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ISLAMABAD, WEDNESDAY, JULY 22, 1992

PART I
Acts, Ordinances, President's Orders and Regulations

SENATE SECRETARIAT
Islamabad, the 22nd July, 1992

The following Acts of Majlis-e-Shoora (Parliament) received the assent of the President on the 18th July, 1992, and are hereby published for general information'—

AcT No. IX oF 1992

An Act to provide for the establishment of Special Courts for speedy trial

WHEREAS it is expedient in the public interest to provide for the establishment of Special Courts for speedy trial and for matters connected therewith :

It is hereby enacted as follows —

]. Short title, extent and commencement.—(1) This Act may be called the Special Courts for Speedy Trials Act, 1992.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

(439)

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subject or context.—

(a) "Code" means the Code of Criminal Procedure. 189% (Act V of 1898);

(b) "Government" means the Federal Government:

(ce) "offence" means an offence specified in the Schedule, or an offence punishable under any law for the time being in force. which in the opinion of the Government is gruesome. brutal and sensational in character or shocking to public morality or has led to public outrage or created panic or an atmosphere of fear or anxiety amongst the public or a section thereof or which because of inerease in its incidence needs to be tried most speedily : and

(d) "Special Court" means a Special Court constituted under this Act.

3. Act to override other laws—The Provisions of this Act shall have effect notwithstanding anything contained in the Code or in any other liw already in force.

4. Constitution of Special Courts.—(1) The Government may. by

notification in the official Gazette, establish for the whole or any part ot Pakistan one or more Special Courts,

(2) A Special Court shall consist of a Judge, being a persan who is, or has been. or is qualified for appointment as a Judge of a High Court and ts appointed by the Government after consultation with the Chief Justice of the High Court. .

(3) The terms and conditions of service of Judges coristituting the Special Courts exvept in cases where they are sitting Judges of the High Courts. shall be such as may be determined by the Government.

(4) A Special Court shall sit at such places as the Government may. by order, specify in that behalf,

5. Jurisdiction of Special Courts. (1) If the Government is of the opinion that a case relating to any offence which has been registered should be ined und decided speedily, it may order that such case shall be tried by a Special Court.

(2) If the Government is of the opinion that a case pending belure any court should be tried and decided speedily, it may, by order in writing, transler the same for trial to a Special Court.

2. Definitions.—In this Act. unless there is anything repugnaat in the

(3) The Special Court shall have the exclusive jurisdiction to try a case in respect of which an order has been made under sub-section (1) or sub-section (2) and no other court shall have any jurisdiction or entertain any proceedings in respect thereof. :

“ Explanation.—For the purpose of this section, case includes a case initiated on a complaint made under section 200 of the Code.”

(4) The Special Court may convict and sentence an accused for any offence of which he may be found guilty

(5) The Special Court shall have, in respect of a case triable by it, all the powers which a High Court has in relation to a trial before it under the Code, including the powers relating to the grant or cancellation of bail or release or amendment of any order, and shall, subject to this Act, follow the procedure provided in the Code for such trial.

6. Transfer of cases.—The Government may, if it considers it expedient to do so in the interest of justice or where the convenience of the parties or the safety of the accused or of the witnesses so requires, transfer any case from one Special Court to another.

7. Taking of cognizance.—(1) The officer-in-charge of a police station shall complete the investigation and forward directly to the Special Court a report under section 173 of the Code within fourteen days in respect of a case triable by such Court :

Provided that the Special Court may extend the time within which such report is to be forwarded in a case where good reasons are shown for not being able to do so within the time specified in this sub-section.

(2) Any default on the part of an officer-in-charge of a police station, an investigating officer or any other person required by law to perform any functions in connection with the investigation, which results in or has the effect of delaying the investigation or the submission of the report under sub-section (1), shall be deemed to be a wilful disobedience of the order of the Special Court and dealt with under the law accordingly,

(3) The Special Court may directly take cognizance of a case triable by such court without the case being sent to it under section 190 of the Code.

(4) In cases triable by Special Court, orders for detention of an accused in police custody under section 167 of the Code shall be obtained from

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the Special Court concerned which shall record reasons for authorising en refusing such detention : =

Provided that where an accused cannot within twenty-four hours be produced before the Special Court, a temporary order for police custody not exceeding twenty-four hours may be obtained from the nearest Magistrate. for the purpose of producing the accused before the Special Court within that period.

(5) Where, in a case triable by the Special Court, an accused has been released from police custody under section 169 of the Code, or has been remanded to judicial custody, the Special Court may, on sufficient grounds being shown by a Public Prosecutor or a Law Officer of the Government for the reasons to be recorded in writing, make an order for placing him in police custody for a period not exceeding seven days for the purpose of further investigation in the case.

(6) for the purposes of sub-sections (4) and (5), a Special Court shall be deemed to be a Magistrate,

8, Procedure of Special Court,—(1) On taking cognizance of a cause, the Special Court shall proceed speedily with the trial from day to day and shall decide the case within thirty days and for any delay, reasons shall be recorded,

(2) A Special Court shall not adjourn any trial for any purpose unless such adjournment is, in its opinion, necessary in the interest of justice and no adjournment shall, in any case, be granted for more than two working days,

(3) A Special Court shall not, merely by reason of a change of its composition or transfer of a case under sub-section (2) of section 5 or section 6 be bound to recall and rehear any witness who has given evidence, and it may act on the evidence already recorded.

(4) All proceedings before a Special Court shall be conducted in open court :

Provided that, where the Public Prosecutor so applies or the Special Court considers it necessary so to do for any reason, any proceedings or part thereof may be held in camera.

9. Cognizance of false evidence, etc.—(1) Notwithstanding anything contained in the preceding provisions or any other law already in force, on

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~ pronouncement of the judgment. the Special Court shall have jurisdiction and power to take cognizance of an offence committed in the course of investigation or trial of a case tried under this Act. by a police officer. officer-in-charge of a police station, a witness. including an expert who has tendered false opinion in a case relating to a matter covered by his speciality, whether he deposed in court or not. or any other person, under sections 176 to 182 of Chapter X. sections 191 to 204, 211 to 223 and 225-A of Chapter XI of the Pakistan Penal Code (Act No. XLY of 1860), or under any other law relating to false evidence and offences against public justice. and to summarily try him and award punishment provided for the offence under the law.

(2) For the purpose of trial under sub-section (1). the Special Court may follow the procedure specified in Chapter XXL of the Code+

(3) The proceedings under sub-section (1) may be initiated by the Special Court on its own accord after the decision of the appeal. any. or on an application made by a Law Officer or the person accused of an offence tried by the Special Court within thirty days from the order in appeal ;

Provided that the time requisite in obtaining the copy of the order of the appellate Court shall be excluded.

(+) The provisions of section 13 shall. mutatis mutandis, apply to an appeal against the final order of conviction or acquittal made by the Special Court under sub-section (1).

10. Place of execution of sentence.—The Government may specify the place of execution of any sentence passed under this Act, having regard to the deterrent effect which such execution is likely to have.

1}. Bail.—Notwithstanding the provisions of sections 439, 491, 496, 497, 498, 498A and 561A of the Code. no Court other than the Special Court shall have the power or jurisdiction to grant bail to any accused person in a case triable by a Special Court :

Provided that the Special Court shall not release the accused on bail, if there appear reasonable grounds for believing that he has been guilty of the offence for which he has been charged: nor shall an accused person be so released unless the prosecution has been given notice to show cause why he should not be so released,

12. Contempt of court—The Court shall have the power to punish with imprisonment of either description for a term which may extend to one year and with fine any person who—

(a) abuses, interferes with or obstructs the process of the Court in any way or disobeys any order of the Court :

(b) scandalizes the Court or otherwise does any thing which tends to bring the Court or the person constituting the Court in relation to his office into hatred, ridicule or contempt;

(c) does anything which tends to prejudice the determination of a matter pending before the Court; or

(d) does any other thing which, by any other law, constitutes contempt of Court.

Explanation.—In this section, “Court” means a Special Court or, as the case may be, a Supreme Appellate Court.

13, Appeal—(i) An appeal against the final judgment of the Special Court shall lie to the Supreme Appellate Court which shall consist of

(a) a Chairman, being a Judge of the Supreme Court to be nominated by the Government after consultation with the Chief Justice of Pakistan ; and

(b) two Judges of the High Courts to be nominated by the Government after consultation with the Chief Justice of High Court concerned.

(2) The Government may establish as many Supreme Appellate Courts as may deem necessary,

(3) Copies of the judgment of a Special Court shall be supplied to the accused and the prosecutor free of cost on the day the judgment is pronounced and the record of the trial shall be transmitted to the Supreme Appellate Court within three days of the decision.

(4) An appeal under sub-section (1) shall be preferred by a person sentenced by the Special Court to the Supreme Appellate Court within seven days of the passing of the sentence,

(5) The Attorney General, Advocate-General, Deputy Attorney-General, Assistant Advocate-General, Standing Council or an advocate

appointed in this behalf shall. on being directed by the Government, present to the Supreme Appellate Court an appeal against the order of acquittal or a sentence passed by a Special Court within fifteen days of such order.

(6) An appeal under this section shall be heard and decided by the Supreme Appellate Court within thirty days,

(7) A Supreme Appellate Court shall sit at such places, and have jurisdiction within such territorial limits. as may be fixed by the Government.

(8) In exercise of the appellate jurisdiction, a Supreme Appellate Court shall, subject to the provisions of this Act, have all the powers conferred on an Appellate Court under Chapter XXXII of the Code.

14. Delegation.—The Government may, by notification delegate to the Provincial Government, subject to such conditions as may be specified, all or any of the powers exercisable by it under this Act.

15. Indemnity.—No suit, prosecution or other legal proceedings shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

16. Trial before Special Court to have precedence.—The trial under this Act of any offence by a Special Court and appearance of the accused before it shall have precedence over the trial of any other court, except where he is required to appear in person by the High Court,

17. Rules.—The Government may, by notification in the official Gazette, make rules for carrying out the purpose of this Act.

18. Repeal.—The Special Courts for Speedy Trials Ordinance, 1992 (II of 1992), is hereby repealed.

SCHEDULE

[See section 2(c)]

1, Offences punishable under sections 121, 121A, 122, 123, 123A, 161, 162, 163, 302, 303, 354A, 363, 364, 364A, 365A, 367, 368, 369, 386, 387, 392 to 404, 406 to 409, 417 to 420, 436, 440 and 465 of the Pakistan Penal Code (Act XLV of 1860), and as attempts, abetments and conspiracies in relation or connected therewith.

2. Offences under the Arms Act, 1878 (XV of 1878).

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1885).

4. Offences under the Explosive Substances Act. 1908 (VI of 1908).

§. Offences punishable under the Prevention of Corruption Act, 1947 (II of 1947).

6. Offences under the Pakistan Arms Ordinance. 1965 (W.P. Ordinance No. XX of 1965).

7. Any offence punishable under sub-section (1) of section 13 of Anti-National Activities Act. 1974 (VI of 1974), if such offence constitutes anti national activity within the meaning of sub-clause (1) or sub-clause (i) of clause 2 of the said Act.

8. An offence punishable under clause (a) of sub-section (1) of section 27 of the Drugs Act, 1976 (XXXI of 1976), in so far as it relates to a spurious drug.

9. Offences under the Surrender of Illicit Arms Act. 1991 (XXI of 1991).

10. Any other offence committed in the course of the same transaction in which any of the aforesaid offences is committed, or in addition to, or in combination with, such offence,

Act No. X OF 1992

An Act to provide for the suppression of acts of terrorism, subversion and other heinous offences in the terrorist affected areas

WHEREAS it is expedient to provide for the suppression of acts of terrorism, subversion and other heinous offences in the terrorist affected areas and for matters connected therewith or incidental thereto;

It is hereby enacted as follows :—

1. Short title, extent and commencement.—(1) This Act may be called