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EXTRAORDINARY

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PART II—Section 1

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 2nd April, 2013/Chaitra 12, 1935 (Saka)

The following Act of Parliament received the assent of the President on the 2nd April, 2013, and is hereby published for general information:—

THE CRIMINAL LAW (AMENDMENT) ACT, 2013

No. 13 OF 2013

[2nd April, 2013]

AN ACT further to amend the Indian Penal Code, the Code of Criminal Procedure, 1973, the Indian Evidence Act, 1872 and the Protection of Children from Sexual Offences Act, 2012.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

- (1) This Act may be called the Criminal Law (Amendment) Act, 2013.
- (2) It shall be deemed to have come into force on the 3rd day of February, 2013.

Short title and commencement.

CHAPTER II

AMENDMENTS TO THE INDIAN PENAL CODE

2. In the Indian Penal Code (hereafter in this Chapter referred to as the Penal Code), in section 100, after clause *Sixthly*, the following clause shall be inserted, namely:—

Amendment of section 100.

“*Seventhly*.—An act of throwing or administering acid or an attempt to throw or administer acid which may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such act.”

6. In section 354 of the Penal Code, for the words "shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both", the words "shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine" shall be substituted.

Amendment of section 354.

7. After section 354 of the Penal Code, the following sections shall be inserted, namely:—

Insertion of new sections 354A, 354B, 354C and 354D.

354A. (1) A man committing any of the following acts—

Sexual harassment and punishment for sexual harassment.

(i) physical contact and advances involving unwelcome and explicit sexual overtures; or

(ii) a demand or request for sexual favours; or

(iii) showing pornography against the will of a woman; or

(iv) making sexually coloured remarks,

shall be guilty of the offence of sexual harassment.

(2) Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

(3) Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

354B. Any man who assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years, and shall also be liable to fine.

Assault or use of criminal force to woman with intent to disrobe.

354C. Any man who watches, or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.

Voyeurism.

Explanation 1.—For the purpose of this section, "private act" includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy and where the victim's genitals, posterior or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the victim is doing a sexual act that is not of a kind ordinarily done in public.

Explanation 2.—Where the victim consents to the capture of the images or any act, but not to their dissemination to third persons and where such image or act is disseminated, such dissemination shall be considered an offence under this section.

354D. (1) Any man who—

Stalking.

(i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or

(6) If a person is convicted of the offence of trafficking of minor on more than one occasion, then such person shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

(7) When a public servant or a police officer is involved in the trafficking of any person then, such public servant or police officer shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

370A. (1) Whoever, knowingly or having reason to believe that a minor has been trafficked, engages such minor for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than five years, but which may extend to seven years, and shall also be liable to fine.

Exploitation
of a trafficked
person.

(2) Whoever, knowingly by or having reason to believe that a person has been trafficked, engages such person for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than three years, but which may extend to five years, and shall also be liable to fine.

9. For sections 375, 376, 376A, 376B, 376C and 376D of the Penal Code, the following sections shall be substituted, namely:—

Substitution of
new sections
for sections
375, 376,
376A, 376B,
376C and
376D.

'375. A man is said to commit "rape" if he—

Rape.

(a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or

(b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or

(c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or

(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person,

under the circumstances falling under any of the following seven descriptions:—

First.—Against her will.

Secondly.—Without her consent.

Thirdly.—With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

Fourthly.—With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.—With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

(j) commits rape, on a woman incapable of giving consent; or

(k) being in a position of control or dominance over a woman, commits rape on such woman; or

(l) commits rape on a woman suffering from mental or physical disability; or

(m) while committing rape causes grievous bodily harm or maims or disfigures or endangers the life of a woman; or

(n) commits rape repeatedly on the same woman,

shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

Explanation.—For the purposes of this sub-section,—

(a) "armed forces" means the naval, military and air forces and includes any member of the Armed Forces constituted under any law for the time being in force, including the paramilitary forces and any auxiliary forces that are under the control of the Central Government or the State Government;

(b) "hospital" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation;

(c) "police officer" shall have the same meaning as assigned to the expression "police" under the Police Act, 1861;

(d) "women's or children's institution" means an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an institution called by any other name, which is established and maintained for the reception and care of women or children.

376A. Whoever, commits an offence punishable under sub-section (1) or sub-section (2) of section 376 and in the course of such commission inflicts an injury which causes the death of the woman or causes the woman to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, or with death.

Punishment for causing death or resulting in persistent vegetative state of victim.

376B. Whoever has sexual intercourse with his own wife, who is living separately, whether under a decree of separation or otherwise, without her consent, shall be punished with imprisonment of either description for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine.

Sexual intercourse by husband upon his wife during separation.

Explanation.—In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (d) of section 375.

376C. Whoever, being—

(a) in a position of authority or in a fiduciary relationship; or

(b) a public servant; or

(c) superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force, or a women's or children's institution; or

(d) on the management of a hospital or being on the staff of a hospital, abuses such position or fiduciary relationship to induce or seduce any woman either in his custody or under his charge or present in the premises to have sexual intercourse with him, such sexual intercourse not amounting to the offence of rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than five years, but which may extend to ten years, and shall also be liable to fine.

Sexual intercourse by a person in authority.

Explanation 1.—In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (d) of section 375.

Explanation 2.—For the purposes of this section, *Explanation 1* to section 375 shall also be applicable.

Explanation 3.—"Superintendent", in relation to a jail, remand home or other place of custody or a women's or children's institution, includes a person holding any other office in such jail, remand home, place or institution by virtue of which such person can exercise any authority or control over its inmates.

Explanation 4.—The expressions "hospital" and "women's or children's institution" shall respectively have the same meaning as in *Explanation* to sub-section (2) of section 376.

Gang rape.

376D. Where a woman is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life which shall mean imprisonment for the remainder of that person's natural life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.

Punishment for repeat offenders.

376E. Whoever has been previously convicted of an offence punishable under section 376 or section 376A or section 376D and is subsequently convicted of an offence punishable under any of the said sections shall be punished with imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, or with death.'

Amendment of section 509.

10. In section 509 of the Penal Code, for the words "shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both", the words "shall be punished with simple imprisonment for a term which may extend to three years, and also with fine" shall be substituted.

CHAPTER III

AMENDMENTS TO THE CODE OF CRIMINAL PROCEDURE, 1973

Amendment of section 26.

11. In the Code of Criminal Procedure, 1973 (hereafter in this Chapter referred to as the Code of Criminal Procedure), in section 26, in the proviso to clause (a), for the words, figures and letters "offence under section 376 and sections 376A to 376D of the Indian Penal Code", the words, figures and letters "offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code" shall be substituted.

2 of 1974.

45 of 1860.

Amendment of section 54A.

12. In section 54A of the Code of Criminal Procedure, the following provisos shall be inserted, namely:—

"Provided that, if the person identifying the person arrested is mentally or physically disabled, such process of identification shall take place under the supervision of a Judicial Magistrate who shall take appropriate steps to ensure that such person identifies the person arrested using methods that person is comfortable with:

Provided further that if the person identifying the person arrested is mentally or physically disabled, the identification process shall be videographed."

13. In section 154 of the Code of Criminal Procedure, in sub-section (1), the following provisos shall be inserted, namely:—

Amendment
of section
154.

"Provided that if the information is given by the woman against whom an offence under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:

45 of 1860.

Provided further that—

(a) in the event that the person against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be;

45 of 1860.

(b) the recording of such information shall be videographed;

(c) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (a) of sub-section (5A) of section 164 as soon as possible."

14. In section 160 of the Code of Criminal Procedure, in sub-section (1), in the proviso, for the words "under the age of fifteen years or woman", the words "under the age of fifteen years or above the age of sixty-five years or a woman or a mentally or physically disabled person" shall be substituted.

Amendment
of section
160.

15. In section 161 of the Code of Criminal Procedure, in sub-section (3), after the proviso, the following proviso shall be inserted, namely:—

Amendment
of section
161.

"Provided further that the statement of a woman against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted shall be recorded, by a woman police officer or any woman officer."

45 of 1860.

16. In section 164 of the Code of Criminal Procedure, after sub-section (5), the following sub-section shall be inserted, namely:—

Amendment
of section
164.

"(5A) (a) In cases punishable under section 354, section 354A, section 354B, section 354C, section 354D, sub-section (1) or sub-section (2) of section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code, the Judicial Magistrate shall record the statement of the person against whom such offence has been committed in the manner prescribed in sub-section (5), as soon as the commission of the offence is brought to the notice of the police:

45 of 1860.

Provided that if the person making the statement is temporarily or permanently mentally or physically disabled, the Magistrate shall take the assistance of an interpreter or a special educator in recording the statement:

Provided further that if the person making the statement is temporarily or permanently mentally or physically disabled, the statement made by the person, with the assistance of an interpreter or a special educator, shall be videographed.

	(b) A statement recorded under clause (a) of a person, who is temporarily or permanently mentally or physically disabled, shall be considered a statement in lieu of examination-in-chief, as specified in section 137 of the Indian Evidence Act, 1872 such that the maker of the statement can be cross-examined on such statement, without the need for recording the same at the time of trial."	1 of 1872.
Amendment of section 173.	17. In section 173 of the Code of Criminal Procedure, in sub-section (2), in sub-clause (h) of clause (i), for the words, figures and letter "or 376D of the Indian Penal Code", the words, figures and letters "376D or section 376E of the Indian Penal Code" shall be substituted.	45 of 1860.
Amendment of section 197.	18. In section 197 of the Code of Criminal Procedure, after sub-section (1), the following <i>Explanation</i> shall be inserted, namely:— " <i>Explanation.</i> —For the removal of doubts it is hereby declared that no sanction shall be required in case of a public servant accused of any offence alleged to have been committed under section 166A, section 166B, section 354, section 354A, section 354B, section 354C, section 354D, section 370, section 375, section 376, section 376A, section 376C, section 376D or section 509 of the Indian Penal Code."	45 of 1860.
Insertion of new section 198B.	19. After section 198A of the Code of Criminal Procedure, the following section shall be inserted, namely:—	
Cognizance of offence.	"198B. No Court shall take cognizance of an offence punishable under section 376B of the Indian Penal Code where the persons are in a marital relationship, except upon <i>prima facie</i> satisfaction of the facts which constitute the offence upon a complaint having been filed or made by the wife against the husband."	45 of 1860.
Amendment of section 273.	20. In section 273 of the Code of Criminal Procedure, before the <i>Explanation</i> , the following proviso shall be inserted, namely:— "Provided that where the evidence of a woman below the age of eighteen years who is alleged to have been subjected to rape or any other sexual offence, is to be recorded, the court may take appropriate measures to ensure that such woman is not confronted by the accused while at the same time ensuring the right of cross-examination of the accused."	
Amendment of section 309.	21. In section 309 of the Code of Criminal Procedure, for sub-section (1), the following sub-section shall be substituted, namely:— "(1) In every inquiry or trial the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded: Provided that when the inquiry or trial relates to an offence under section 376, section 376A, section 376B, section 376C or section 376D of the Indian Penal Code, the inquiry or trial shall, as far as possible be completed within a period of two months from the date of filing of the charge sheet."	45 of 1860.
Amendment of section 327.	22. In section 327 of the Code of Criminal Procedure, in sub-section (2), for the words, figures and letter "or section 376D of the Indian Penal Code", the words, figures and letters "section 376D or section 376E of the Indian Penal Code" shall be substituted.	45 of 1860.
Insertion of new sections 357B and 357C.	23. After section 357A of the Code of Criminal Procedure, the following sections shall be inserted, namely:—	
Compensation to be in addition to fine under section 326A or section 376D of Indian Penal Code.	"357B. The compensation payable by the State Government under section 357A shall be in addition to the payment of fine to the victim under section 326A or section 376D of the Indian Penal Code.	45 of 1860.
Treatment of victims.	357C. All hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under section 326A, 376, 376A, 376B, 376C, 376D or section 376E of the Indian Penal Code, and shall immediately inform the police of such incident."	45 of 1860.

45 of 1860.

24. In the First Schedule to the Code of Criminal Procedure, under the heading "I.-OFFENCES UNDER THE INDIAN PENAL CODE",—

Amendment
of First
Schedule.

(a) after the entries relating to section 166, the following entries shall be inserted, namely:—

1	2	3	4	5	6
"166A	Public servant disobeying direction under law.	Imprisonment for minimum 6 months which may extend to 2 years and fine.	Cognizable	Bailable	Magistrate of the first class.
166B	Non-treatment of victim by hospital.	Imprisonment for 1 year or fine or both.	Non-cognizable	Bailable	Magistrate of the first class.;"

(b) after the entries relating to section 326, the following entries shall be inserted, namely:—

1	2	3	4	5	6
"326A	Voluntarily causing grievous hurt by use of acid, etc.	Imprisonment for not less than 10 years but which may extend to imprisonment for life and fine to be paid to the victim.	Cognizable	Non-bailable	Court of Session.
326B	Voluntarily throwing or attempting to throw acid.	Imprisonment for 5 years but which may extend to 7 years and with fine.	Cognizable	Non-bailable	Court of Session.;"

(c) for the entries relating to section 354, the following entries shall be substituted, namely:—

1	2	3	4	5	6
"354	Assault or use of criminal force to woman with intent to outrage her modesty.	Imprisonment of 1 year which may extend to 5 years, and with fine.	Cognizable	Non-bailable	Any Magistrate.
354A	Sexual harassment of the nature of unwelcome physical contact and advances or a demand or request for sexual favours, showing pornography.	Imprisonment which may extend to 3 years or with fine or with both.	Cognizable	Bailable	Any Magistrate.
	Sexual harassment of the nature of making sexually coloured remark.	Imprisonment which may extend to 1 year or with fine or with both.	Cognizable	Bailable	Any Magistrate.

1	2	3	4	5	6
354B	Assault or use of criminal force to woman with intent to disrobe.	Imprisonment of not less than 3 years but which may extend to 7 years and with fine.	Cognizable	Non-bailable.	Any Magistrate.
354C	Voyeurism.	Imprisonment of not less than 1 year but which may extend to 3 years and with fine for first conviction.	Cognizable	Bailable	Any Magistrate.
		Imprisonment of not less than 3 years but which may extend to 7 years and with fine for second or subsequent conviction.	Cognizable	Non-bailable	Any Magistrate.
354D	Stalking.	Imprisonment up to 3 years and with fine for first conviction.	Cognizable	Bailable	Any Magistrate.
		Imprisonment up to 5 years and with fine for second or subsequent conviction.	Cognizable	Non-bailable	Any Magistrate.";

(d) for the entries relating to section 370, the following entries shall be substituted, namely:—

1	2	3	4	5	6
"370	Trafficking of person.	Imprisonment of not less than 7 years but which may extend to 10 years and with fine.	Cognizable	Non-bailable	Court of Session.
	Trafficking of more than one person.	Imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.
	Trafficking of a minor.	Imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.
	Trafficking of more than one minor.	Imprisonment of not less than 14 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.

1	2	3	4	5	6
	Person convicted of offence of trafficking of minor on more than one occasion.	Imprisonment for life which shall mean the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.
	Public servant or a police officer involved in trafficking of minor.	Imprisonment for life which shall mean the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.
370A	Exploitation of a trafficked child.	Imprisonment of not less than 5 years but which may extend to 7 years and with fine.	Cognizable	Non-bailable	Court of Session.
	Exploitation of a trafficked person.	Imprisonment of not less than 3 years but which may extend to 5 years and with fine.	Cognizable	Non-bailable	Court of Session.;

(e) for the entries relating to sections 376, 376A, 376B, 376C and 376D, the following entries shall be substituted, namely:—

1	2	3	4	5	6
"376	Rape.	Rigorous imprisonment of not less than 7 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.
	Rape by a police officer or a public servant or member of armed forces or a person being on the management or on the staff of a jail, remand home or other place of custody or women's or children's institution or by a person on the management or on the staff of a hospital, and rape committed by a person in a position of trust or authority towards the person raped or by a near relative of the person raped.	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life which shall mean the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.

1	2	3	4	5	6
376A	Person committing an offence of rape and inflicting injury which causes death or to be in a persistent vegetative state.	Rigorous imprisonment of not less than 20 years but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person's natural life or with death.	Cognizable	Non-bailable	Court of Session.
376B	Sexual intercourse by husband upon his wife during separation.	Imprisonment for not less than 2 years but which may extend to 7 years and with fine.	Cognizable (but only on the complaint of the victim)	Bailable	Court of Session.
376C	Sexual intercourse by a person in authority.	Rigorous imprisonment for not less than 5 years but which may extend to 10 years and with fine.	Cognizable	Non-bailable	Court of Session.
376D	Gang rape.	Rigorous imprisonment for not less than 20 years but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine to be paid to the victim.	Cognizable	Non-bailable	Court of Session.
376E	Repeat offenders.	Imprisonment for life which shall mean imprisonment for the remainder of that person's natural life or with death.	Cognizable	Non-bailable	Court of Session.;

(f) in entry relating to section 509, in column 3, for the words "Simple imprisonment for one year, or fine, or both," the words and figure "Simple imprisonment for 3 years and with fine " shall be substituted.

CHAPTER IV

AMENDMENTS TO THE INDIAN EVIDENCE ACT, 1872

- 1 of 1872. **25.** After section 53 of the Indian Evidence Act, 1872 (hereafter in this Chapter referred to as the Evidence Act), the following section shall be inserted, namely:—
- Insertion of new section 53A.
- 45 of 1860. "53A. In a prosecution for an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code or for attempt to commit any such offence, where the question of consent is in issue, evidence of the character of the victim or of such person's previous sexual experience with any person shall not be relevant on the issue of such consent or the quality of consent."
- Evidence of character or previous sexual experience not relevant in certain cases.
26. For section 114A of the Evidence Act, the following section shall be substituted, namely:—
- Substitution of new section for section 114A.
- 45 of 1860. "114A. In a prosecution for rape under clause (a), clause (b), clause (c), clause (d), clause (e), clause (f), clause (g), clause (h), clause (i), clause (j), clause (k), clause (l), clause (m) or clause (n) of sub-section (2) of section 376 of the Indian Penal Code, where sexual intercourse by the accused is proved and the question is whether it was without the consent of the woman alleged to have been raped and such woman states in her evidence before the court that she did not consent, the court shall presume that she did not consent.
- Presumption as to absence of consent in certain prosecution for rape.
- 45 of 1860. *Explanation.*— In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (d) of section 375 of the Indian Penal Code."
27. For section 119 of the Evidence Act, the following section shall be substituted, namely:—
- Substitution of new section for section 119.
- "119. A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligible, as by writing or by signs; but such writing must be written and the signs made in open Court, evidence so given shall be deemed to be oral evidence:
- Witness unable to communicate verbally.
- Provided that if the witness is unable to communicate verbally, the Court shall take the assistance of an interpreter or a special educator in recording the statement, and such statement shall be videographed."
28. In section 146 of the Evidence Act, for the proviso, the following proviso shall be substituted, namely:—
- Amendment of section 146.
- 45 of 1860. "Provided that in a prosecution for an offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code or for attempt to commit any such offence, where the question of consent is an issue, it shall not be permissible to adduce evidence or to put questions in the cross-examination of the victim as to the general immoral character, or previous sexual experience, of such victim with any person for proving such consent or the quality of consent."

CHAPTER V

AMENDMENT TO THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012

Substitution
of new
sections for
section 42.

Alternate
punishment.

Act not in
derogation of
any other law.

29. For section 42 of the Protection of Children from Sexual Offences Act, 2012, the following sections shall be substituted, namely:—

32 of 2012.

“42. Where an act or omission constitutes an offence punishable under this Act and also under sections 166A, 354A, 354B, 354C, 354D, 370, 370A, 375, 376, 376A, 376C, 376D, 376E or section 509 of the Indian Penal Code, then, notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offence shall be liable to punishment under this Act or under the Indian Penal Code as provides for punishment which is greater in degree.

45 of 1860.

42A. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.”

CHAPTER VI

MISCELLANEOUS

Repeal and
savings.

30. (1) The Criminal Law (Amendment) Ordinance, 2013 is hereby repealed.

Ord. 3 of
2013.

(2) Notwithstanding such repeal, anything done or any action taken under the Indian Penal Code, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.

45 of 1860.
2 of 1974.
1 of 1872.

P.K. MALHOTRA,

Secretary to the Govt. of India.

CORRIGENDA

In the Readjustment of Representation of Scheduled Castes and Scheduled Tribes in Parliamentary and Assembly Constituencies Ordinance, 2013 (Ord. 2 of 2013) as published in Gazette of India, Extraordinary, Part II, Section 1, dated the 30th January, 2013 (Issue No. 7):—

1. At page 1, in the long title, for "the inclusion", read "inclusion".
2. At page 2, in line 9, for "Sheduled", read "Scheduled".
3. At page 3,—
 - (i) in line 31, for "disolution", read "dissolution";
 - (ii) in line 37, for "ommission", read "omission";
 - (iii) in line 40, for "expendient", read "expedient".

CORRIGENDA

The Criminal Law (Amendment) Ordinance, 2013 (Ord. 3 of 2013) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 3rd February, 2013 (Issue No. 8):—

1. At page 11, in line 30, for "proviso", read "provisos".
2. At page 15, in column 3 against section 354C, in line 38, for "year", read "years".
3. At page 16, in line 1, for "sections", read "section".