The Criminal Law Amendment (Bombay Amendment and Extension) Act, 1959

Act 24 of 1959

Keyword(s):
Central Act Amendment, The Indian Criminal Amendment, 1908

Amendment appended: 38 of 1975
THE CRIMINAL LAW AMENDMENT (BOMBAY AMENDMENT AND EXTENSION) ACT, 1959.

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BC-69A
BOMBAY ACT No. XXIV OF 1959.¹

[The Criminal Law Amendment (Bombay Amendment and Extension) Act, 1959.]

[27th April 1959]

An Act further to amend the Indian Criminal Law Amendment Act, 1908 and the Criminal Law Amendment Act, 1932 and to extend those Acts to the Hyderabad and Saurashtra areas of the State of Bombay.

WHEREAS the Indian Criminal Law Amendment Act, 1908 and the Criminal Law Amendment Act, 1932 extend to the whole of the State of Bombay except the territories which, immediately before the 1st November 1956, were comprised in Part B States;

AND WHEREAS in the Hyderabad area of the State the Hyderabad Public Security Act is in force and in the Saurashtra area the Indian Criminal Law Amendment Act, 1908 and the Criminal Law Amendment Act, 1932 (Adaptation) Ordinance, 1949, is in force;

AND WHEREAS it is expedient that the Indian Criminal Law Amendment Act, 1908 and the Criminal Law Amendment Act, 1932, be further amended for the purposes hereinafter appearing and be also extended to and brought into force in the rest of the State; and in consequence the corresponding laws aforesaid be repealed;

It is hereby enacted in the Tenth Year of the Republic of India as follows:

1. This Act may be called the Criminal Law Amendment (Bombay Amendment Shorttitle and Extension) Act, 1959,

2. In the Indian Criminal Law Amendment Act, 1908, in its application to the pre-Reorganisation State of Bombay excluding the transferred territories, and the Kutch area and the Vidarbha region of the Bombay State (hereinafter referred to as "the principal Act of 1908"), in section 15, in clause (2), the word "or" 1908, at the end of sub-clause (a) and the whole of sub-clause (b) shall be deleted.

3. Sections 16 and 17A to 17D (both inclusive) of the principal Act of 1908 and section 16A inserted in the Indian Criminal Law Amendment Act, 1908, in its application to the pre-Reorganisation State of Bombay by section 27 of the Bombay Public Security Measures Act, 1947, shall be deleted.

4. For section 17F of the principal Act of 1908, the following shall be substituted, namely:—

"17F. Every declaration of forfeiture made, or purporting to be made, under this Act, shall, as against all persons, be conclusive proof that the property specified therein has been forfeited and save as provided in section 17E no proceeding purporting to be taken under that section shall be called in question by or in any Court, and no civil or criminal proceeding shall be instituted against any person for anything in good faith done or intended to be done under that section."

5. In the Criminal Law Amendment Act, 1932, in its application to the pre-1932 Reorganisation State of Bombay excluding the transferred territories, and the Kutch areas and the Vidarbha region of the Bombay State (hereinafter referred to as "the principal Act of 1932"), in section 5, in sub-section (2), the words, brackets and figures "or sub-section (2) of section 4 of the Indian Press (Emergency Powers) Act, 1931" shall be deleted.

6. Sections 18 and 19 of the principal Act of 1932 shall be deleted.

7. The principal Act of 1908, as amended by this Act, is hereby extended to, and shall in virtue of such extension be in force in, the Hyderabad and Saurashtra areas of the Bombay State.

8. In the Indian Criminal Law Amendment Act, 1908, in its application to the State of Bombay, in section 1,—

(1) in sub-section (2), after the words and letter "comprised in Part B States" the words "other than the Hyderabad and Saurashtra areas of the State of Bombay" shall be inserted;

(2) to sub-section (3), the following proviso shall be added, namely:—

"Provided that on the date of the commencement of the Criminal Law Amendment (Bombay Amendment and Extension) Act, 1959, the whole of this Act shall come into force in that part of the State of Bombay in which it was not in force immediately before such date."

9. The principal Act of 1932, as amended by this Act, is hereby extended to, and shall in virtue of such extension be in force in, the Hyderabad and Saurashtra areas of the Bombay State.
10. In the Criminal Law Amendment Act, 1932, in its application to the State of Bombay, in section 1,—

(1) in sub-section (2), after the words and letter "comprised in Part B States", the words "other than the Hyderabad and Saurashtra areas of the State of Bombay" shall be inserted;

(2) to sub-section (4), the following proviso shall be added, namely:

"Provided that in the Hyderabad and Saurashtra areas of the State of Bombay this Act except section 7 shall come into force on the date of the commencement of the Criminal Law Amendment (Bombay Amendment and Extension) Act, 1959."

11. On the commencement of this Act,—

(1) the Hyderabad Public Security Act, in its application to the Hyderabad area of the State of Bombay; and

(2) the Indian Criminal Law Amendment Act, 1908 and the Criminal Law Amendment Act, 1932 (Adaptation) Ordinance, 1949, shall be repealed:

Provided that such repeal shall not affect—

(a) the previous operation of any law so repealed; or

(b) any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed; or

(c) any investigation, legal proceeding or remedy in respect of such penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed:

Provided further that, subject to the preceding proviso, anything done or any action taken (including any appointment, order, declaration or report made or consent or certificate given or notification issued) by or under any such law, shall, in so far as it is not inconsistent with the Indian Criminal Law Amendment Act, 1908 or the Criminal Law Amendment Act, 1932, as the case may be, in its application to the State of Bombay, be deemed to have been done or taken under the corresponding provisions of the relevant Act aforesaid.
THE INDIAN CRIMINAL LAW AMENDMENT (MAHARASHTRA AMENDMENT) ACT, 1975

CONTENTS

PREAMBLE

SECTIONS

1. Short title and commencement.
2. Amendment of section 15 of Act XIV of 1908.
3. Insertion of section 16 in Act XIV of 1908.
4. Amendment of section 17 of Act XIV of 1908.
5. Insertion of sections 17A to 17D in Act XIV of 1908.
6. Amendment of section 17E of Act XIV of 1908.
7. Substitution of section 17F of Act XIV of 1908.
MAHARASHTRA ACT No. XXXVIII OF 1975.¹

[THE INDIAN CRIMINAL LAW AMENDMENT (MAHARASHTRA AMENDMENT) ACT, 1975]

[8th September 1975]

An Act to amend the Indian Criminal Law Amendment Act, 1908

WHEREAS both Houses of the Legislature of the State were not in session;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to amend the Indian Criminal Law Amendment Act, 1908, in its application to the State of Maharashtra, for the purposes hereinafter appearing; and, therefore, promulgated the Indian Criminal Law Amendment (Maharashtra Amendment) Ordinance, 1975, on the 10th day of July 1975;

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Twenty-sixth Year of the Republic of India as follows:

1. (1) This Act may be called the Indian Criminal Law Amendment (Maharashtra Amendment) Act, 1975. Short title and commencement.

(2) It shall be deemed to have come into force on the 10th day of July 1975.

2. In section 15 of the Indian Criminal Law Amendment Act, 1908, in its application to the State of Maharashtra (hereinafter referred to as “the principal Act”), in clause (2), after the words “habitually commit such acts,” the following shall be inserted, namely:—

“or

(b) which has been declared to be unlawful by the State Government under the powers hereby conferred.”.

3. After section 15 of the principal Act, the following section shall be inserted, namely:—

“16. If the State Government is of opinion that any association interferes or has for its object interference with the public administration or the maintenance of supplies and services essential to the life of the community or the administration of the law or the maintenance of law and order, or that it constitutes a danger to the public peace, the State Government may, by notification in the Official Gazette, declare such association to be unlawful.”.


5. After section 17 of the principal Act, the following sections shall be inserted, namely:

"17A. (1) The State Government or in any area for which a Commissioner of Police is appointed the Commissioner of Police and elsewhere the District Magistrate, may, by notification in the Official Gazette, notify any place which in its or his opinion is used for the purposes of an unlawful association.

Explanation.—For the purposes of this section, 'place' includes a house or building, or part thereof, or a tent or vessel.

(2) When any place is notified under sub-section (1), the Commissioner of Police or the District Magistrate, or any officer authorised in this behalf in writing by the Commissioner of Police or District Magistrate, as the case may be, may take possession of the notified place and evict therefrom any person found therein, and shall forthwith make a report of the taking possession to the State Government:

Provided that, where such place contains any apartment occupied by women or children reasonable time and facilities shall be afforded for their withdrawal with the least possible inconvenience.

(3) A notified place whereof possession is taken under sub-section (2) shall be deemed to remain in the possession of Government so long as the notification under sub-section (1) in respect thereof remains in force.

17B. (1) The Commissioner of Police, District Magistrate or officer taking possession of a notified place shall also take possession of all moveable property found therein, and shall make a list thereof in the presence of two respectable witnesses.

(2) If, in the opinion of the Commissioner of Police or District Magistrate, as the case may be, any articles specified in the list are or may be used for the purposes of the unlawful association, he may proceed, subject to the provisions hereafter contained in this section, to order such articles to be forfeited to Government.

(3) All other articles specified in the list shall be delivered to the person whom the Commissioner of Police or District Magistrate, as the case may be, considers to be entitled to possession thereof, or, if no such person is found, shall be disposed of in such manner as he may direct.

(4) The Commissioner of Police or District Magistrate, as the case may be, shall publish, as nearly as may be, in the manner provided in section 82 of the Code of Criminal Procedure, 1973, for the publication of a proclamation, a notice specifying the articles which it is proposed to forfeit and calling upon any person claiming that any article is not liable to forfeiture to submit in writing within fifteen days any representation he desires to make against the forfeiture of the article.

(5) Where any such representation is accepted by the Commissioner of Police or District Magistrate, he shall deal with the article concerned in accordance with the provisions of sub-section (3).

(6) Where any such representation is rejected, the representation, with the decision thereon, shall be forwarded in Greater Bombay to the Chief Judge of the Small Cause Court and elsewhere to the District Judge, and no order of
forfeiture shall be made until the Chief Judge of the Small Cause Court or District Judge, as the case may be, has adjudicated upon the representation. Where the decision is not confirmed, the articles shall be dealt with in accordance with the provisions of sub-section (3).

(7) In making an adjudication under sub-section (6), the procedure to be followed shall be the procedure laid down in the Code of Civil Procedure, 1908, for the investigation of claims so far as it can be made to apply, and the decision of the Chief Judge of the Small Cause Court or District Judge, as the case may be, shall be final.

(8) If the article seized is livestock or is of a perishable nature, the Commissioner of Police or District Magistrate may, if he thinks it expedient, order the immediate sale thereof, and the proceeds of the sale shall be disposed of in the manner herein provided for the disposal of other articles.

17C. Any person who enters or remains upon a notified place without the permission of the Commissioner of Police or District Magistrate or of an officer authorised in this behalf by the Commissioner of Police or District Magistrate, notiﬁed places, as the case may be, shall be deemed to commit trespass.

17D. Before a notification under sub-section (7) of section 17A is cancelled, the State Government shall give such general or special directions as it may deem requisite regulating the relinquishment by Government of possession of notified places.

6. In section 17E of the principal Act,—

(a) in sub-section (3),—

(i) for the words “to the District Judge in a district, or to the Chief Judge of the Small Cause Court in a presidency-town,” the words “in Greater Bombay to the Chief Judge of the Small Cause Court, and elsewhere to the District Judge.” shall be substituted;

(ii) for the words “unless the District Judge or Chief Judge of the Small Cause Court,” the words “unless the Chief Judge of the Small Cause Court or District Judge” shall be substituted;

(b) in sub-section (4), for the words “the District Judge or Chief Judge of the Small Cause Court,” the words “the Chief Judge of the Small Cause Court or District Judge,” shall be substituted;

(c) in sub-section (7), for the words and figures “Code of Criminal Procedure, 1898” the words and figures “Code of Criminal Procedure, 1973” shall be substituted.

7. For section 17F of the principal Act, the following section shall be substituted, namely:—

“17F. Every report of the taking possession of property and every declaration of forfeiture made, or purporting to be made under this Act, shall, as against all persons, be conclusive proof that the property specified therein has been taken possession of by Government or has been forfeited; as the case may be, and save as provided in sections 17B and 17E, no proceeding purporting to be taken under section 17A, 17B, 17C, 17D, or 17E shall be called in question by any Court,
and no civil or criminal proceeding shall be instituted against any person for anything in good faith done or intended to be done under the said sections or against Government or any person acting on behalf of or by authority of Government for any loss or damage caused to or in respect of any property wherof possession has been taken by Government under this Act"

Repeal of

8. (1) The Indian Criminal Law Amendment (Maharashtra Amendment) Ordinance, 1975, is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken (including any notification issued) under the principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the principal Act, as amended by this Act.