

ACT No. XXVII OF 1870.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 25th
November 1870).*

An Act to amend the Indian Penal Code.

Preamble.

FOR the purpose of amending the Indian Penal Code; It is hereby enacted as follows:—

Liability for act done by several persons in furtherance of common intention.

1. For section thirty-four of the said Code, the following section shall be substituted:—

“34. When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.”

“Offence.”

2. For section forty of the said Code, the following section shall be substituted:—

“40. Except in the chapter and sections mentioned in clauses two and three of this section, the word ‘offence’ denotes a thing made punishable by this Code.

“In chapter IV and in the following sections, namely, sections 109, 110, 112, 114, 115, 116, 117, 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389 and 445, the word ‘offence’ denotes a thing punishable under this Code, or under any special or local law as hereinafter defined:

“And in sections 141, 176, 177, 201, 202, 212, 216 and 441, the word ‘offence’ has the same meaning when the thing punishable under the special or local law is punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine.”

3. Section

64, 65, 66, 67
In 8/82
10/86.

3. Section fifty-six of the said Code shall be read as if the following proviso were added thereto:—

“Provided that, where an European or American offender would, but for such Act, be liable to be sentenced or ordered to be transported for a term exceeding ten years, but not for life, he shall be liable to be sentenced or ordered to be kept in penal servitude for such term exceeding six years as to the Court seems fit, but not for life.”

Proviso as to sentence for term exceeding ten years, but not for life.

4. After section one hundred and twenty-one of the said Code, the following section shall be inserted:—

“121A. Whoever within or without British India conspires to commit any of the offences punishable by section one hundred and twenty-one, or to deprive the Queen of the sovereignty of British India or of any part thereof, or conspires to overawe, by means of criminal force or the show of criminal force, the Government of India or any Local Government, shall be punished with transportation for life or any shorter term, or with imprisonment of either description which may extend to ten years.

Conspiracy to commit offences punishable by section 121.

“*Explanation.*—To constitute a conspiracy under this section, it is not necessary that any act or illegal omission shall take place in pursuance thereof.”

5. After section one hundred and twenty-four of the said Code, the following section shall be inserted:—

“124A. Whoever by words, either spoken or intended to be read, or by signs, or by visible representation, or otherwise, excites or attempts to excite feelings of disaffection to the Government established by law in British India, shall be punished with transportation for life or for any term, to which fine may be added, or with imprisonment for a term which may extend to three years, to which fine may be added, or with fine.

Exciting disaffection.

“*Explanation.*—Such a disapprobation of the measures of the Government as is compatible with a disposition to render obedience to the lawful authority of the Government, and to support the lawful authority of the Government against unlawful attempts to subvert or resist that authority, is not disaffection. There-

fore,

See 4/98
1/03.

fore, the making of comments on the measures of the Government, with the intention of exciting only this species of disapprobation, is not an offence within this clause."

Addition to section 131.

6. Section one hundred and thirty-one of the said Code shall be read as if the following Explanation were added thereto:—

"*Explanation.*—In this section the words 'officer' and 'soldier' include any person subject to the Articles of War for the better government of Her Majesty's Army, or to the Articles of War contained in Act No. V of 1869."

107
12/91
Amendment of sections 194 and 195.

7. Sections one hundred and ninety-four and one hundred and ninety-five of the said Code shall be read as if, after the words 'by this Code,' the words 'or the law of England' were inserted.

Amendment of sections 222 and 223.

8. Sections two hundred and twenty-two and two hundred and twenty-three of the said Code shall be construed as if, after the word 'offence,' the following words were inserted (that is to say), "or lawfully committed to custody;"

and section two hundred and twenty-two of the said Code shall be construed as if the following words were added thereto (that is to say), "or if the person was lawfully committed to custody."

9. After section two hundred and twenty-five of the said Code, the following section shall be inserted:—

107
12/91
Escape from custody for failing to furnish security.

"225A. Whoever escapes or attempts to escape from any custody in which he is lawfully detained for failing, under the Code of Criminal Procedure, to furnish security for good behaviour, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both."

10. After section two hundred and ninety-four, and before chapter XV of the Indian Penal Code, the following section shall be inserted:—

Keeping lottery-office.

"294A. Whoever keeps any office or place for the purpose of drawing any lottery not authorised by Government, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

"And

“And whoever publishes any proposal to pay any sum, or to deliver any goods, or to do or forbear doing anything for the benefit of any person, on any event or contingency relative or applicable to the drawing of any ticket, lot, number or figure in any such lottery, shall be punished with fine which may extend to one thousand rupees.”

11. Section three hundred and seven of the said Code shall be read as if the following clause were added thereto :—

“When any person offending under this section is under sentence of transportation for life, he may, if hurt is caused, be punished with death.”

Attempts by life-convicts.

12. After section three hundred and four of the same Code, the following section shall be inserted :—

“304A. Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

Causing death by negligence.

13. The following chapters of the same Code, namely, IV (*General Exceptions*), V (*Of Abetment*), and XXIII (*Of Attempts to commit Offences*) shall apply to offences punishable under the said sections 121A, 294A and 304A, and the said chapters IV and V shall apply to offences punishable under the said sections 124A and 225A.

Application of certain chapters of Penal Code.

14. No charge of an offence punishable under any of the said sections 121A, 124A and 294A shall be entertained by any Court unless the prosecution be instituted by order of, or under authority from, the Local Government.

Order of Local Government necessary to prosecution under section 121A, 124A or 294A.

15. Nothing contained in this Act shall be taken to affect any of the provisions of any special or local law.

Saving of special and local laws.

16. The first schedule hereto annexed shall be deemed to be part of the schedule to the Code of Criminal Procedure.

Schedule I to be part of schedule to Criminal Procedure Code.

17. The enactments mentioned in the second schedule hereto annexed are repealed to the extent specified therein.

Repeal of enactments.

THE FIRST SCHEDULE.

(See section 16.)

| Section. | Offence. | Whether Police may arrest without warrant or not. | Whether warrant or summons shall ordinarily issue in first instance. | Whether bailable or not. | Punishment under the Indian Penal Code. | By what Court triable. |
|----------|--|---|--|--------------------------|--|--|
| 121 A. | Conspiring to commit certain offences against the State. | Shall not arrest without warrant. | Warrant ... | Not bailable. | Transportation for life or any shorter term, or imprisonment of either description for ten years. | Court of Session. |
| 124 A. | Exciting, or attempting to excite, disaffection. | Shall not arrest without warrant. | Warrant ... | Not bailable. | Transportation for life or for any term and fine, or imprisonment of either description for three years and fine; or fine. | Court of Session. |
| 225 A. | Escape, or attempt to escape, from custody for failing to furnish security for good behaviour. | May arrest without warrant. | Warrant ... | Bailable... | Imprisonment of either description for one year, or fine, or both. | Magistrate of the District or Subordinate Magistrate of the First Class. |
| 294 A. | Keeping a lottery office. | Shall not arrest without warrant. | Summons... | Bailable... | Imprisonment of either description for six months, or fine, or both. | Any Magistrate. |
| | Publishing proposals relating to lotteries. | Ditto ... | Ditto ... | Ditto ... | Fine of one thousand rupees. | Any Magistrate. |
| 304 A. | Causing death by negligence. | May arrest without warrant. | Warrant ... | Bailable... | Imprisonment of either description for two years, or fine, or both. | Court of Session or Magistrate of the District. |

THE SECOND SCHEDULE.

(See section 17.)

| Number and year. | Title. | Extent of repeal. |
|---------------------------------------|---|--|
| Statute 9 Geo. IV, Cap. seventy-four. | An Act for improving the administration of criminal justice in the <i>East Indies</i> . | The whole Act, except sections one to ten (inclusive), thirteen, fourteen, fifteen, twenty-one, twenty-three to twenty-six (inclusive), thirty-six, thirty-seven, fifty-one, fifty-two, fifty-six and one hundred and ten. |
| Act No. V of 1844 | ... An Act for the suppression of all lotteries not authorized by Government. | The whole. |
| Act No. IV of 1867 | ... An Act to enlarge the meaning of the word 'offence' in certain sections of the Indian Penal Code, and for other purposes. | The whole. |