

THE AZAD KASHMIR PREVENTION OF CORRUPTION
ACT, 1950.

Whereas it is expedient to make more effective provisions for the prevention of bribery and corruption ;

It is hereby enacted as follows :-

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(i) This Act may be called the Azad Kashmir Prevention of Corruption Act, 1950.

(ii) It extends to the whole of Azad Kashmir Territory and to all servants of the Azad Kashmir Government.

2. For the purposes of this Act, 'public servant' means a public servant as defined in section 21 of the Azad Kashmir Penal Code.

3. An offence punishable under section 161 and 165 of the Azad Kashmir Penal Code shall be deemed to be a cognisable offence for the purposes of Criminal Procedure Code, notwithstanding anything to the contrary contained therein :

Provided that a Police-officer below the rank of Assistant Superintendent of Police shall not investigate any such offence or take proceedings for the arrest of a person accused of such offence without the order of a Superintendent of Police.

4. Where in any trial of an offence punishable under section 16 or Section 165 of the Azad Kashmir Penal Code it is proved that the accused person has accepted or obtained or has agreed to accept or attempted to obtain, for himself or for any other person, any gratification other than legal remuneration, or any valuable thing from any person, it shall be presumed that he accepted or obtained, or agreed to accept or attempted to obtain, that gratification, or that valuable thing as the case may be as a motive or reward such as is mentioned in Section 161, or, as the case may be without consideration or for a consideration which he knows to be inadequate ;

Provided that the Court may decline to draw such presumption if the gratification or thing aforesaid, is in its

opinion, so trivial that no inference of Corruption may fairly be drawn.

(1) A public servant is said to commit the offence of Criminal misconduct.

(a) If he accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification (other than legal remuneration) as a motive or reward such is mentioned in section 161 of the Azad Kashmir Penal Code ; or

(b) if he accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person, any valuable thing without consideration or for a consideration which he knows to be inadequate from any person whom he knows to have been or to be likely to be concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned; or

(c) if he dishonestly or fraudulently misappropriate or otherwise converts for his own use any property entrusted to him or under his control as a public servant or allows any other person so to do; or

(d) if he, by corrupt or illegal means or by otherwise abusing his position as a public servant obtains for himself or for any other person any valuable thing or pecuniary advantage.

(1) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which may extend to seven years or with fine or with both.

(2) In any trial of an offence punishable under sub-section.

(3) the fact that the accused person or any other person on his behalf, is in possession for which the accused person cannot satisfactorily account of pecuniary resources or property disappropriate to his known sources of income may be proved and on such proof the Court shall presume unless the contrary is proved that the accused person is guilty of criminal misconduct and his conviction, therefore, shall not be invalid by reason that it is based solely on such presumption.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, a Police Officer below the rank of Assistant Superintendent of Police shall not investigate any offence punishable under sub-section (2) or take proceedings for the arrest of a person accused of such offence without the order of the Superintendent of Police.

No court shall take cognizance of an offence punishable under section 161 or section 165 of the Azad Kashmir Penal Code or under Sub-section (2) of Section 5 of this Act, alleged to have been committed by a public servant except with the previous sanction:-

(a) in the case of a person who is not removable from his office, save by or with the sanction of the Azad Kashmir Government.

(b) in the case of any other person, of the authority competent to remove from office.

Any person charged with an offence punishable under section 161 or 165 of the Azad Kashmir Penal Code or under subsection (2) of section 5 of this Act shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial :

Provided that :-

(a) he shall not be called as a witness except on his own request;

(b) his failure to give evidence shall not be made the subject of any comment by the prosecution or give rise to any

presumption against himself or any person charged together with him at the same trial ;

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he shall not be asked and if asked shall not be required to answer any question tending to show that he has committed or been convicted of any offence other than the offence with which he is charged or is of bad character, unless:

(i) the proof that he has committed or been convicted of such offence is admissible in evidence to show that he is guilty of the offence with which he is charged; or

- (ii) he has personally or by his pleader asked questions of any witness for the prosecution with a view to establish his own good character, or has given evidence of his good character or the nature of conduct of the defence is such as to involve imputations on the character of the prosecutor or of any witness the prosecution; or
- (iii) he has given evidence against any other person charged with the same offence.