

AS INTRODUCED IN THE RAJYA SABHA  
ON THE 10TH MARCH, 2017

**Bill No. LXVI of 2016**

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL, 2016

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BILL

*further to amend the code of Criminal Procedure, 1973.*

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

1. (1) This Act may be called the Criminal Procedure (Amendment) Act, 2016. Short title,  
extent and  
commencement.
- (2) It shall extend to the whole of India except the State of Jammu and Kashmir.
- 5 (3) It shall come into force immediately.
2. In the code of Criminal Procedure, 1973, after section 154, the following shall be inserted, namely:— Insertions of  
New Section  
154A in Act 2  
of 1974.

Information in  
custodial  
offences.

“154A. Notwithstanding anything contained in section 154,—

(1) Any person, including Legal Aid Centre or Non-Government Organisation or any friend or relative, aggrieved by a refusal on the part of an officer incharge of a police station to record the information referred to in sub-section (1) of section 154, in cases relating to custodial offences, may file a petition giving the substance of such information— 5

(a) before the Chief Judicial Magistrate, in case of custodial offences other than those involving death of the victim; or

(b) before the Sessions Judge, in cases of custodial offences involving death of the victim.

(2) The Chief Judicial Magistrate or the Sessions Judge, if satisfied, on a preliminary enquiry that there is a *prima facie* case, shall either hold enquiry himself into the complaint or direct some other Judicial Magistrate or Additional Sessions Judge, as the case may be, to hold enquiry and thereupon direct the ministerial officer of the Court to make complaint to the competent court in respect of offence that may appear to have been committed. 10

(3) Notwithstanding anything contained in section 190 of this Code, on a complaint made under sub-section (2) of this section, the competent court shall take cognizance of the offence and try the same. 15

(4) The Chief Judicial Magistrate or the Sessions Judge may obtain the assistance of any public servant or authority as they may deem fit in holding the enquiry under sub-section (2).” 20

## STATEMENT OF OBJECTS AND REASONS

As per data collected by National Crime Record Bureau, in the year 2013, 115 custodial deaths were reported across the country, followed by 93 in 2014 and 97 in 2015. It is astonishing to note that out of the 97 deaths in 2015, only 9, that is less than 10% were natural deaths and the maximum were reported as suicides. It is alarming that most of these deaths occur in police custody when such people have not been remanded by courts. People die in police custody before they can even be presented in a court of law.

Our criminal justice system is particularly slow to act in such cases. Out of the 93 recorded deaths in 2014, only 28 cases were registered in which 26 policemen were chargesheeted. In 2015, as against 97 recorded deaths, 35 cases were registered and 28 policemen were chargesheeted. However, both in 2014 and 2015, no policeman was convicted for such offences.

In its 152nd report on Custodial Crimes in 1994, the Law Commission of India pointed out that complainants in cases of custodial crimes find it very difficult to register cases because policemen refuse to even register a case trying to shield their superiors or colleagues. Therefore the Commission suggested an amendment to section 154 of the Code of Criminal Procedure enabling complainants to approach the courts in case police refuses to file a case and empowers courts to order enquiries in such cases. While other recommendations of the Report most notably the rights of the arrestee have been incorporated in the Code, this crucial provision has been left out. The bill proposes, to meet the above objectives.

Hence this Bill.

HUSAIN DALWAI

ANNEXURE

EXTRACTS FROM THE CODE OF CRIMINAL PROCEDURE, 1973

(2 OF 1974)

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CHAPTER XII

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE

Information in cognizable cases.

**154. (1)** Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf.

"Provided that if the information is given by the woman against whom an offence under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:

Provided further that—

(a) in the event that the person against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be;

(b) the recording of such information shall be videographed;

(c) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (a) of sub-section (5A) of section 164 as soon as possible."

(2) A copy of the information as recorded under sub-section (1) shall be given forthwith, free of cost, to the informant.

(3) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred to in sub-section (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who, if satisfied that such information discloses the commission of a cognizable offence, shall either investigate the case himself or direct an investigation to be made by any police officer subordinate to him, in the manner provided by this Code, and such officer shall have all the powers of an officer in charge of the police station in relation to that offence.

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RAJYA SABHA

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**BILL**

further to amend the Code of Criminal Procedure, 1973.

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*(Shri Husain Dalwai, M.P.)*