

Amendment in Section 516A of the Code of Criminal Procedure, 1898

Report No. 100

( - )

## **AMENDMENT IN SECTION 516A OF THE CODE OF CRIMINAL PROCEDURE, 1898.**

The Code of Criminal Procedure, 1898 (Act V of 1898), was made on the 2nd March, 1898, to consolidate and amend the law relating to the Criminal Procedure.

2. Section 516A of the Code of Criminal Procedure, 1898 (Act V of 1898), provides for the provisions relating to order for custody and disposal of property pending trial in certain cases, as under:-

### **Section 516A:**

**“516A. Order for custody and disposal of property pending trial in certain cases .-** When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before any Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy or natural decay, may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of:

Provided that, if the property consists of explosive substances, the Court shall not order it to be sold or handed over to any person other than a Government department or office dealing with, or to an authorized dealer in, such substances:

Provided further that if the property is a dangerous drug, intoxicant, intoxicating liquor or any other narcotic substance seized or taken into custody under the Dangerous Drugs Act, 1930 (II of 1930), the Customs Act, 1969 (IV of 1969), the Prohibition (Enforcement of Hadd) Order, 1979 (P.O. 4 of 1979), or any other law for the time being in force, the Court may, either on an application or of its own motion and under its supervision and control, obtain and prepare such number of samples of the property as it may deem fit for safe custody and production before it or any other Court and cause destruction of the remaining portion of the property under a certificate issued by it in that behalf.:

Provided also that such samples shall be deemed to be whole of the property in an inquiry or proceedings in relation to such offence before any authority or Court.”

3. In the second proviso to section 516A *ibid*, a reference has been made to the Dangerous Drugs Act, 1930 (II of 1930). The said Act stands repealed *vide* sub-section (1) of section 78 of the Control of Narcotic Substances Act, 1997 (XXV of 1997), as under:-

**78. Repeal and saving.- (1)** The Opium Act, 1857, the Opium Act, 1878, and the Dangerous Drugs Act, 1930, and the Control of Narcotic Substances Ordinance, 1997, are hereby repealed.

4. From perusal of the repealed Dangerous Drugs Act, 1930, and the Control of Narcotic Substances Act, 1997, it transpires that the subject matter and scope of the repealed Dangerous Drugs Act, 1930, is now covered under the Control of Narcotic Substances Act, 1997.

**Conclusion:**

In view of the foregoing, it is obvious that in the second proviso to section 516A the reference to the repealed Dangerous Drugs Act, 1930, has become obsolete and it shall be more appropriate to make reference to the Control of Narcotic Substances Act, 1997, instead.

**Recommendation:**

It is one of the functions of the Law and Justice Commission of Pakistan under clause (v) of the Law and Justice Commission of Pakistan Ordinance, 1979 (XIV of 1979), to make recommendation for repealing obsolete or unnecessary provisions in the laws. Accordingly, it is suggested that the Commission may make recommendation to the Federal Government that in the second proviso to section 516A of the Code of Criminal Procedure, 1898, the reference to the Dangerous Drugs Act, 1930 (II of 1930), comprise of an obsolete provision of law.

**Legislative proposal:**

In the light of the foregoing discussion, it is suggested that in the second proviso to section 516A of the Code of Criminal Procedure, 1898, for the words, comma, figures, brackets and letters "Dangerous Drugs Act, 1930 (II of 1930)," the words, comma, figures, brackets and letters "Control of Narcotic Substances Act, 1997 (XXV of 1997)" shall be substituted.



### **Commission's deliberations**

The working paper was considered by the Commission in its meeting held on 27.7.2007 and the following are the deliberations:-

The Commission considered the amendment proposed in section 516A of the Code of Criminal Procedure proposing substitution of reference of the Dangerous Drugs Act 1930 on its having been repealed by the Control of Narcotics Substance Act 1997. As being a consequential amendment, the Commission approved the substitution of the words "Control of Narcotics Substance Act, 1997 for the words "Dangerous Drugs Act 1930" in Section 516A of the Cr.P.C.