



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

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असाधारण क्रमांक ९५

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद)

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Exclusive Special Courts (for certain offences against Women and Children under *SHAKTI* Law) Bill, 2020 (L.A. Bill No. LII of 2020), introduced in the Maharashtra Legislative Assembly on the 14th December 2020, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

BHUPENDRA M. GURAO,

I/c. Secretary (Legislation) to Government,
Law and Judiciary Department.

L. A. BILL No. LII OF 2020

A BILL

to provide for establishment of exclusive special courts for the speedy trial of certain specified offences against women and children and constitution of implementation machinery for such offences and for matters connected therewith or incidental thereto.

WHEREAS it is expedient to provide for establishment of exclusive special courts for the speedy trial of certain specified offences against women and children and constitution of implementation machinery for such offences and for matters connected therewith or incidental thereto; it is hereby enacted in the Seventy-first Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Maharashtra Exclusive Special Courts (for certain offences against Women and Children under *SHAKTI* Law) Act, 2020. Short title,
extent and
commencement.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “Code” means the Code of Criminal Procedure, 1973;

2 of 1974.

(b) “Exclusive Special Court” means the Exclusive Special Court established under section 3 of this Act;

(c) “Government” means the Government of Maharashtra;

(d) “prescribed” means prescribed by rules made under this Act;

(e) “specified offences” means the offences against women and children punishable under sections 326A, 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB, 376E of the Indian Penal Code and under the Protection of Children against Sexual Offences Act, 2012;

45 of 1860.

32 of 2012.

(g) “State” means the State of Maharashtra.

(2) Words and expressions used hereinafter in this Act and not defined herein but defined in the Code of Criminal Procedure, 1973 or the Protection of Children against Sexual Offences Act, 2012, shall have the same meaning as respectively assigned to them in the Code or the Protection of Children from Sexual Offences Act, 2012.

2 of 1974.

32 of 2012.

32 of 2012.

CHAPTER II

ESTABLISHMENT OF EXCLUSIVE SPECIAL COURTS

Establishment
of Exclusive
Special Courts.

3. (1) The Government shall, in consultation with the High Court, for the purpose of speedy trial of specified offences, by notification in the *Official Gazette*, establish in each district, one or more Exclusive Special Courts.

(2) An Exclusive Special Court shall be presided over by a Judge to be nominated by the Government with the concurrence of the High Court.

(3) No person shall be qualified for nomination as a Judge of Exclusive Special Court unless he is or has been an Additional Sessions Judge or Sessions Judge in the State.

Cognizance of
cases by
Exclusive
Special Courts.

4. Notwithstanding anything contained in the Code, the Exclusive Special Court shall take cognizance of specified offences.

Jurisdiction of
Exclusive
Special Courts.

5. (1) The Exclusive Special Court shall exclusively conduct trials of specified offences within its jurisdiction.

(2) While trying an offence under the Exclusive Special Court, an offence (other than the offence referred to in sub-section (1), with which the accused may be charged under the Code, shall also be tried by the Exclusive Special Court under the same trial.

Working of
Exclusive
Special Courts.

6. The provisions of the Code, shall apply to the proceedings before the Exclusive Special Court and for the purposes of the said provisions, the Exclusive Special Court shall be deemed to be a Court of Sessions and the person conducting a prosecution before Exclusive Special Court, shall be deemed to be a Public Prosecutor :

32 of 2012. Provided that, in respect of the offences punishable under the Protection of Children against Sexual Offences Act, 2012, all the provisions of that Act shall *mutatis mutandis* apply.

7. (1) The State Government shall, by notification in the *Official Gazette*, appoint a Special Public Prosecutor for the purpose of conducting the trials before the Exclusive Special Courts.

Provisions relating to Special Public Prosecutor.

(2) A person shall be eligible to be appointed as a Special Public Prosecutor under sub-section (1), only if he has been in practice as an advocate for not less than seven years.

(3) The Special Public Prosecutor appointed under this section shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code and the provisions of that Code shall have effect accordingly.

(4) The tenure of the Special Public Prosecutor so appointed on a case to case basis shall be for the duration of the trial of the concerned offence.

CHAPTER III

CONSTITUTION OF SPECIAL POLICE TEAMS

8. (1) The State Government shall constitute a Special Police Team at District or Commissionerate Level to be called the District or Commissionerate Special Police Team headed by an officer of the rank of Deputy Superintendent of Police, for investigating the specified offences.

Constitution of Special Police Teams.

(2) The officers of Crime Branch of the District or Commissionerate shall be appointed in the Special Police Team.

(3) The investigation of the specified offences shall be carried out by said officers of Special Police Team. The team shall be assisted by other officers on a case to case basis and shall be supported by equipment and personnel as required, for the investigation :

Provided that, every such team shall consist of at least one woman police officer and women personnel.

CHAPTER IV

CONSTITUTION OF INSTITUTIONS FOR

PROVIDING SERVICES TO VICTIMS

9. The State Government shall establish institutions (One- stop Centres, Trauma Centres, *Swadhar Gruha*, *Ujwala* Centres, etc.) for providing services to victims of the specified offences, including providing medical or psychiatric support and care, psychiatric counselling, facilitating legal aid and financial aid and rehabilitation in co-ordination with the concerned agencies, specially endowed with the said function by the Government.

Establishment of institutions providing services to victims.

CHAPTER V

WOMEN AND CHILDREN OFFENDERS REGISTRY

10. (1) The State Government shall establish, operate and maintain a register, in electronic form, to be called the "Women and Children Offenders Registry", in which the full details of the persons convicted of specified offences shall be maintained and made available to law enforcement agencies.

Establishment of Women and Children Offenders Registry.

(2) This Registry shall be linked to the National Registry of Sexual Offenders.

CHAPTER VI

MISCELLANEOUS

Overriding effect over any other laws. **11.** The provisions of this Act shall be in addition to and not in derogation to 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 inconsistency.

Protection of action taken in good faith. **12.** No suit, prosecution or other legal proceedings shall lie against the Government, or any officer or employee of the Government for anything done or purported to have been done in good faith, in pursuance of the provisions of this Act or the rules made thereunder.

Power to make rules. **13. (1)** The State Government may, by notification in the *Official Gazette*, make rules to carry out the purposes of the Act.

(2) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in rule or both Houses agree that the rule should not be made, and notify their decision to that effect in the *Official Gazette*, the rule shall from the date of publication of such decision in the *Official Gazette*, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

Power to remove difficulty. **14. (1)** If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion arises, by an order, published in the *Official Gazette*, do anything, not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purposes of removing the difficulty :

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

STATEMENT OF OBJECTS AND REASONS

The offences against women and children, specially heinous and sexual offences have been increased many fold in the State. The perpetrators continue their inhuman acts on innocent and helpless women and children despite the penal provisions of the various criminal laws like the Indian Penal Code (45 of 1860), the Protection of Children from Sexual Offences Act, 2012 (32 of 2012) and Code of Criminal Procedure, 1973 (2 of 1974). Recently, numerous inhuman acts have been taken place in the State where the women and children were subjected to rape, burning alive and murder. Such incidents are shocking to the social conscience.

2. In order to effectively control the heinous and sexual offences against women and children, the Government has appointed a Committee to make suggestions for stringent punishments and other related matters to amend the said Acts. The Committee has submitted its report to the Government. The Committee suggested amendments in the Indian Penal Code, the Protection of Children from Sexual Offences Act, 2012 and Code of Criminal Procedure, 1973 to provide heavy fines and penalty upto death to the accused and proposed to enact new law for establishment of Exclusive Special Courts for speedy investigation and speedy trials of such offences against women and children.

3. The Government has considered the said report and decided to enact a special law for establishment of Exclusive Special Courts for speedy trial of such offences against women and children and to establish machinery to give effect the provisions of enhanced punishments under the penal laws.

4. The salient features of the proposed law are as follows :—

(i) to establish in each district, one or more Exclusive Special Courts for speedy trials;

(ii) to provide for appointment of Special Public Prosecutor;

(iii) to provide for constitution of special Police Teams at District or Commissionerate level for investigation of specified offences;

(iv) to establish institutions for providing services to victims including medical or psychiatric support and care, psychiatric counseling, facilitating legal and financial aid and rehabilitation of the victim;

(v) to maintain register in electronic form of persons convicted of specified offences against women and children.

5. The Bill is intended to achieve the above objectives.

Mumbai,
Dated the 12th December 2020.

ANIL DESHMUKH,
Minister for Home.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

The Bill involves the following proposals for delegation of legislative power, namely :—

Clause 1 (2).— Under this clause, power is taken to the State Government to bring the Act into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Clause 3 (1).— Under this clause, power is taken to the State Government to establish, by notification in the *Official Gazette*, in each district, one or more Exclusive Special Courts in consultation with the High Court, for the purpose of speedy trial of specified offences.

Clause 7 (1).— Under this clause, power is taken to the State Government to appoint, by notification in the *Official Gazette*, the Special Public Prosecutor, for conducting trials before the Exclusive Special Courts.

Clause 13.— Under this clause, power is taken to the State Government to make rules, by notification in the *Official Gazette*, to carry out the purposes of the Act.

Clause 14.— Under this clause, power is taken to the State Government to issue an order for removing any difficulty which may arise in giving effect to the provisions of the Act.

2. The above-mentioned proposals for delegation of legislative power are of normal character.

FINANCIAL MEMORANDUM.

The Bill provides for constitution of the Exclusive Special Courts, special police teams, appointment of Special Public Prosecutors and establishment of institutions for providing services to victims.

Certain recurring and non-recurring expenditure will have to be incurred from the Consolidated Fund of the State. However, it is not possible, at this stage, to give an estimate of actual expenditure that may have to be incurred in this behalf from the Consolidated Fund of the State, on enactment of the Bill as an Act of the State Legislature but the same will be met by way of an Appropriation Act .