

AS INTRODUCED IN THE RAJYA SABHA
ON THE 26TH FEBRUARY, 2016

Bill No. LIX of 2015

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT)
BILL, 2015

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BILL

further to amend the Code of Criminal Procedure, 1973.

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

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2015.

Short title
and com-
mencement.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2 of 1974. 5

2. In section 196 of the Code of Criminal Procedure, 1973 sub-sections (1), (1A) and (3) shall be deleted.

Amendment
of section
196.

STATEMENT OF OBJECTS AND REASONS

There are several laws against communal violence in the country but their enforcement is hampered by legal limitations and a severely ineffective police. This makes communal offenders act with impunity, encouraging more of such violence. It is therefore vital that the law be strengthened and gaps plugged in so that the perpetrators of crime as well as the victims get justice.

Section 196 (1) and (1A) of the Code of Criminal Procedure (CrPC) requires the permission of the Union or State Government for prosecuting those accused of communal offences as prescribed under sections 153A, 153B, 295A and 505 of the Indian Penal Code (IPC). This has rendered the existing laws largely powerless as patronage is frequently used to deny sanction and to shelter the accused. This is the reason why several commissions, including the second Administrative Reforms Commission in its 5th report on public order, recommended that the relevant clauses under the section be removed. This amendment, therefore, seeks to remove the requirement of Government permission before prosecuting the accused.

Hence this Bill.

HUSAIN DALWAI

ANNEXURE

EXTRACTS FROM THE CODE OF CRIMINAL PROCEDURE, 1973

(2 OF 1974)

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196. (1) No Court shall take cognizance of—

(a) any offence punishable under Chapter VI or under section 153A, section 295A or sub-section (1) of section 505 of the Indian Penal Code (45 of 1860), or

(b) a criminal conspiracy to commit such offence, or

(c) any such abetment, as is described in section 108A of the Indian Penal Code (45 of 1860), except with the previous sanction of the Central Government or of the State Government.

Prosecution for offences against the State and for criminal conspiracy to commit such offence

(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 (45 of 1860), or

(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.

(2) No Court shall take cognizance of the offence of any criminal conspiracy punishable under section 120B of the Indian Penal Code (45 of 1860), other than a criminal conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, unless the State Government or the District Magistrate has consented in writing to the initiation of the proceeding:

Provided that where the criminal conspiracy is one to which the provisions of section 195 apply, no such consent shall be necessary.

(3) The Central Government or the State Government may, before according sanction under sub-section (1) or sub-section (1A) and the District Magistrate may, before according sanction under sub-section (1A) and the State Government or the District Magistrate may, before giving consent under sub-section (2), order a preliminary investigation by a police officer not being below the rank of Inspector, in which case such police officer shall have the powers referred to in sub-section (3) of section 155.

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RAJYA SABHA

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further to amend the Code of Criminal Procedure, 1973.

(Shri Husain Dalwai, M.P.)