

**Bill No. LXIX of 2012**

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT)  
BILL, 2012

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

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

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2012.

Short title  
and  
commencement.

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

2. (1) In section 309 of the Code of Criminal Procedure 1973,

Amendment  
of Section 309  
of Act 2 of  
1974.

(a) in sub-section (1) for the words "as expeditiously as possible" the words  
"within one year" shall be substituted;

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

"Provided further that no such adjournment shall be granted more than three times to a party during hearing of the suit."

(c) in sub-section (2) the following proviso shall be inserted, namely:—

"Provided again that penal cost be imposed against the party who seeks and obtains adjournment during the trial which shall include the expenses incurred by the opposite party as well as the Court, the expenses of the witnesses who have come for giving evidence and or rupees five lakh per adjournment after the maximum permissible limit of adjournments under sub-section (1) of section 309 has been exhausted." 5

## STATEMENT OF OBJECTS AND REASONS

India has one of the highest court cases backlog which is seriously threatening the democratic setup and undermining the common law justice system. Number of cases are piling up every year to the point that there are 2,79,53,070 cases pending in various courts by the end of March, 2011. The right to speedy and a fair trial has been held as a fundamental right by the Honorable Supreme Court but sadly, the situation has not improved. The Malimath Committee which was formed in the year 2000 suggested that the adjournments should not be used as a tool for delaying the justice by the Courts and recommended penal imposition to the party which demands adjournments. The Code of Civil Procedure, 1908 grants a maximum of three adjournments. The Consumer Protection Act, 1986 mandates that the verdict of a case should be pronounced within three to five months. There is no limit to adjournments in criminal cases and this leads to delaying the case by filing frivolous adjournments. The Bill seeks to amend the section 309 of the Criminal Procedure Code.

Hence this Bill.

PRAKASH JAVADEKAR

ANNEXURE

EXTRACTS FROM THE CODE OF CRIMINAL PROCEDURE, 1973

(2 OF 1974)

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Power to postpone or adjourn proceedings.

309. (1) In every inquiry or trial, the proceedings shall be held as expeditiously as possible, and in particular, when the examination of witnesses has once begun, the same shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded:

Provided that when the inquiry or trial relates to an offence under sections 376 to 376D of the Indian Penal Code, the inquiry or trial shall, as far as possible, be completed within a period of two months from the date of commencement of the examination of witnesses.

45 of 1860.

(2) If the Court, after taking cognizance of an offence, or commencement of trial, finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may by a warrant remand the accused if in custody:

Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time:

Provided further that when witnesses are in attendance, no adjournment or postponement shall be granted, without examining them, except for special reasons to be recorded in writing:

Provided also that no adjournment shall be granted for the purpose only of enabling the accused person to show cause against the sentence proposed to be imposed on him.

Provided also that—

(a) no adjournment shall be granted at the request of a party, except where the circumstances are beyond the control of that party;

(b) the fact that the pleader of a party is engaged in another Court, shall not be a ground for adjournment;

(c) where a witness is present in Court but a party or his pleader is not present or the party or his pleader though present in Court, is not ready to examine or cross-examine the witness, the Court may, if thinks fit, record the statement of the witness and pass such orders as it thinks fit dispensing with the examination-in-chief or cross-examination of the witness, as the case may be.

Explanation 1.—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Explanation 2.—The terms on which an adjournment or postponement may be granted include, in appropriate cases, the payment of costs by the prosecution or the accused.

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*(Shri Prakash Javadekar, M.P.)*