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THE SINDH SPECIAL TRIBUNAL ORDINANCE, 1970

SINDH ORDINANCE NO. III OF 1970

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THE SINDH SPECIAL TRIBUNAL ORDINANCE, 1970

SINDH ORDINANCE NO. III OF 1970

[8th August, 1970]

AN ORDINANCE to provide for the trial by a Special Tribunal of certain cases.

Preamble.

WHEREAS it is expedient to provide for the trial by Special Tribunal of certain cases and for matters ancillary thereto;

NOW, THEREFORE, in pursuance of the Martial Law Proclamation of 25th March, 1969, read with the Provisional Constitution Order, and in exercise of all powers enabling him in that behalf, the Governor of Sindh is pleased to make and promulgate the following Ordinance :—

Short title and commencement.

1. (1) This Ordinance may be called the [1]Sindh Special Tribunal Ordinance, 1970.

(2) It shall come into force at once.

Definitions.

2. In this Ordinance, unless the context otherwise requires, the following expressions shall have the meaning hereby respectively assigned to them—

(a) "Code" means the Code of Criminal Procedure, 1898 (Act V of 1898);

(b) "Government" means the Government of Sindh;

(c) "scheduled case" means a case specified in the Schedule to this Ordinance; and

(d) "Special Tribunal" means the Special Tribunal constituted under this Ordinance.

Constitution of Special Tribunal.

3. (1) For the trial of cases specified in the Schedule, Government shall set up a Special Tribunal consisting of one person who is or has been a Judge of the High Court.

(2) The Special Tribunal shall have exclusive jurisdiction to try the scheduled cases.

(3) A Special Tribunal shall have its sittings at such place or places as Government may fix.

[1] Substituted word **Sind** by **Sindh** wherever occurring by Sindh Act No. XVIII of 2013, dated 19th March, 2013.

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4. The Special Tribunal shall take cognizance of offences involved in a scheduled case or cases upon a report in writing made under section 173 of the Code by the Director, Anti-corruption. **Cognizance of offences.**

5. (1) The Special Tribunal shall have in respect of the scheduled cases all the powers which the High Court has in relation to a trial before it under the Code, except that— **Powers and Procedure of Special Tribunal.**

(a) the trial shall be without a jury and the provisions of the Code shall have effect as if all references therein to a jury or jury-men and commitment proceedings and to any statement or document made or prepared in the course of commitment proceedings had been omitted;

(b) the persons shown as accused in the report submitted to the Special Tribunal under section 4 and the offences with which they are charged may all be tried together; and

(c) section 297 of the Code shall have effect as if it required the Special Tribunal, upon the case for the defence and the prosecutor's reply, if any, being concluded, to proceed, with all reasonable speed, to pronounce its judgment.

[1][(2) ***]

(3) At any stage of the trial of a scheduled case the Special Tribunal, with a view to obtaining the evidence of any person shown as an accused in the report submitted to it under section 4 may, for reasons to be recorded in writing, tender pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence or offences being tried by the Special Tribunal and to every other person concerned, whether as principal or abettor, in the commission thereof and, any pardon so tendered shall, for the purposes of sections 339 and 339-A of the Code, be deemed to have been tendered under section 338 of the Code.

(4) The Special Tribunal shall have power to punish any person who obstructs or abuses its process or disobeys any of its orders or directions, or does anything which tends to prejudice the case

[1] Substituted sub-section by Sindh Ordinance No. VII of 1970, dated 19th September, 1970; and then repealed by Sindh Act No. XVII of 1975, dated 25th August, 1975.

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of a party before it, or tends to bring it into hatred or contempt, or does anything, which by law, constitutes contempt of Court, with simple imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

6. **Restriction on adjournments.** No trial before the Special Tribunal shall be adjourned for any purpose unless the Special Tribunal is of opinion that the adjournment is in the interest of justice, and in particular, no trial shall be adjourned by reason of the absence of any accused person, if such accused person is represented by counsel, or if the absence of the accused person or his counsel has been brought about by the accused person himself, or if the behavior of the accused person prior to such absence has been, in the opinion of the Special Tribunal, such as to impede the course of justice but, in any such case, the Special Tribunal shall proceed with the trial after taking necessary steps to appoint an advocate to defend any accused person who is not represented by counsel.

7. **Special rule of evidence.** The Special Tribunal may receive in evidence any statement recorded by a Magistrate, being a statement made by any person who, at the time of the trial, is dead, or whose attendance cannot be procured without an amount of delay or expense which, in the opinion of the Special Tribunal, is unreasonable in the circumstances.

8. **Prosecutor.** The prosecution in the scheduled cases before the Special Tribunal shall be conducted by a Special Public Prosecutor appointed by Government.

9. **Sentence.** The Special Tribunal may pass any sentence which by law a High Court is empowered to pass.

10. **Appeal.** A person convicted and sentenced by the Special Tribunal shall have a right of appeal to the High Court and such appeal shall be heard by a Bench of the High Court consisting of not less than two judges.

11. **Ordinance to over-ride other law.** The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in the Code the Evidence Act, 1872, the Pakistan Criminal Law Amendment Act, 1958, or any other law for the time being in force.

[1][**S C H E D U L E ***]**

[1] Substituted schedule by Sindh Ordinance No. VII of 1970, dated 19th September, 1970; and then repealed by Sindh Act No. XVII of 1975, dated 25th August, 1975.