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SIND ACT No. XVI OF 1948[1].

[THE SIND SPECIAL TRIBUNAL ACT, 1948.]

[17th March, 1948]

An Act to make special provisions for the trial and punishment of certain offences.

WHEREAS it is expedient to make special provisions for the trial and punishment of certain offences ; It is hereby enacted as follows :—

Short title and commencement.

1. (*a*) This Act may be called the Sind Special Tribunal Act, 1948.

(*b*) It shall come into force at once.

Definitions.

[2][2. In this Act, " Code " means the Code of Criminal Procedure, 1898.]

Constitution of a Special Tribunal.

3. [3](*1*) The Provincial Government may for the trial of cases pending before the Courts of Magistrates and mentioned in the Schedule to this Act, constitute Special Tribunals, which shall each consist of one member only appointed by the Provincial Government.

(*2*) No person shall be appointed as a member of the Special Tribunal, under sub-section (*1*), unless he—

(*a*) is qualified under [7][clause (2) of Article 92 of the Constitution] ~~sub-section (3) of section 220 of the Government of India Act, 1935~~, for appointment as Judge of a High Court ; or

(*b*) has for a total period of not less than three years, exercised, whether continuously or not, the powers under the Code of a Sessions Judge, or an Additional Sessions Judge.

Jurisdiction of Special Tribunal.

4. Notwithstanding anything contained in the Code, the Special Tribunal shall have jurisdiction to try the [4][aforesaid cases] and such cases shall be deemed to have been transferred [5][*] [6][from the Courts of Magistrates], to the Special Tribunal :

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1 For Statement of Objects and Reasons, *see* S. G. G., 1948, Pt. IV, p. 156, and for proceedings in Assembly, *see* S. L. A. Debates, 1948, Vol. III, Book No. 4, pp. 47-48.

2 Subs. by Sind 30 of 1952, s. 2, for the original section 2.

3 The original sub-section (1) of section 3 was successively amended by Sind 21 of 1950, s. 2 and Sind 30 of 1952, s. 3, to read as above.

4 Subs. by Sind 21 of 1950, s. 4, for "Scheduled Cases".

5 The word "from" rep. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 6, Sch. II.

6 Subs. by Sind of 21 1950, s. 3(*a*), for "the Court of City Magistrate, Karachi".

7. subs. by W. P. Laws (Adap) order 1964 for "sub-section (3) of section 220 of the Govt. of India Act, 1935"

[1][Provided that the Provincial Government may fix a place for holding the trials by Special Tribunals.]

Cognisance and offences.

5. (*a*) The Special Tribunal may take cognisance of the offences involved in the [2][aforesaid cases] without the accused being committed to it for trial, and in so trying the accused persons, shall follow the procedure prescribed by the Code for the trial of warrant cases by magistrates :

Provided that the Special Tribunal may refuse to summon a witness if satisfied after examination of the accused that the evidence of such witness will not be material, and shall not be bound to adjourn any trial for any purpose, unless such adjournment is in its opinion necessary in the interests of justice.

(*b*) The Special Tribunal shall not by reason of a change in its Presiding Officer be bound to recall and rehear any witness who has given evidence, and it may act on the evidence already recorded by or produced before it.

(*c*) After an accused person has once appeared before it, the Special Tribunal will try in his absence, if, in its opinion, his absence has been brought about by the accused himself for the purpose of impeding the course of justice, or if the behaviour of the accused in Court has been such as is liable to impede the course of justice.

(*d*) The Special Tribunal may, if it thinks fit, order at any stage of a trial, that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Special Tribunal as a Court.

Public Prosecutor to conduct prosecution.

6. In the [2][aforesaid cases] before the Special Tribunal, the prosecution shall be conducted by a Public Prosecutor.

Sentence.

7. A Special Tribunal may pass any sentence authorised by law.

Appeal and confirmation of death sentence.

8. (*1*) A person sentenced by the Special Tribunal shall have a right to appeal to the Chief Court.

(*2*) When the Special Tribunal passes a sentence of death, the proceedings shall be submitted to the Chief Court, and the sentence shall not be executed unless it is confirmed by the Chief Court.

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1 Proviso added by Sind 21 of 1950, s. 3(*b*).

2 Subs. *ibid*, s. 4, for "Scheduled Cases".

9. The Provisions of the Act shall have effect notwithstanding anything inconsistent therewith contained in the Code, or any other law for the time being in force. Provisions inconsistent with other laws.

SCHEDULE.

1. *The Shikarpur Colony Bomb Case.*

Crown *Vs.* Nand Badlani and 39 others.

Case No. 414 of 1947 New Town Police Station under section 121-A, 122 [1]P. P. C. and 4, 5 and 6 of the Explosive Substances Act.

2. *The Landhi Shooting Case.*

Crown *Vs.* Behru and 19 others.

Case No. 15 of 1947 of Malir Police Station. Under sections 396, 397, 307 and 400 [1]P. P. C.

[2][3 (*i*) Case No. 131 of 1948 of Crown *versus* Abul son of Allah Bachayo Mahkani and two others, namely Ahmed Hingoro and Mehar Sabir Gaho under section 302/34 Pakistan Penal Code and section 19 of the Arms Act of Hala Police Station.

(*ii*) Case No. 97 of 1948 of Crown *versus*, Abul son of Allah Bachayo Mahkani and two others, namely Ahmed Hingoro and Mehar Sabir Gaho under section 302/34 Pakistan Penal Code and section 19 of the Arms Act of Police Station Sekhat.]

[3][4. (*i*) Case No. 133 of 1947 of Garhi Yasin Police Station, of Crown *versus* Lool *alias* Dost Muhammad son of Nawab Khan, caste Brohi, resident of near village Mir Muhammad Marfani, taluka Garhi Yasin, district Sukkur, and Jumo son of Khairuddin, caste Brohi, resident of near village Garhi Yasin, Taluka Garhi Yasin, District Sukkur, under sections 395 and 396, Pakistan Penal Code;

(*ii*) Case No. 96 of 1949 of Garhi Yasin Police Station, of Crown *versus* Lool *alias* Dost Muhammad son of Nawab Khan, caste Brohi, resident of near village Mir Muhammad Marfani, Taluka Garhi Yasin, District Sukkur, and Jumo son of Khairuddin, caste

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1 Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 4 (w. e. f. 30th May 1951), for "I. P. C.".

2 Entry 3, added by Sind 21 of 1950, s. 5.

3 Entry 4, added by Sind 30 of 1952, s. 4.

Brohi, resident of near village Garhi Yasin, Taluka Garhi Yasin, District Sukkur, under section 402, Pakistan Penal Code;

(*iii*) Case No. 97 of 1949 of Garhi Yasin Police Station, of Crown *versus* Lool *alias* Dost Muhammad son of Nawab Khan, caste Brohi, resident of near village Mir Muhammad Marfani, Taluka Garhi Yasin, District Sukkur, and Jumo son of Khairuddin, caste Brohi, resident of village near Garhi Yasin, Taluka Garhi Yasin, District Sukkur, under sections 302/34, Pakistan Penal Code ;

(*iv*) Case No. 34 of 1950 of Naudero Police Station, of Crown *versus* Lool *alias* Dost Muhammad son of Nawab Khan, caste Brohi, resident of near village Mir Muhammad Marfani, Taluka Garhi Yasin, District Sukkur, under sections 395 and 396, Pakistan Penal Code ;

[1][(*v*) Case No. 1 of 1950 of Sultan Kot Police Station, of Crown *versus* Lool *alias* Dost Muhammad son of Nawab Khan, caste Brohi, resident of near village Mir Muhammad Marfani, Taluka Garhi Yasin, District Sukkur, under section 402, Pakistan Penal Code;]

(*vi*) Case No. 4 of 1951 of Garhi Yasin Police Station, of Crown *versus* Lool *alias* Dost Muhammad son of Nawab Khan, caste Brohi, resident of near village Mir Muhammad Marfani, Taluka Garhi Yasin, District Sukkur, under section 307, Pakistan Penal Code ;

(*vii*) Case No. 8 of 1951 of Garhi Yasin Police Station, of Crown *versus* Lool *alias* Dost Muhammad son of Nawab Khan, caste Brohi, resident of near village Mir Muhammad Marfani, Taluka Garhi Yasin, District Sukkur, and Jumo son of Khairuddin, caste Brohi, resident of near village Garhi Yasin, Taluka Garhi Yasin District Sukkur, under sections 307, 395 and 397, Pakistan Penal Code ;

(*viii*) Case No. 5 of 1951 of Lakhi Police Station, of Crown *versus* Khando and others, under sections 395, 307, Pakistan Penal Code and section 19 E, Arms Act.]

[2][(*ix*) Case No. 86 of Garhi Yasin Police Station, of Crown *versus* Lool *alias* Dost Muhammad son of Nawab Khan, caste Brohi, resident of village Mir Muhammad Marfani, Taluka Garhi Yasin, District Sukkur, Jumo *alias* Jamaluddin *alias* Lal Bux son of Khairuddin *alias* Imambux, caste Brohi, resident of Kalat State, Baluchistan States Union, and Nawab son of Arbab, caste Slero, resident of Village Allahdino Slero, Taluka Garhi Yasin, District Sukkur, under section 395 and 398, Pakistan Penal Code, and 19 (*e*), Arms Act.

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1 Subs. by Sind 16 of 1953, for the original cl. (*v*).

2 Entries (*ix*) to (*xii*) added by Sind 13 of 1955, s. 2.

(*x*) Case No. 115 of 1950 of Sultankot Police Station, of Crown *versus* Allahdino son of Parial, caste Tajejo, resident of village Wahan, Taluka Garhi Yasin, District Sukkur, Hamir son of Shahmir, caste Marfani, resident of village Jahanwah, Taluka Shikarpur, District Sukkur, Soomar son of Adam, caste Marfani, resident of village Jahanwah, Taluka Shikarpur, District Sukkur, Ali Gohar son of Mushtaq, caste Marfani, resident of Village Jahanwah, Taluka Shikarpur, District Sukkur, and Shafoo son of Jiand, caste Marfani, resident of village Jahanwah, Taluka Shikarpur, District Sukkur, under sections 395 and 397, Pakistan Penal Code, and 19 (*e*), Arms Act.

(*xi*) Case No. 125 of 1950 of Sultankot Police Station, of Crown *versus* Allahdino son of Parial, caste Tajejo, resident of village Wahan, Taluka Garhi Yasin, District Sukkur, Walidad son of Mirza, caste Dettho, resident of village Detha, Taluka Shikarpur, District Sukkur, Ali Gohar son of Mushtaq, caste Marfani, resident of Jahanwah, Taluka Shikarpur, District Sukkur, and Fazul son of Muhammad Bux, caste Brohi, resident of village near well of Mog Khan, Taluka Garhi Yasin, District Sukkur, under sections 395, 397 and 412, Pakistan Penal Code and 19 (*e*), Arms Act.

(*xii*) Case No. 127 of 1950 of Sultankot Police Station, of Crown *versus* Allahdino son of Parial, caste Tajejo, resident of village Wahan, Taluka Garhi Yasin, District Sukkur, Alidad son of Mirza, caste Detho, resident of village Detha, Taluka Shikarpur, District Sukkur, Karim Bux son of Ali Muhammad, caste Reti, resident of village Rahri, Taluka Shikarpur, District Sukkur, Soomar son of Adam, caste Marfani, resident of village Jahanwah, Taluka Shikarpur District Sukkur, Hamir son of Shah Mir, caste Marfani, resident of Jahanwah, Taluka Shikarpur, District Sukkur, and Ali Gohar son of Mushtaq, caste Marfani, resident of village Jahanwah, Taluka Shikarpur, District Sukkur, under sections 395, 397 and 412, Pakistan Penal Code, and 19(*e*), Arms Act.]