

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT)
ACT, 1980

No. 63 of 1980

[26th December, 1980.]

An Act further to amend the Code of Criminal Procedure, 1973.

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

Short
title and
commence-
ment.

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1980.

(2) It shall be deemed to have come into force on the 23rd day of September, 1980.

Amend-
ment of
sections
108, 109
and 110.

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2. In sections 108, 109 and 110 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the principal Act), for the words "a Judicial Magistrate of the first class", the words "an Executive Magistrate" shall be substituted. 2 of 1974.

Amend-
ment of
section
196.

3. In section 196 of the principal Act,—

(a) in sub-section (1), in clause (a), for the words, figures and letters "section 153B, section 295A or section 505", the words, figures, letter and brackets "section 295A or sub-section (1) of section 505" shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) No Court shall take cognizance of—

(a) any offence punishable under section 153B or sub-section (2) or sub-section (3) of section 505 of the Indian Penal Code, or

45 of 1860

(b) a criminal conspiracy to commit such offence,

except with the previous sanction of the Central Government or of the State Government or of the District Magistrate.";

(c) in sub-section (3), for the words, brackets and figure "under sub-section (1)", the words, brackets, figures and letters "under sub-section (1) or sub-section (1A) and the District Magistrate may, before according sanction under sub-section (1A)" shall be substituted.

4. In section 436 of the principal Act, in sub-section (1), in the second proviso, after the word and figures "section 116", the words, figures and letter "or section 446A" shall be inserted.

Amendment of section 436.

5. In section 437 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment of section 437.

"(1) When any person accused of, or suspected of, the commission of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a Court other than the High Court or Court of Session, he may be released on bail, but—

(i) such person shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life;

(ii) such person shall not be so released if such offence is a cognizable offence and he had been previously convicted of an offence punishable with death, imprisonment for life or imprisonment for seven years or more, or he had been previously convicted on two or more occasions of a non-bailable and cognizable offence:

Provided that the Court may direct that a person referred to in clause (i) or clause (ii) be released on bail if such person is under the age of sixteen years or is a woman or is sick or infirm:

Provided further that the Court may also direct that a person referred to in clause (ii) be released on bail if it is satisfied that it is just and proper so to do for any other special reason:

Provided also that the mere fact that an accused person may be required for being identified by witnesses during investigation shall not be sufficient ground for refusing to grant bail if he is otherwise entitled to be released on bail and gives an undertaking that he shall comply with such directions as may be given by the Court.";

(b) in sub-section (2), for the words "the accused shall, pending such inquiry, be released on bail" the words, figures and letter "the accused shall, subject to the provisions of section 446A and pending such inquiry, be released on bail" shall be substituted;

(c) in sub-section (4), for the word "reasons", the words "reasons or special reasons" shall be substituted.

6. In section 446 of the principal Act, to sub-section (2), the following proviso shall be added, namely:—

"Provided that where such penalty is not paid and cannot be recovered in the manner aforesaid, the person so bound as surety

Amendment of section 446.

shall be liable, by order of the Court ordering the recovery of the penalty, to imprisonment in civil jail for a term which may extend to six months."

7. After section 446 of the principal Act, the following section shall be inserted, namely:—

"446A. Without prejudice to the provisions of section 446, where a bond under this Code is for appearance of a person in a case and it is forfeited for breach of a condition—

(a) the bond executed by such person as well as the bond if any, executed by one or more of his sureties in that case shall stand cancelled; and

(b) thereafter no such person shall be released only on his own bond in that case, if the Police Officer or the Court, as the case may be, for appearance before whom the bond was executed, is satisfied that there was no sufficient cause for the failure of the person bound by the bond to comply with its condition:

Provided that subject to any other provision of this Code he may be released in that case up on the execution of a fresh personal bond for such sum of money and bond by one or more of such sureties as the Police Officer or the Court, as the case may be, thinks sufficient."

8. For section 478 of the principal Act, the following section shall be substituted, namely:—

478. "If the Legislative Assembly of a State by a resolution so permits, the State Government may, after consultation with the High Court, by notification, direct that references in sections 108, 109, 110, 145 and 147 to an Executive Magistrate shall be construed as references to a Judicial Magistrate of the first class."

~~9. Section 72 of the Delhi Police Act, 1978 shall be omitted.~~

10. All proceedings under sections 108, 109 and 110 of the principal Act, pending before any Judicial Magistrate of the first class immediately before the commencement of this Act shall, notwithstanding anything contained in this Act, be dealt with as if this Act had not been enacted.

~~11. (1) The Code of Criminal Procedure (Amendment) Ordinance, 1980 is hereby repealed.~~

~~(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.~~

↓ Repealed by Act 19 of 1988, S. 2 & Sch. I

Insertion of new section 446A. Cancellation of bond and bail-bond.

Substitution of new section for section 478

Power to alter functions allocated to Executive Magistrates in certain cases.

Consequential amendment of Act 34 of 1978.

Saving of pending proceedings under sections 108, 109 and 110.

Repeal and saving.