

Bill No. VII of 2019

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL, 2019

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further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Seventieth year of the Republic of India as follows:—

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2019. Short title and commencement.

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

2 of 1974. 2. In the First Schedule to the Code of Criminal Procedure, 1973, under the heading "I.—OFFENCES UNDER THE INDIAN PENAL CODE", Amendment of First Schedule.

(i) for the entry relating to section 326, the following entries shall be substituted, namely:—

| 1 | 2 | 3 | 4 | 5 | 6 | |
|-----|--|---|-------|--------------|-------------------|----|
| 326 | Voluntarily causing grievous hurt by dangerous weapons or means. | Imprisonment for life, or imprisonment for 10 years and fine. | Ditto | Non-bailable | Court of Session. | 5 |
| | | | | | | 10 |

(ii) for the entry relating to section 377, the following entries shall be substituted, namely:—

| 1 | 2 | 3 | 4 | 5 | 6 | |
|-----|---------------------|---|------------|--------------|-------------------|----|
| 377 | Unnatural offences. | Imprisonment for life, or imprisonment for 10 years and fine. | Cognizable | Non-bailable | Court of Session. | 15 |

(i) for the entry relating to section 467, the following entries shall be substituted, namely:—

| 1 | 2 | 3 | 4 | 5 | 6 | |
|-----|--|---|------------|-------|------------------|----|
| 467 | Forgery of a valuable security, will or authority to make or transfer any valuable security, or to receive any money, etc. | Imprisonment for life, or imprisonment for 10 years and fine. | Ditto | Ditto | Court of Session | 25 |
| | When the valuable security is a promissory note of the Central Government. | Ditto | Cognizable | Ditto | Ditto | 30 |

STATEMENT OF OBJECTS AND REASONS

Sections 326, 377 and 467 of the Indian Penal Code provide for punishment for the offences of voluntarily causing grievous hurt, unnatural offences and forgery of valuable security, will etc. respectively. These sections prescribe a punishment of life imprisonment or imprisonment of either description for a term which may extend to ten years and fine.

The First Schedule to the Code of Criminal Procedure lays down that the offences under these sections are triable by a Magistrate of the first class. However, under section 29 of the Code of Criminal Procedure, a first class Magistrate does not have the power to award the sentence of imprisonment for life or imprisonment for ten years. The power to award these sentences is vested in the Court of Session. Though there is a provision under section 325 of the Code of Criminal Procedure which allows a Magistrate to transfer proceedings to the Chief Judicial Magistrate when he himself cannot pass sentence sufficiently, this still does not address the inconsistency between the provisions of sections 326, 377 and 467 and the First Schedule to the Code of Criminal Procedure because even a Chief Judicial Magistrate is not empowered to award punishment of imprisonment for life or imprisonment for 10 years.

In order to address the above inconsistency, the First Schedule to the Code of Criminal Procedure needs to be amended so as to provide that the offences under sections 326, 377 and 467 shall be triable by the Court of Session.

The Bill seeks to achieve the above objects.

NARAYAN LAL PANCHARIYA

ANNEXURE

EXTRACTS FROM THE CODE OF CRIMINAL PROCEDURE, 1973

(2 OF 1974)

FIRST SCHEDULE

I. OFFENCES UNDER THE INDIAN PENAL CODE

| Section | Offence | Punishment | Cognizable or Non- Cognizable | Bailable or Non- Bailable | By what Court triable. |
|---------|--|--|-------------------------------------|---------------------------------|--------------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 |
| *** | | *** | *** | | *** |
| 326 | Voluntarily causing grievous hurt by dangerous weapons or means. | Imprisonment for life, or imprisonment for 10 years and fine. | Ditto | Non-bailable | Magistrate of the first class. |
| *** | | *** | *** | | *** |
| 377 | Unnatural offences. | Imprisonment for life, or imprisonment for 10 years and fine. | Cognizable | Non-bailable | Magistrate of the first class. |
| *** | | *** | *** | | *** |
| 467 | Forgery of a valuable security, will or authority to make or transfer any valuable security, or to receive any money, etc. When the valuable security is a promissory note of the Central Government. | Imprisonment for life, or imprisonment for 10 years and fine. Ditto | Ditto Cognizable | Ditto Ditto | Ditto Ditto |
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RAJYA SABHA

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further to amend the Code of Criminal Procedure, 1973.

(Shri Narayan Lal Panchariya, M.P.)