972.

180. Place of trial where act is offence by reason of relation to other offence: When

an act is an offence by reason of its relation to any other act, which is also an offence

or which would be an offence if the doer were capable of committing an offence, a charge

of the first-mentioned offence may be inquired into or tried by a Court within the local limits

of whose jurisdiction either act was done.

Illustrations

(a) A charge of abetment may be inquired into or tried either by the Court within the local

limits of whose jurisdiction the abetment was committed, or by the Court within the focal

limits of whose jurisdiction the offence abetted was committed.

(b) A charge of receiving or retaining stolen goods may be inquired into or tried either by

the Court within the local limits of whose jurisdiction the goods were stolen, or by any

Court within, the local limits of whose jurisdiction any of them were at any time dishonestly

received or retained.

(c) A charge of wrongfully concealing a person known to have been kidnapped, may be

inquired into or tried by the Court within the local limits of whose jurisdiction the wrongful

concealing, or by the Court within the local limits of whose Jurisdiction the kidnapping,

took place.

181. Being a thug or belonging to a gang of dacoits escape from custody, etc.: (1)

The offence of being a thug, of being a thug and committing murder, of dacoity, of dacoity

with murder, of having belonged to a gang of dacoits, or of having escaped from custody,

may be inquired into or tried by a Court within the local limits of whose jurisdiction the

person charged is.

(2) Criminal misappropriation and criminal breach of trust: The offence of criminal

misappropriation or of criminal breach of trust may be inquired into or tried by a Court

within the local limits of whose jurisdiction any part of the property which is the subject of

the offence was received or retained by the accused person, or the offence was

committed.

(3) Theft: The offence of theft, or any offence which includes theft or the possession of

stolen property, may be inquired into or tried by a Court within the local limits of whose

jurisdiction such offence was committed or the property stolen was possessed by the thief

or by any person who received or retained the same knowing or having reason to believe

it to be stolen.

(4) Kidnapping and abduction: The offence of kidnapping or abduction may be inquired

into or tried by a Court within the local limits of whose jurisdiction the, person kidnapped or

abducted was kidnapped or abducted or was conveyed or concealed or detained.

182. Place of inquiry or trial where scene of offence is uncertain or not in one

district only or where offence is continuing or consists of several acts: When it is

uncertain in which of several local areas ah offence was committed, or where an offence

is committed partly in one local area and partly in another, or where an offence is a

continuing one, and continues to be committed in more local areas than one, or where it

consists of several acts done in different local areas.

it may be inquired into or tried .by a Court having jurisdiction over any of such local areas.

183. Offence committed on a journey: An offence committed whilst the offender is in the

course of performing a journey or voyage may be inquired into or tried by a Court through

or Into the focal limits of whose Jurisdiction- the offender, or the person against whom, or

the thing in respect of which, the offence was committed, passed in the course of that

journey or voyage.

184. Offence against Railway Telegraph, Post Office &. Arms Act: [Rep by the

Federal Law (Rrevision and Declaration) Act, XXVI of 1951, S. 3 and Second Sch.]

185. High Court to decide, in case of doubt, district where inquiry or trial shall take

place: (1) Whenever a question arisen as to which of two or more Courts subordinate to

the Same High Court ought to inquire into or try any offence, it shall be decided by that

High Court.

(2) Where two or more Courts not subordinate to the same High Court have taken

cognizance of the same offence the High Court within the local limits of whose appellate

criminal jurisdiction the-proceedings were first commenced may direct the trial of such

offender to be held in any Court subordinate to it, and if so decides, all other proceedings;

against such person in, respect of such offence shall be discontinued. If Such High Court,

upon the matter, having been brought to its notice, does not so decide, any other High

Court/within the local limits of whose appellate criminal jurisdiction such proceedings are

pending may give a like direction, and upon its so doing all other such proceedings shall

be discontinued.

186. Power to issue summons or warrant for offence committed beyond local

jurisdiction: (1) When a Magistrate of the First Class Sees reason to believe that any

person within the local limits of his jurisdiction has committed without such limits (whether,

within or without Pakistan an offence which cannot under the provisions of Sections 177 to

184 (both inclusive), or any other law for the time being in force, be inquired into or tried

within such local limits, but is under some law for the time being in force triable in

Pakistan, such Magistrate may inquire into the offence as if it had been committed within

such local limits and compel such person in manner hereinbefore provided to appear

before him, and send such person to the Magistrate having jurisdiction to inquire into

or try such offence, of, if such offence is bailable, take a bond with or without sureties for

his appearance before such Magistrate.

(2) Magistrate's procedure on arrest: When there are more Magistrate then one, having

such jurisdiction and the Magistrate acting under this section cannot satisfy himself as

to the Magistrate to or before whom such person should be sent or bound to appear, the

case shall be reported for the orders of the High Court.

187. Procedure where warrant issued by subordinate Magistrate: (1) If the person has

been arrested under a warrant issued under Section 186 [the Magistrate issuing warrant

shall send the arrested person to the Sessions Judge] to whom he is subordinate, unless

the Magistrate having jurisdiction to inquire into or try such offence issues his warrant for

the arrest of such person, in which case the person arrested shall be delivered to the

police officer executing such warrant or shall be sent to the Magistrate by whom such

warrant was issued.

(2) If the offence, for which the person arrested is alleged or suspected have committed, is

one, which may be inquired into or tried by any Criminal-Court in the same district other

than that of the Magistrate acting under Section 186, such Magistrate shall send person to

such Court.

Words subs. by Law Reforms Ordinance, XII of 1972.

188. Liability for offences committed: When a citizen of Pakistan commits an offence at

any place without and beyond the limits of Pakistan, or

Outside Pakistan : When a servant of the State (whether a citizen of Pakistan or not)

commits an offence in [a tribal area], or

when any person commits an offence on any ship or aircraft registered in Pakistan where

it may be,

he may be dealt with in respect of such offence as if it had been committed at any place

within Pakistan at which he may be found:

Political Agents to certify fitness of inquiry into charge: Provided that notwithstanding

anything in any of the preceding sections of this Chapter no charge as to any such offence

shall be inquired into in Pakistan unless the Political Agent, if there is one, for the territory

in which the offence is alleged to have been committed, certifies that in his opinion, the

charge ought to-be inquired into in Pakistan; and, where there is no Political Agent, the

sanction of the Federal Government shall be required :

Provided, also, that any proceedings taken against any person under this section which

would be a bar to subsequent proceedings against such person for the same offence if

such offence had been committed in Pakistan shall be a bar to further proceedings against

him under the Extradition Act, 1972 (XXI of 1972) in respect of the same offence in any

territory beyond the limits of Pakistan.

Words substituted by Federal Laws (Revision and Declaration) Ordinance, XXVII of 1981.

189. Power to direct copies of depositions and exhibits to be received in evidence:

Whenever any such offence as is referred to in Section 188 is being inquired into or tried,

the Provincial Government may, if it thinks fit, direct that copies of depositions made or

exhibits produced before the Political Agent or a Judicial Officer in or for the territory in

which such offence is alleged to have been committed shall be received as evidence by

the Court holding such inquiry or trial in any case in which such Court might issue a

commission for taking evidence as to the matters to which such depositions or exhibits

relate.

B-Conditions requisite for initiation of proceedings

190. Cognizance of offences by Magistrates: [(1) All Magistrates of the First Class, or

any other Magistrate specially empowered by the Provincial Government on the

recommendation of the High Court, may take cognizance of any offence-

(a) upon receiving a complaint of facts which constitute such offence;

(b) upon a report in writing of such facts made by any police officer;

(c) upon information received from any person other than a police officer, or upon his own

knowledge or suspicion,

that such offence has been committed which he may try or send to the Court of Session

for trial and]

7[(2) A Magistrate taking cognizance under sub-section (1)of an .offence triable

exclusively by a Court of Session shall, without recording any evidence, send the case to

the Court of Session for trial].

Sub-Section (1) Subs. by the Ordinance, XXXVII of 2Q01, dt. 13-8-2001.

Sub-section (3) renumbered (Sub-Section (2)) as sub-section (2) by the Ordinance, XXXVII of 2001, dt. 13-8-2001 –

[191. Transfer on application of accused: When a Magistrate takes cognizance of an

offence under sub-section (1), clause (c) of the preceding section, the accused shall,

before any evidence is taken be informed that he is entitled to have the case tried by

another Court, and, if the accused, or any of the accused if there be more than one,

objects to being tried by such Magistrate, the case shall instead of being tried

by such Magistrate, be sent to the Sessions Judge.

Section 191 subs. by Item No. 71 of Punjab Notification No. SO(J-II) 1- 8/75 (P-V), dated 21-3-1996 for Punjab and by

same Item No. of Islamabad Notification No. S.R.O. 255 (1), dated 8-4-1996 for Islamabad only.

192. Transfer of cases by Magistrate [Omitted by the Ordinance. XXXVII of 2001, dt.

13.8.2001.]

193. Cognizance of offences by Courts of Session: (1) Except as otherwise expressly

provided by this Code or by any other law for the time being in force no Court of Session

shall take cognizance of any offence as a Court of original jurisdiction unless the 11 [case

has been sent to it under Section 190, sub-section [(2)].

(2) Additional Sessions Judges and Assistant Sessions Judges shall try such cases only

as the Provincial Government by general or special order may direct them to try or as the

Sessions Judge of the division by general or special order may make over-to them for trial.

Words subs. by Law Reforms Ordinance, XII of 1992.

Subs. by the Ordinance. XXXVII of 2001, dt. 13-8-2001-

194. Cognizance of offences by High Court : (1) The High Court may take cognizance

of any offence is in manner hereinafter provided.

Nothing herein contained shaft be deemed to affect the provisions of any Letters Patent or

Order by which a High Court is constituted or continued, or any other provision of this

Code.

(2) [Omitted by Federal Laws (Revision and Declaration) Ordinance XXVII of 1981].

195. (1) No Court shall take cognizance: --

(a) Prosecution for contempt of lawful authority of public servants: Of any offence

punishable under Sections 172 to 188'ofthe Pakistan Penal Code, except on the complaint

in writing of the public servant concerned, or of some other public servant to whom he is

subordinate;

(b) Prosecution for certain offences against public justice: Of any offence punishable

under arty of the following sections of the same Code, namely Sections 193, 194, 195,

196. 199. 200, 205, 206, 207, 208, 209, 210, 211 and 228, when such offence is alleged

to have been committed in, or in relation to, any proceeding in any Court, except, on the

complaint in writing of such Court or of some other Court to which such Court is

subordinate; or

(c) Prosecution for certain offences relating to documents given in evidence : Of

any offence described in Section 463 or punishable under Section 471, Section 475 or

Section 476 of the same Code, when such offence is alleged to have been committed by

a party to any proceeding in any Court in respect of a document produced or given in

evidence in such proceeding, except on the complaint in writing of such Court, or of some

other Court to which such Court is subordinate.

(2) In Clauses (b) and (c) of sub-section (1), the term "Court" includes a Civil, Revenue or

Criminal Court, but does not include a Registrar or sub-Registrar under the Registration

Act, 1908.

(3) For the purposes of this section, a Court shall be deemed to be subordinate to the

Court to which appeals ordinarily lie from the appeal able decrees or sentences of such

former Court, or in the case of a Civil Court from whose decrees no appeal, ordinarily lies,

to the principal Court having ordinary, original civil jurisdiction within the local limits of

whose jurisdiction such Civil Court, is situate:

Provided that--

(a) where appeals lie to more than one Court, the Appellate Court of inferior jurisdiction

shall be the Court to which such Court shall be deemed to be subordinate; and

(b) where appeals tie to a Civil and also to a Revenue Court, such Court shall be deemed

to be subordinate to the Civil or Revenue Court according to the nature of the case or

proceeding in connection with which the offence is alleged to have been committed.

(4) The provisions of sub-section (1), with reference to the offences named therein, apply

also to criminal conspiracies to commit such offences and to the abetment of such

offences, and attempts to commit them.

(5) Where a complaint has been made under sub-section (1) clause (a), by a public

servant, any authority to which such public servant is subordinate may order the

withdrawal of the complaint and, if it does so, it shall forward a copy of such order to the

Court, and upon receipt thereof by the Court, no further proceedings shall be taken on the

complaint

196. Prosecution for offences against the State: No Court shall take cognisance of any

offence punishable under Chapter VI or IX-A of the Pakistan Penal Code (except Section

127), or punishable under Section 108-A, or Section 153-A or Section 294-A, or Section

295-A or Section 505 of the same Code, unless upon complaint made by order of or under

authority from, the Federal Government or the Provincial Government concerned, or some

officer empowered in this behalf by either of the two Governments.

196-A. Prosecution for certain classes of criminal conspiracy: No Court shall take

cognizance of the offence of criminal conspiracy punishable under Section 120-B of the

Pakistan Penal Code,

(1) in a case where the object of the conspiracy is to commit either an illegal act other than

an offence, or a legal act by illegal means, or an offence to which the provisions of Section

196 apply, unless upon complaint made by order or under authority from the Federal

Government or the Provincial Government concerned or some officer empowered in this

behalf by either of the two Governments, or

(2) in a case where the object of the conspiracy is to commit any non-cognizable offence,

or a cognizable offence not punishable with death, imprisonment for life or rigorous

imprisonment for a term of two years or upwards, unless the Provincial Government or

[Officer in-charge of the prosecution in the district] empowered in this behalf by the

Provincial Government, has, by order in writing, consented to the initiation of the

proceedings:

Provided that where the criminal conspiracy is one to

which the provisions of sub-section (4) of Section 195 apply no

such consent shall be necessary.

Subs. by the by the Ordinance, XXXVII of 2001, dt, 13-8-2001

196-B. Preliminary inquiry in certain cases: In the case of any offence in respect of

which the provisions of Section 196 or Section 196-A apply, [officer in-charge of the

investigation in the district] may, notwithstanding anything contained in those sections or

in any other part of this Code, order a preliminary investigation by a police-officer not

being below the rank of inspector, in which case such police-officer shall have the powers

referred to in Section 155, sub-section (3).

Subs. by the by the Ordinance, XXXVII of 2001, dt. 13-8-2001

197. Prosecution of Judges and public servants: (1) When any person who is a Judge

within the meaning of Section 19 of the Pakistan Penal Code, or when any Magistrate, or

when any public servant who is not removable from his office save by or with the sanction

of the Federal Government or a Provincial Government, is accused of any offence alleged

to have been committed by him while acting or purporting to act in the discharge of his

official duty, no Court shall take cognizance of such offence except with the previous

sanction-- .

(a) in the case of a person employed in connection with the affairs of the Federation of the

President; and

(b) in the case of a person employed in connection with the affairs of a Province, of the

Governor of that Province.

(2) Power of President or Governor as to prosecution: The President or Governor, as

the case may be, may determine the person by whom, the manner in which, the offence or

offences for which, the prosecution of such Judge, Magistrate or public servant is to be

conducted, and may specify the Court before which the trial is to be held.

198. Prosecution for breach of contract, defamation and offences against marriage:

No Court shall take cognizance of an offence falling under Chapter XIX or Chapter XXI of

the Pakistan Penal Code or under Sections 493 to 496 (both inclusive) of the same Code,

except upon a complaint made by some person aggrieved by such offence:

Provided that, where the person so aggrieved is a woman who, according to the customs

and mariners of the country, ought not to be compelled to appear in public, or were such

person is under the age of eighteen years or is an idiot or lunatic, or is from sickness or

infirmity unable to make a complaint, some other person may, with the leave of the Court,

make a complaint on his or her behalf:

Provided further that where the husband aggrieved by an offence under Section 494 of the

said Code is serving in any of the armed forces of Pakistan under conditions, which are

certified by the commanding Officer as precluding him from obtaining leave of absence to

enable him to make a complaint in person, some other person authorised by the husband

in accordance with the provisions of sub-section (I)1 of Section 199-B may, with the leave

of the Court, make a complaint on his behalf.

[198-A. Prosecution for defamation against public servants in respect of their

conduct in the discharge of public functions: (1) Notwithstanding anything contained

in this Code, when any offence falling under Chapter XXI of the Pakistan Penal Code (Act

XLV of 1860) is alleged to have beam committed against the President, the Prime

Minister, a Federal Minister, Minister of State, Governor, Chief Minister or Provincial

Minister or any public servant employed in connection with the affairs of the Federation or

of a Province, in respect of his conduct in the discharge of his public functions, a Court of

Session may take cognizance of such offence, without the accused being committed to it

for trial, upon a complaint in writing -made by the Public Prosecutor.

(2) Every such complaint shall set forth the facts which constitute the offence alleged, the

nature of such offence and such other particulars as are reasonably sufficient to give

notice to accused of the offence alleged to have been committed by him.

(3) No complaint under sub-section (1) shall be made by the Public Prosecutor except with

the previous sanction (a) in the case of the President or the Prime Minister or a Governor,

or any Secretary to the Government authorised by him in this behalf; (b) in the case of a

Federal Minister or Minister of State, Chief Minister, or Provincial Minister, of any

secretary to the Government authorised in this behalf by the Government concerned; (c)

in the case of any public servant employed in connection with the affairs of the Federation

or of a Province, of the Government concerned.

(4) No Court of Session shall take cognizance of an offence under sub-section (1), unless

the -complaint is made within six months from the date on which the offence is alleged

to have been committed. .

(5) When the Court of Session takes cognizance of an offence under sub-section (1), then

notwithstanding anything contained in this Code, the Court of Session shall try the case

without the aid of jury or assessors and in trying the case shall follow the procedure

prescribed for the trial by Magistrates of warrant cases instituted otherwise than on a

police report.

(6) The provisions of this section shall be in addition to, and not in derogation of those of

Section 198.]

Section 198-A inst. by Criminal Procedure (Amendment) Act, XXV of 1974, S-7.

[199. Prosecution for adultery or enticing a married woman ; No Court shall take

cognizance of an offence under Section 497 or Section 498 of the Pakistan Penal Code,

except--

(a) upon a report in writing made by a police-officer on the complaint of the husband of the

woman, or in his absence, by some person who had care of such woman on his behalf at

that time when such offence was committed; or

(b) upon a complaint made by the husband of the woman or, in his absence, made with

the leave of the Court by some person who had care of such woman on his behalf at the

time when such offence was committed:

Provided that, where such husband is under the age of eighteen years, or is an idiot or

lunatic, or is from sickness or infirmity unable to make a complaint, some other person

may, with the-leave of the Court, make a complaint on his behalf:

Provided further that where such husband is serving in any of the armed forces of

Pakistan, under conditions which are certified by his Commanding Officer as precluding

him from obtaining leave of absence to enable him to make a complaint in person and

where for any reason no complaint has been made by a person having care of the woman

as aforesaid, some other person authorised by the husband in accordance with the

provisions of sub-section (1) of Section 199-B may, with the leave of the Court, make a

complaint on his behalf.]

S. 199 subs. by Law Reforms Ordinance, XII of 1972.

[199-A. Objection by lawful guardian to complaint by person other than person

aggrieved : When in any case falling under Section 198 or Section 199 the person on

whose behalf the complaint is ought to be made is under the age of eighteen years or is a

lunatic, and the person applying for leave has not been appointed or declared, by

competent authority to be the guardian of the person of the said minor or lunatic, and the

Court is satisfied that there is a guardian, so appointed or declared, notice shall be given

to such guardian, and the Court shall, before granting the application give him a

reasonable opportunity of objecting to the granting thereof.]

S. 199-A Inst. by the Code of Criminal Procedure (Second Amendment) Act, XVIII of 1923.

[199-B. Form of authorisation under second proviso to Section 198 or 199: (1) The

authorisation of a husband given to another person to make a complaint on his behalf

under the second proviso to Section 198 or the second proviso to Section 199 shall be in

writing, shall be signed or, otherwise attested by the husband, shall contain a statement

to the effect that he has been informed of the allegations upon which the complaint is to

be founded, shall be" countersigned by the Officer referred to in the said provisos, and

shall be accompanied by a certificate signed by that officer to the effect that leave of

absence for the purpose of making a complaint in person cannot for the time being be

granted to the husband.]

(2) Any document purporting to be such an authorisation and complying with the

provisions of sub-section (1), and any document purporting to be a certificate required by

that sub- section shall, unless the contrary is proved, be presumed to be genuine and

shall be received in evidence.

Section 199-B inst. By the Code of Criminal Procedure (Second Amendment) Act, XVIII of 1943.

CHAPTERXVI

OF COMPLAINTS TO MAGISTRATES

200. Examination of complainant: A Magistrate taking, cognizance of an offence on

complaint shall at once examine the complainant upon oath, and the substance of the

examination shall be reduced to writing and shall be signed by the complainant, and also

by the Magistrate :

Provided as follows:

(a) when the complaint is made in writing, nothing herein contained shall be deemed to

require a Magistrate to examine the complainant before transferring the case under

Section 192 [or sending it to the Court of Session];

(aa) when the complaint Is made in writing nothing herein contained shall be deemed to

require the examination of a complainant in any case in which the complaint has been

made by a Court or by a public servant acting or -purporting to act in the discharge of his

official duties;

(b) [Omitted A.O., 1949,Sch.];

(c) when the case has been transferred under Section 192-and the Magistrate so

transferring it has already examined the complainant, the Magistrate to whom it is so

transferred shall not be bound to re-examine the complainant.

Words added by Law Reforms Ordinance. XII of 1972

201. Procedure by Magistrate not competent to take cognizance of the case: (1) If

the complaint has been made in/writing to a Magistrate-who is not competent to take

cognizance of the case, he shall return the complaint for presentation to the proper Court

with an endorsement to that effect.

(2) If the complaint has not been made in writing, such

Magistrate shall direct the complainant to the proper Court.

[202. Postponement of issue of process : (1) Any Court, on receipt of a complaint of an

offence of which it is authorised to take cognizance; or which has been sent to it under

Section 190, sub-section (3), or referred to it under Section 191 or-Section 192, may, if it

thinks fit, for reasons to be recorded, postpone tbe4ssueor process for compelling the

attendance of the person complained against, and either inquire into the case itself or

direct any inquiry or investigation to be made by [any Justice of the Peace or by] a police

officer or by such other person as it thinks fit, for the purpose of ascertaining the truth or

falsehood of file complaint:

Provided that save, where the complaint has been made by a Court, no such direction

shall be made unless the complainant has been examined on oath under the provisions

of Section 200.

(2) A -Court of Session may, instead of directing an investigation under the provisions of

sub-section (1), direct the investigation to be made by any Magistrate subordinate to it

for the purpose of ascertaining the truth or falsehood of the complaint.

(3) If any inquiry or investigation under this section is made by a person not being a

Magistrate [or Justice of the Peace] or a police officer, such person shall exercise all the

powers conferred by this Code on an officer-in-charge of a police station, except that he

shall not have power to arrest without warrant.

(4) Any Court inquiring into a case under this section may, if it thinks fit, take evidence of

witnesses on oath].

Section 202 Substituted by item No. 79 (ii) of Punjab Notification No. SO(J-II) 1-8/75 (P-V), dated 21.3.1996 for Punjab

and by same Item No. of Islamabad Notification No. S.R.O. 255 (I)/96, dated 8-4-1996 for Islamabad only.

203. Dismissal of complaints: [The Court], before whom a complaint is made or to

whom it has been transferred, 2s[or sent] may dismiss the complaint, if, after considering

the Statement on oath (if any) of the complainant and the result of the investigation or

inquiry (if any) under Section 202 there is in his judgment no sufficient ground for

proceeding. In such cases he shall briefly record his reasons for so doing.

Words subs. by Law Reforms Ordinance, XII of 1972.

CHAPTER XVII

OF THE COMMENCEMENT OF PROCEEDINGS BEFORE [COURT]

204. Issue of process: (1) If in the opinion of a [Court] taking cognizance of an offence

there is sufficient ground of proceeding, and the case appears to be one in which,

according to the fourth column of the Second Schedule, a summons should issue in the

first instance, [it] shall issue his summons for the attendance of the accused. If the case

appears to be one in which, according to that column, a warrant should issue in the first

instance, [it] may issue a warrant, or, if [Court] or if [it] thinks fit, a summons, for causing

the accused to be brought or to appear at a certain time before such [Court] if as if it has

no jurisdiction itself some other Court having jurisdiction.

(2) Nothing in this section shall be deemed to affect the provisions of Section 90.

(3) When by any law for the time being in force any process-fees or other fees are

payable, no process shall be issued until the fees are paid, and if such fees are not paid

within a reasonable time, the Court may dismiss the complaint.

Words added by Item No. 79-A of Punjab Notification No. SO(J-ll) 1-8/75 (P-V), dated 21-3-1996 for Punjab and by

same Item No- of Islamabad Notification No. SRO No. 255 (l)/96, dated 8-4-1996 for Islamabad only.

Words inserted/subs. by Law Reforms Ordinance, XIl of 1972.

205. Magistrate may dispense with personal attendance of the accused. (1)

Whenever a magistrate issues a summons, he may, if he sees reasons so to do, dispense

with the personal attendance of the accused, and permit him to appear by his pleader.

(2) But the Magistrate inquiring into or trying the case may, in his discretion at any stage of

the proceedings, direct the personal attendance of the accused, and, if necessary, enforce

such attendance in manner hereinbefore provided.