



महाराष्ट्र शासन राजपत्र

असाधारण भाग पाच-अ

वर्ष ७, अंक ७(७)]

बुधवार, डिसेंबर २२, २०२१/पौष १, शके १९४३

[पृष्ठे २२, किंमत : रुपये ३६.००

असाधारण क्रमांक ३५

प्राधिकृत प्रकाशन

महाराष्ट्र विधानसभेत व महाराष्ट्र विधानपरिषदेत सादर केलेली विधेयके (इंग्रजी अनुवाद).

MAHARASHTRA LEGISLATURE SECRETARIAT

The following report of the Joint Committee on the Bill further to amend the Indian Penal Code, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012, in their application to the State of Maharashtra which was presented to the Maharashtra Legislative Assembly on the 22nd December, 2021 is, in accordance with the provisions of sub-rule (4) of Rule 129 of the Maharashtra Legislative Assembly Rules, published for general information :—

Constitution of a Joint Committee of both the Houses on L. A.

Bill No. LI of 2020 - SHAKTI Criminal Laws

(Maharashtra Amendment) Bill, 2020

***Shri. Anil Deshmukh, Hon. Home Minister - Chairman of the Committee**

Member :

1. Shri Jitendra Awhad, Hon. Minister for Housing
2. Adv. Anil Parab, Hon. Minister for Parliamentary Affairs
3. Shri Suresh Warpudkar, M.L.A.
4. Shri Deepak Kesarkar, M.L.A.

5. Smt. Praniti Shinde, M.L.A.
6. Smt. Madhuri Misal, M.L.A.
7. Shri Sunil Prabhu, M.L.A.
8. Smt. Manisha Choudhari, M.L.A.
9. Smt Devyani Pharande, M.L.A.
10. Dr. Bharati Lavekar, M.L.A.
11. Adv. Rahul Narvekar, M.L.A.
12. Smt. Saroj Ahire, M.L.A.
13. Smt. Yamini Yashwant Jadhav, M.L.A.
14. Shri Rais Shaikh, M.L.A.
15. Smt. Shweta Mahale, M.L.A.
16. Shri Shashikant Shinde, M.L.C.
17. Shri Vijay *Alias* Bhai Girkar, M.L.C.
18. Shri Ashok *Alias* Bhai Jagtap, M.L.C.
19. Shri Kapil Patil, M.L.C.
20. Shri Vinayak Mete, M.L.C.
21. Shri Amol Mitkari, M.L.C.

* The Post of Chairman of the Committee became vacant due to resignation of the Home Minister on 5th April, 2021.

The Maharashtra Legislature Secretariat:

- (1) Shri Rajendra Bhagwat, Principal Secretary
- (2) Shri Shivdarshan Sathaye, Deputy Secretary
- (3) Shri Subhash Nalawade, Under Secretary
- (4) Shri G. D. Debadwar, Under Secretary (Committee)
- (5) Shri Anand Telang, Assistant Section Officer

Officers from Mantralaya :

- (1) Shri Sitaram Kunte, Additional Chief Secretary, Home Department.
- (2) Shri Vinit Agrawal, Principal Secretary, Home (Special) Department.
- (3) Shri Bhupendra M. Gurav, Secretary (Legislation), Law and Judiciary Department.
- (4) Shri Shirish Mohod, Deputy Secretary, Home Department.
- (5) Smt. Mugdha Sawant, Deputy Secretary, Law and Judiciary Department.
- (6) Shri Naresh Pusnake, Under Secretary, Law and Judiciary Department.

**** Shri. Dilip Walse-Patil, Hon. Home Minister – Chairman of the Committee**

Member :

1. Shri Jitendra Awhad, Hon. Minister for Housing
2. Adv. Anil Parab, Hon. Minister for Parliamentary Affairs
3. Shri Suresh Warpudkar, M.L.A.
4. Shri Deepak Kesarkar, M.L.A.
5. Smt. Praniti Shinde, M.L.A.
6. Smt. Madhuri Misal, M.L.A.
7. Shri. Sunil Prabhu, M.L.A.
8. Smt. Manisha Choudhari, M.L.A.
9. Smt. Devyani Pharande, M.L.A.
10. Dr. Bharati Lavekar, M.L.A.
11. Adv. Rahul Narvekar, M.L.A.
12. Smt. Saroj Ahire, M.L.A.
13. Smt. Yamini Yashwant Jadhav, M.L.A.
14. Shri Rais Shaikh, M.L.A.
15. Smt. Shweta Mahale, M.L.A.
16. Shri Shashikant Shinde, M.L.C.
17. Shri Vijay *Alias* Bhai Girkar, M.L.C.
18. Shri Ashok *Alias* Bhai Jagtap, M.L.C.
19. Shri Kapil Patil, M.L.C.
20. Shri Vinayak Mete, M.L.C.
21. Shri Amol Mitkari, M.L.C.

Invitee Member:

Smt.. Manisha Kayande, M.L.C.

** Appointed as the Chairman of the Committee in accordance with the Motion passed by the Maharashtra Legislative Assembly on 5th July, 2021.

The Maharashtra Legislature Secretariat:

- (1) Shri Rajendra Bhagwat, Principal Secretary
- (2) Shri Shivdarshan Sathaye, Deputy Secretary
- (3) Shri Subhash Nalawade, Under Secretary
- (4) Shri G. D. Debadwar, Under Secretary (Committee)
- (5) Shri Nagsen Bansode, Section Officer
- (6) Shri Anand Telang, Assistant Section Officer

Officers from Mantralaya:

- (1) Shri Manukumar Shrivastav, Additional Chief Secretary, Home Department
- (2) Shri Sanjay Saxsena, Principal Secretary, Home (Special) Department
- (3) Shri Satish Waghole, Secretary (Legislation), Law and Judiciary Department
- (4) Shri Rahul Kulkarni, Joint Secretary, Home Department
- (5) Smt. Mugdha Sawant, Joint Secretary (in charge), Law and Judiciary Department.
- (6) Shri Shirish Mohod, Deputy Secretary, Home Department
- (7) Shri N. M. Pusnake, Under Secretary, Law and Judiciary Department.

**Report of the Joint Committee on L.A. Bill No.LI of 2020
SHAKTI Criminal Laws (Maharashtra Amendment) Bill, 2020.**

L.A. Bill No. LI – SHAKTI Criminal Laws (Maharashtra Amendment) Bill, 2020 was referred for consideration to this Joint Committee. As a Chairman of this Committee, I have been authorised to present this report on its behalf. So, I am hereby presenting this report along with the aforesaid Bill containing amendments made in it by the Committee.

This bill was introduced in the Maharashtra Legislative Assembly on 15th December, 2020. The motion to refer the said Bill for consideration to a Joint Committee of both the Houses was adopted by the Legislative Assembly on 15th December, 2020 after getting the concurrence of the Legislative Council.

The Committee convened total 13 (Thirteen) meetings. The first meeting of the Committee was held on 29th December, 2020 to pinpoint certain initial matters. During this meeting, it was decided to solicit amendments/suggestions from the members of both the Houses and general public up to 15th January, 2021. Accordingly, the Hon. Members of Legislature as well as the people were informed through letters and publication of advertisements in leading newspapers respectively. The Committee convened meetings at Nagpur on 11th January, 2021 and at Aurangabad on 29th January, 2021, where it sought opinions of representatives of women's organisations as well as the representatives of Bar Association of the High Court and Advocate Union of Sessions Court of the said divisions in order to make the proposed Bill more efficient and effective. The Committee, in its meeting held on 19th January, 2021, also sought expert opinion of Dr. Neelam Gorhe, Hon. Deputy Chairman, Maharashtra Legislative Council, considering her contribution and dedication to the cause of women empowerment.

It also held a meeting with representatives of womens' organisations from Mumbai and advocates union from High Court's Bar Association and City Civil Court as well as Sessions Court in order to acquire suggestions / amendments from them. The Committee also consulted Smt. Aswati Dorjay, Joint Police Commissioner, Nagpur, who has played a key role in drafting of the said Bill. Also, the Committee has acquired opinions of investigation officers having experience of investigating criminal cases in urban and rural areas by holding deliberations with them. This Joint Committee convened total 11 meetings on 29th December, 2020, 5th

January, 11th January, 19th January, 29th January, 22nd February, 22nd July, 28th September and 29th September, 2021, 21st October, and 18th October, 2021 respectively. During the said meetings, Committee considered the aforesaid Bill clause by clause while paying due attention to the various suggestions/amendments received from all the concerned. Accordingly, the Committee finalised the amendments to be carried out in the Bill. The Committee accepted this report along with the amendments during its meeting held on 2nd and 21st December, 2021.

The Report

Remarks of the Committee regarding amendments made in various clauses of the Bill are laid down in detail in the following paragraphs.

As per the prevailing practice, numerical years during which a Bill is to be enacted is mentioned in the enacting clause of the Bill. This numerical year is counted from the day our country was declared as a republic by the Constitution of India *i.e.* from 26th January, 1950. The said Bill was drafted in year 2020 and accordingly, the enacting clause of the Bill mentions the enacting year as "Seventy First". However, the current year is 2021 and hence as per the committee's opinion it is necessary to mention enacting year as "Seventy Second" in the enacting clause of the Bill. Accordingly the said amendment is proposed.

Clause 1: Information regarding short title, year, extent and commencement has been provided in this clause.

In Sub-clause (1), the expressions "SHAKTI Criminal Laws (Maharashtra Amendment) Bill, 2020" are provided.

The said Bill was introduced in the Legislative Assembly in the year 2020 and thereafter the same was referred to a Joint Committee of both the Houses on 15th December, 2020 for presenting its report thereon. As the Committee has not yet handed over its report, a technical amendment is proposed in this sub-clause by incorporating the year 2021.

Clause 3 : This clause provides for punishment to be awarded in the event of failure to share data for police investigation.

This clause provides for sharing data and punishment to be awarded for failure on the part of social media platform or internet or mobile telephony data provider to share the same within 7 days, if demanded by the Investigating Officer while investigating specific offences related to women. In this context, the Committee was of the opinion that since the punishment of imprisonment for a term which may extend to one month as proposed in the Bill for failure to share the data is insufficient, the Committee has decided to increase the period of imprisonment up to three months. Accordingly, the Committee has proposed an amendment that, for the words "which may extend to one month" the words "which may extend to three months" shall be substituted.

Further in this Clause, the Committee deliberated in detail about the corresponding Marathi dialect meaning of the words, "**Mobile Telephony**" as well as "**Internet**" and "**data**" and found them to be too complicated to comprehend as those Marathi words are not used in general parlance. Hence, in the Marathi version of the Bill, for the corresponding

Marathi words, the Committee decided to substitute the generally understandable and prominent words “**internet or mobile telephone data**” as used in the English version of the Bill. Therefore, the Committee has decided to retain the words “**Internet or Mobile telephony data**” and “**electronic**” in the English version of the Bill. The Committee has also proposed to retain the word "data" in the marginal note of this Clause.

Considering the object of the present Bill to conclude the investigation of offence at the earliest, the Committee has proposed that the period to share the data shall be fixed as "three" days instead of "seven" days and as a deterrent to the concerned, the punishment of a fine of " twenty five lakhs rupees" instead of "five lakhs rupees" shall be fixed for such failure. Accordingly, an amendment is proposed.

Clause 4 : This clause provides for punishment of simple imprisonment up to one year or imposition of fine or both for giving false complaint or false information to public servant of certain offences.

In this context, the Committee is of the opinion that since the provisions of this Bill are being made more stringent in nature as a part of women empowerment, it is expected to punish the culprits and set a deterrence of the law. However, it is necessary that innocent are saved from undue oppression and are afforded the protection of the law. Considering the social stigma as well as unnecessary mental agony suffered by such person against whom a wrongful or false complaint has been made, there is a necessity to provide for severe punishment for the persons lodging wrongful or false complaints for various reasons. The Bill proposes for a simple imprisonment up to one year to the person lodging false complaints. As per this provision, a convicted person may be sentenced to an imprisonment of even one day at the minimum. Considering the nature of the offence and its consequences, the above punishment seems insignificant. Similarly, the proposed provision is silent on any specific amount to be charged as a fine. Besides, present provision provides for punishment of imprisonment or fine or both. On this background, the Committee has decided to fix the period of punishment ranging from a minimum one year to three years and the amount of fine as Rupees 1 lakh and to impose both the punishments at a time. Accordingly, the Committee has proposed an amendment that, for words “**may extend to one year**” the words “**not less than one year but may extend to three years**” shall be substituted.

Clause 6 : This Clause provides for punishment against certain offences related to acid attack against the women.

clause (a) of sub-clause (a) is related with the acid attacks against women and the Committee seriously deliberated upon the earlier provision of imprisonment of ten year to be awarded on conviction and on the background of increasing incidents of acid attacks against women, the Committee opined that the existing provision of punishment is hardly sufficient as the concerned offenders deserved an even more severe punishment. The Committee mentioned a necessity to augment the above punishment to a minimum fifteen years imprisonment and considering the seriousness of the offence, the Committee also mentioned the necessity of proposing a punishment of life imprisonment and fine.

Accordingly, the Committee proposed an amendment that for the portion beginning with words "with imprisonment for term" and ending with the words "with death" the words "with imprisonment for a term which shall not be less than fifteen years but which may extend to the remainder of the natural life of such person and with fine" shall be substituted.

clause (b) of Sub-clause (a) provides for imposition of fine on the accused persons causing grievous hurt by use of acid in order to meet the medical expenses borne by the victims of such crime. Since acid attacks results in the disfigurement of the face, an amendment namely **"including expenses for plastic surgery and face reconstruction"** is proposed in the said sub-clause.

The Committee deliberated in detail about the corresponding Marathi dialect meaning of the words **"along with expenses of plastic surgery and face reconstruction"** used in this clause and found them to be too complicated to comprehend as those Marathi words are not used in general parlance. Hence, in the Marathi version of the Bill, for the corresponding Marathi words, the Committee decided to substitute the generally understandable and prominent word **"plastic surgery"**. Therefore, the Committee has decided to propose an amendment that, for the words **"along with expenses of plastic surgery and face reconstruction"** the word **"plastic surgery"** shall be substituted. Accordingly, an amendment has been proposed to this clause.

Clause 8 : This Clause provides for punishment to whoever does any act of Intimidating woman by any mode of communication, in addition to insulting her modesty.

This clause provides for punishment to whoever, directly or indirectly outrage the modesty of a woman by an act of offensive communication by telephone, email, social media platform or through any other electronic or digital mode of communication, or by an act of threatening or insulting a woman.

The Committee has decided to retain the expressions "electronic or digital".

In this context, the committee opined that, in sub section (1) of this Clause, in Marathi version of the Bill, for the Marathi expression *"Jo Koni"*, the corresponding English expression "whoever" is used in the Principal Act-the Indian Penal Code. However, in Marathi dialect the expression *"Jo Koni"* includes female or male or any person. Hence, the committee hold in-depth deliberation in this regard and commented that, in order to have a clear meaning of the expression "whoever", it necessary to include expressions "Male or Female or Transgender" therein.

Accordingly, the Committee proposed an amendment that, the expression "whoever" shall means "Male or Female or Transgender".

Clause 12 : This Clause provides that it is bound on the part of the every social media platform or internet or mobile telephony data provider to share data to the Investigation Officer on demand, for the purpose of investigation of certain offences.

The Committee deliberated in detail about the corresponding Marathi dialect meaning of the words, **"Mobile Telephony"** as well as **"Internet"** and **"data"** and found the Marathi dialect words to be too complicated to comprehend as those Marathi words are not used in general parlance. Hence, in the Marathi version of the Bill, for the corresponding Marathi words, the Committee decided to substitute the generally understandable and prominent words **"internet or mobile telephone data"** which are used in the English version of the Bill. Therefore, the Committee has decided to retain the words **"Internet or Mobile telephony data"** as well as **"electronic"** in the English version of the Bill.

Clause 16 : This Clause provides that the investigation in relation to the offences mentioned in this clause shall be completed within a period of fifteen working days from the date on which the information was recorded by the investigation officer.

This Clause provides that the investigation in relation to the offences mentioned in this Clause shall be completed by the investigating officer within a period of fifteen working days from the date on which the information was recorded. This Clause also provides further that, if it is not possible on the part of the investigation officer to complete the investigation within the said period, then the reasons for the same shall be recorded in writing, whereupon the said period can be further extended by seven days by a senior officer.

In this regard, the Committee hold in-depth deliberations in respect of the period of 60 days as provided in the Principal Act for completing the investigation and was of the opinion that if the said period is curtailed it may cause effects on the merits of investigation. Therefore, the said period shall be allowed to retain and the amendment of period of 15 days as proposed under this Clause shall be revised. However, the Committee decided to divide the period of 60 days as provided in the Principal Act. Accordingly, the committee has decided to provide for a period of 30 days for completing the investigation of offences involving atrocities on women and to further extend the said period by 30 days with the permission of senior officer under certain circumstances. Likewise the Committee has decided to fix the investigation period of total 60 days alongwith conditions. Therefore, in this Clause, the Committee has proposed an amendment that, for the words "fifteen working days" the words "period of thirty days" shall be substituted and for words "seven working days" the words "thirty days" shall be substituted.

Clause 22. Under this Clause, an amendment is proposed to section 438 of the Code of Criminal Procedure. Wherein it is proposed to delete the provision of anticipatory bail in offences involving atrocities on women. Currently, there is a provision of anticipatory bail for the accused involved in the said offences. On considering the pros and cons of the said Clause, as decided by the Committee, the opinion of senior lawyers were obtained regarding possible consequences arising out of the blanket rejection of anticipatory bail to the accused involved in the said offences as well as possible intentional misuse of the said section or rejection of an anticipatory bail in a particular case on grounds of insufficient evidence, conformity of Fundamental Rights available to the accused before conviction and also in respect of legal validation of the provision in question. Accordingly, the senior lawyers expressed that it shall be impertinent to quash the provision of anticipatory bail. They also expressed fear of possible misuse of the above said provision and also unfolded serious doubts about its legal sustainability in the Hon. Court. Therefore, the Committee decided to delete the Clause 22 of the Bill. Accordingly, an amendment to this effect is proposed.

Clause 24: Amendments in this Clause are consequential to the amendments made *vide* Clause 2, 3 and 6.

Clause 31 : This Clause provides for the amendments to the Central Act namely the Protection of Children from Sexual Offences Act, in its application to the State. In this Clause, there is a provision that any data, if any, concerning a social media platform in respect of offences involving sexual atrocities on children shall be shared with the Investigation Officer

within a period of 07 days. The Committee has proposed that the said period shall be 03 days instead of 07 days. The Committee proposes a punishment of imprisonment for a period of one year to the concerned guilty person, if the said data is not received by the crime investigation officer within a period of 03 days.

The Committee, on holding overall discussion on the aspect imprisonment, thought that, if an accused is punished with an imprisonment for a term of upto one month, he may be sentenced to the jail for even a single day and this will defeat the very object of Bill to cause deterrent effect on the accused. Therefore, as decided by the Committee, the opinion of senior lawyers were obtained, to see whether the period of punishment shall be in the range of minimum 01 to 06 months/ 1 year of imprisonment, to see whether it will be appropriate to empower the Hon. Court to decide the period of punishment on merits of each and every case after taking into consideration the gravity and seriousness of the Offence and also to see whether the minimum period of punishment be fixed, if so, what shall be the minimum period of punishment. In their opinion, the senior lawyers have mentioned that, the punishment of imprisonment for a term which may extend to one month as proposed in the Bill for failure to share the data in prescribed period is sufficient and there is no need to increase the same. However, the Committee opined that said the punishment of imprisonment for a term which may extend to one month as proposed in the Bill for failure to share the data in prescribed period is insufficient. Hence the Committee has decided to increase the punishment upto three months. Therefore, the Committee has proposed an amendment that, for words "one month" the words "three months" shall be substituted.

The Committee deliberated in detail about the corresponding Marathi dialect meaning of the words, "**Mobile Telephony**" as well as "**Internet**" and "**data**" and found them to be too complicated to comprehend as those Marathi words are not used in general parlance. Hence, in the Marathi version of the Bill, for the corresponding Marathi words, the Committee decided to substitute the generally understandable and prominent word "**internet or mobile telephone data**" which are used in the English version of the Bill. Therefore, the Committee has decided to retain the words "**Internet or Mobile telephony data**" and "**electronic**" in the English version of the Bill.

The Committee further proposed that, the period for sharing the data with the Investigation Officer, if requested, shall be "three days" instead of "seven days", and in order to cause deterrent effect on the concerned person, a fine of "**twenty five lakh rupees**" instead of "**5 lakh rupees**" shall be imposed in the event of failure to share the said data. Accordingly, an amendment is proposed.

The Changes made by the Committee in other Clauses are of minor consequences and from the point of view of draft.

Vidhan Bhavan,
Mumbai,

Dated 21st December, 2021.

DILIP WALSE-PATIL,
Committee Chairman.

[Note:— Deletions made by the Joint Committee are shown in square brackets and additions are either under lined or side-lined.]

L. A. BILL No. LI OF 2020

A BILL

further to amend the Indian Penal Code, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012, in their application to the State of Maharashtra.

(As amended by the Joint Committee)

WHEREAS it is expedient further to amend the Indian Penal Code, the
45 of 1860. Code of Criminal Procedure, 1973 and the Protection of Children from
2 of 1974. Sexual Offences Act, 2012, in its application to the State of Maharashtra,
32 of 2012. 10 for the purposes hereinafter appearing; it is hereby enacted in the [Seventy-
one] Seventy-second Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the *SHAKTI* Criminal Laws (Maharashtra Amendment) Act, [2020] 2021. Short title, extent and commencement.
- (2) It extends to the whole of the State of Maharashtra.
- (3) It shall come into force on such date as the State Government may, by notification, in the *Official Gazette*, appoint.

CHAPTER II

AMENDMENTS TO THE INDIAN PENAL CODE.

- 45 of 1860. 2. In section 166A of the Indian Penal Code, in its application to the State of Maharashtra (hereinafter, in this Chapter, referred to as “the Penal Code”),— Amendment of section 166A of 45 of 1860.

(1) in clause (c), after the word and figures “section 509” the word “or” shall be added;

(2) after clause (c), the following clause shall be added, namely :-

“(d) deliberately fails to obey the specific directions given by the police officer in the investigation of offences punishable under section 326A, section 326B, section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E, as required under section 100 of the Criminal Procedure Code, 1973.”.

2 of 1974.

3. After section 175 of the Penal Code, the following section shall be inserted, namely :— Insertion of section 175A in 45 of 1860.

“175A. Notwithstanding anything contained in any law for time being in force, any social media platform or internet or mobile telephony data provider including any intermediary or custodian who fails to share any data including document or electronic record with the Investigation Officer as requested, for the purpose of investigation of offence punishable under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 354E, section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E, within a period of [seven] three working days from receiving request shall be punished with simple imprisonment for a term which may extend to [one month] three months or a fine of [five] twenty-five lakh rupees, or with both.”. Failure to share data for police investigation.

Insertion of section 182A in 45 of 1860.

Punishment for false complaint or false information to public servant of certain offences.

4. After section 182 of the Penal Code, the following section shall be inserted, namely :-—

“182A. Any person, who makes false complaint or provides false information against any person, in respect of an offence punishable under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 354E, section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E, solely with the intention to humiliate, extort, threaten, defame or harass, shall be punished with simple imprisonment for a term [which may extend to one year or with fine, or with both.”.] “which shall not be less than one year, but which may extend to three years and with fine upto one lakh rupees.”.

Amendment of section 228A of 45 of 1860.

5. In section 228A of the Penal Code, in sub-section (1), for the portion beginning with the words, figures and letter “section 376, section 376A” and ending with the word, figures and letter “section 376E”, the following shall be substituted, namely :-—

“section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 354E, section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E”.

Amendment of section 326A of 45 of 1860.

6. In section 326A of the Penal Code,—

[(a) for the portion beginning with the words “shall be punished with imprisonment” and ending with the words “and with fine”, the following shall be substituted, namely :-

“shall be punished,—

(a) with imprisonment for a term which shall not be less than ten years but which may extend to the remainder of the natural life of such person and with fine; or

(b) in cases which have the characteristic of the offence is heinous in nature and where adequate conclusive evidence is there and the circumstances warrant exemplary punishment, with death”:]

(a) for the portion beginning with the words “shall be punished with imprisonment” and ending with the words “and with fine” the portion “shall be punished with imprisonment for a term which shall not be less than fifteen years but which may extend to the remainder of the natural life of such person and with fine” shall be substituted.

(b) in the first proviso, after the words “medical expenses” the words “including expenses for plastic surgery and face reconstruction” shall be added.

7. In section 326B of the Penal Code, for the portion beginning with the words “shall be punished with imprisonment” and ending with the words “extend to seven years,”, the following shall be substituted, namely :-

Amendment of section 326B of 45 of 1860.

“shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to ten years.”

8. After section 354D of the Penal Code, the following section shall be inserted, namely :—

Insertion of section 354E in 45 of 1860.

“**354E.** Whoever intentionally does any act to create a sense of danger, intimidation or fear to a woman, in addition to insulting her modesty, by any act, deed or words including,—

Intimidating woman by any mode of communication, in addition to insulting her modesty.

(a) offensive communication by telephone, email, social media platform or through any other electronic or digital mode of communication in a manner which is of lascivious or lewd nature; or

(b) threat to upload or disseminates any sound or video file including a real or fabricated depiction of any part of the body of that woman including the involvement of that woman in any sexual act through electronic or any other form of media; or

(c) use of social electronic or digital media or any other media in any form to defame or cause disrepute to that woman; or

(d) use of that woman’s name, particulars, photographs or any other means of identification to directly or indirectly outrage her modesty or violate her privacy,

shall be punished with imprisonment of either description for a term which may extend to two years and with fine which may extend up to one lakh rupees.

Explanation.— For the purposes of this section. the term ‘Whoever’ means ‘man’ or women or transgender.

9. In section 376 of the Penal Code,-

Amendment of section 376 of 45 of 1860.

(a) in sub-section (1), after the words “shall also be liable to fine” the words “or in cases which have the characteristic of offence is heinous in nature and where adequate conclusive evidence is there and the circumstances warrant exemplary punishment, with death” shall be added;

(b) in sub-section (2),—

(i) after clause (f), the following clause shall be inserted, namely :—

“(f-1) being on the management or employed by the management including staff or contractual employee for the purpose of providing security and maintenance of building or any public utility service inside building or within building complex whether regulated by law or otherwise, commits rape on a woman in such area; or”;

(ii) after the words “shall also be liable to fine” the words “or in cases which have the characteristic of offence is heinous in nature and where adequate conclusive evidence is there and the circumstances warrant exemplary punishment, with death” shall be added;

(c) in sub-section (3), after the words “shall also be liable to fine” the words “or in cases which have the characteristic of offence is heinous in nature and where adequate conclusive evidence is there and the circumstances warrant exemplary punishment, with death” shall be added.

Amendment of section 376D of 45 of 1860.

10. In section 376D of the Penal Code, after the words “and with fine” the words “or in cases which have the characteristic of offence is heinous in nature and where adequate conclusive evidence is there and the circumstances warrant exemplary punishment, with death” shall be added.

Amendment of section 376DA of 45 of 1860.

11. In section 376DA of the Penal Code, after the words “and with fine” the words “or in cases which have the characteristic of offence is heinous in nature and where adequate conclusive evidence is there and the circumstances warrant exemplary punishment, with death” shall be added.

CHAPTER III

AMENDMENTS TO THE CODE OF CRIMINAL PROCEDURE, 1973.

Insertion of section 37A in 2 of 1974.

12. After section 37 of the Code of Criminal Procedure, 1973, in its application to the State of Maharashtra (hereinafter, in this Chapter, referred to as “the Code of Criminal Procedure”), the following section shall be inserted, namely :—

Providing data for police investigation

“37A. Every social media platform or internet or mobile telephony data provider, including any intermediary or custodian shall be bound to share any data, including the document or electronic record to the Investigation Officer on demand, for the purpose of investigation of offence, punishable under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 354E, section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code, or any offence punishable under the Protection of Children from Sexual Offences Act, 2012.”

Amendment of section 39 of 2 of 1974.

13. In section 39 of the Code of Criminal Procedure, in sub-section (1),—

(1) after clause (v), the following clauses shall be inserted, namely:—

“(v-1) sections 326A and 326B (that is to say, offences related causing grievous hurt by use of acid and attempting to throw acid, etc);

(v-2) sections 354, 354A, 354B, 354C, 354D and 354E (that is to say, offences related to assault to outrage modesty, sexual

harassment, disrobe, voyeurism, stalking, harassment of woman by any mode of communication, etc.);”;

(2) after clause (va), the following clause shall be inserted, namely :

“(vb) sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB and 376E, both inclusive (that is to say, offences related to rape and gang rape, etc.);”.

14. In section 100 of the Code of Criminal Procedure, in sub-section (4), the following proviso shall be added, namely :— Amendment of section 100 of 2 of 1974.

45 of 1860.
32 of 2012.

“Provided that, in case of offences under section 326A, section 326B, section 376, section 376A, section 376AB, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code and the offences under the Protection of Children from Sexual Offences Act, 2012, the person conducting the search shall call upon two public servants or two social workers recognized by the Women and Child Development Department of Government of Maharashtra, who are available in the locality in which the place to be searched is situated. Where, such public servants are not available despite diligent efforts, the person conducting the search shall, after recording in writing the same, follow the procedure provided in this sub-section.”.

15. In section 164 of the Code of Criminal Procedure, in sub-section (5A), in clause (a), after the words “punishable under” the words, figures and letters “section 326A, section 326B,” shall be inserted. Amendment of section 164 of 2 of 1974.

16. In section 173 of the Code of Criminal Procedure,—

(i) in sub-section (1A), for the word, figures and letters “ sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E ” the word, figures and letters “ section 376B or 376C ” shall be substituted ;

Amendment of section 173 of 2 of 1974.

(ii) after sub-section (1A), the following sub-section shall be inserted, namely :—

45 of 1860.

“(1B) In relation to offences under section 326A, section 326B, section 376, section 376A, section 376AB, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code, the investigation shall be completed within a period of [fifteen working] thirty days from the date on which the information was recorded by the officer-in-charge of the police station :

Provided that, if it is not possible to complete the investigation within the period of [fifteen working] thirty days from the date on which the information was recorded, then the reasons for the same shall be recorded in writing by the concerned investigating officer; such instances may include the inability to identify the accused; whereupon the said period can be further extended by [seven working] thirty days by the concerned Special Inspector General of Police or Commissioner of Police:

Provided further that, nothing contained in this section shall be deemed to have any effect on the various provisions of bail specified in this Code.”.

Amendment
of section 309
of 2 of 1974.

17. In section 309 of the Code of Criminal Procedure, in sub-section (1), for the proviso, the following proviso shall be substituted, namely :—

“Provided that, when the inquiry or trial relates to an offence under section 326A, section 326B, section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E, of the Indian Penal Code, the inquiry or trial shall be conducted on the day to day basis and completed within a period of thirty working days from the date of filing of the charge sheet.” 45 of 1860.

Amendment
of section 320
of 2 of 1974.

18. In section 320 of the Code of Criminal Procedure, in sub-section (2), in the table, after entry relating to section 338, the following entry shall be inserted, namely :—

<p>“Intimidating woman by any mode of communication, in addition to insulting her modesty</p>	<p>354E</p>	<p>The woman to whom sense of danger, intimidation or fear is created.”.</p>
---	-------------	--

Amendment
of section 327
of 2 of 1974.

19. In section 327 of the Code of Criminal Procedure, in sub-section (2),—

(1) after the words “offence under” the words, figures and letters “section 326A, section 326B,” shall be inserted;

(2) after the second proviso, the following proviso shall be added, namely :—

“Provided also that, *in camera* proceedings shall be held in the chamber of the Presiding Officer recording the evidence and every effort shall be made by such Presiding Officer to make the victim or vulnerable witnesses feel comfortable and this shall be recorded in the evidence.”.

Amendment
of section 374
of 2 of 1974.

20. In section 374 of the Code of Criminal Procedure, in sub-section (4),—

(1) after the words “passed under” the words, figures and letters “section 326A, section 326B,” shall be inserted ;

(2) for the words “six months” the words “forty-five days” shall be substituted.

Amendment
of section 377
of 2 of 1974.

21. In section 377 of the Code of Criminal Procedure, in sub-section (4),—

(1) after the words “passed under” the words, figures and letters “section 326A, section 326B,” shall be inserted;

(2) for the words “six months” the words “forty-five days” shall be substituted.

Mah. 24 of 1993. **[22.]** In section 438 of the Code of Criminal Procedure, as amended by the Code of Criminal Procedure (Maharashtra Amendment) Act, 1993, after sub-section (2), the following sub-section shall be inserted, namely :—

Amendment of section 438 of 2 of 1974.

45 of 1860. “(2A) Nothing in this section shall apply to any case involving the arrest of any person on accusation of having committed an offence under section 326A or section 326B or section 376 or section 376A or section 376AB or section 376D or section 376DA or section 376DB or section 376E of the Indian Penal Code.”.]

45 of 1860. **[23.] 22** In section 439 of the Code of Criminal Procedure, in sub-section (1A), for the portion beginning with the words “the person under” and ending with the words “Indian Penal Code”, the following shall be substituted, namely :--

Amendment of section 439 of 2 of 1974.

45 of 1860. “the person under section 326A or section 326B or sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB or section 376E of the Indian Penal Code”.

[24.] 23 In the FIRST SCHEDULE to the Code of Criminal Procedure, under the heading “I- OFFENCES UNDER THE INDIAN PENAL CODE”,-

Amendment of FIRST SCHEDULE of 2 of 1974.

(a) after entry relating to section 175, the following entry shall be inserted, namely :—

“175A Failure to share data by social media platforms and internet or mobile telephony data providers, etc. Simple imprisonment upto [1] 3 month or fine of [5,00,000] 25,00,000 rupees or both Cognizable Bailable Magistrate of the first class”;

(b) after entry relating to section 182, the following entry shall be inserted, namely :--

“182A Punishment for false complaint or false information to public servant of certain offences. [Simple imprisonment upto 1 year or fine or both.] simple imprisonment for not less than 1 year, but which may extend to 3 years and fine upto 1,00,000 rupees. Cognizable Bailable Magistrate of the first class”;

(c) for entries relating to sections 326A and 326B, the following entries shall be substituted, namely :--

“326A Voluntarily causing [Imprisonment for not less than Cognizable Non- Court of Session.]

grievous
hurt by use
of acid,
etc.

10 years but
which may extend
to the remainder
of the natural life
of such person,
and with fine to
be paid to the
victim or in case
of heinous offences
with conclusive
evidence, with
death.] Imprisonment
for not less than
15 years but which
may extend to the
remainder of the natural
life of such persons
and with fine to be
paid to the victim.

326B Voluntarily
throwing
or
attempting
to throw
acid.

Imprisonment
for not less than
7 years but
which may
extend to 10
years and with fine.

Cognizable Non-
bailable

Court of
Session.”;

(d) after entry relating to section 354D, the following entry shall be inserted, namely :--

“354E Intimidating
woman by any
mode of
communication,
in addition to
insulting her
modesty.

Imprisonment
of either
description
for a term upto
2 years and
with fine which
may extend to
1,00,000
rupees.

Cognizable Bailable Any
Magistrate.”;

(e) for entry relating to section 376, the following entries shall be substituted, namely :--

“376(1) Rape by persons
other than persons
covered under
sub-section (2).

Rigorous
imprisonment
of not less than
10 years which
may extend to
imprisonment

Cognizable Non-
bailable

Court of
Session.

for life and
with fine. In
case of heinous
offences with
conclusive
evidence, with
death.

376(2) Rape by persons in authority or trust, etc.

Rigorous imprisonment of not less than 10 years which may extend to imprisonment for life which shall mean the remainder of that person's natural life and with fine.

Cognizable Non-bailable

Court of Session.

In case of heinous offences with conclusive evidence, with death.

376(3) Persons committing offence of rape on a woman under 16 years of age.

Rigorous imprisonment of not less than 20 years which may extend to imprisonment for life which shall mean the remainder of that person's natural life and with fine.

Cognizable Non-bailable

Court of Session.”.

In case of heinous offences with conclusive evidence, with death.

(f) for entries relating to sections 376D and 376DA, the following entries shall be substituted, namely :—

“376D	Gang rape	Rigorous imprisonment for not less than 20 years but which may extend to imprisonment for life which shall mean the remainder of that person’s natural life and with fine. to be paid to the victim. In case of heinous offences with conclusive evidence, with death.	Cognizable	Non-bailable	Court of Session.
376DA	Gang rape on a woman under 16 years of age	Imprisonment for life which shall mean the remainder of that person’s natural life and with fine. In case of heinous offences with conclusive evidence, with death.	Cognizable	Non-bailable	Court of Session.”.

CHAPTER IV

AMENDMENTS TO THE PROTECTION OF CHILDREN FROM
SEXUAL OFFENCES ACT, 2012.

32 of 2012. **[25.] 24** In section 2 of the Protection of Children from Sexual Offences Act, 2012, in its application to the State of Maharashtra (hereinafter, in this Chapter, referred to as "the Protection of Children from Sexual Offences Act"), after clause (m), the following clause shall be added, namely :—

Amendment of section 2 of 32 of 2012.

"(n) "staff" means any person appointed as regular, temporary, contractual employee or worker and includes any person provided by an outsourced agency that renders assistance of any kind."

[26.] 25 In section 4 of the Protection of Children from Sexual Offences Act, in sub-section (2), after the words "shall also be liable to fine" the words "which shall not be less than five lakh rupees or in case which have the characteristic of offence is heinous in nature and where adequate conclusive evidence is there and the circumstances warrant exemplary punishment, with death" shall be added.

Amendment of section 4 of 32 of 2012.

[27.] 26 In section 5 of the Protection of Children from Sexual Offences Act,—

Amendment of section 5 of 32 of 2012.

(a) in clause (d), after the words "being inmate" the words "or resident" shall be inserted;

(b) in clause (h), for the words "corrosive substance; or" the words "corrosive substance or intoxicant; or" shall be substituted;

14 of 1987. (c) in clause (j), in sub-clause (i), for the words, brackets, letter and figures "become mentally ill as defined under clause (b) of section 2 of the Mental Health Act, 1987" the words, brackets, letter and figures
10 of 2017. "have mental illness as defined under clause (s) of section 2 of the Mental Healthcare Act, 2017" shall be substituted.

[28.] 27 In section 8 of the Protection of Children from Sexual Offences Act, for the words "shall not be less than three years but which may extend to five years" the words "shall not be less than five years but which may extend to seven years" shall be substituted.

Amendment of section 8 of 32 of 2012.

[29.] 28 In section 9 of the Protection of Children from Sexual Offences Act,-

Amendment of section 9 of 32 of 2012.

(a) in clause (d), after the words "being inmate" the words "or resident" shall be inserted;

(b) in clause (h), for the words "corrosive substance; or" the words "corrosive substance or intoxicant; or" shall be substituted;

14 of 1987. (c) in clause (j), in sub-clause (i), for the words, brackets, letter and figures "become mentally ill as defined under clause (b) of section 2 of the
10 of 2017. Mental Health Act, 1987" the words, brackets, letter and figures "have mental illness as defined under clause (s) of section 2 of the Mental Healthcare Act, 2017" shall be substituted.

Amendment of
section 10 of
32 of 2012.

[30.] 29 In section 10 of the Protection of Children from Sexual Offences Act, for the words “shall not be less than five years but which may extend to seven years” the words “shall not be less than seven years but which may extend to ten years” shall be substituted.

Insertion of
section 23A in
32 of 2012.

[31.] 30 After section 23 of the Protection of Children from Sexual Offences Act, the following section shall be inserted, namely :—

Failure to share
data for police
investigation.

“23A. Notwithstanding anything contained in any law for time being in force, any social media platform or internet or mobile telephony data provider including any intermediary or custodian who fails to share any data with the Investigation Officer as requested, for the purpose of investigation of offence, punishable under this Act, within a period of [seven] three working days from receiving request, shall be punished with to imprisonment for a term which may extend to [one month] three months or a fine of [five] twenty-five lakh rupees, or with both.”.

Vidhan Bhavan :
Mumbai,
dated the 22nd December 2021.

RAJENDRA BHAGWAT,
Principal Secretary,
Maharashtra Legislative Assembly.