

# Criminal Procedure Code (Maharashtra Amendment) Act, 2004

MAHARASHTRA

India

## Criminal Procedure Code (Maharashtra Amendment) Act, 2004

### Act 8 of 2005

- Published on 24 May 2004
- Commenced on 24 May 2004
- [This is the version of this document from 24 May 2004.]
- [Note: The original publication document is not available and this content could not be verified.]

Criminal Procedure Code (Maharashtra Amendment) Act, 2004 Maharashtra Act No. 8 of 2005 Statement of Objects and Reasons - Maharashtra Act No. 8 of 2005 - Under section 57 of the Code of Criminal Procedure, 1973 no Police Officer shall detain in custody a person arrested without a warrant, for a period exceeding 24 hours without a special order of a Magistrate under section 167 of the Code. Under section 167(1), whenever any person is arrested and required to be detained in custody, pending completion of investigation, beyond 24 hours as provided under section 57, such accused person is required to be produced before the nearest Judicial Magistrate for authorising such detention. This is resulting in great strain on the police department and utilisation of the services of a very large number of the policemen for escorting the accused persons detained in various jails in the State to the respective Courts and back. Sometimes, inspite of deploying such large number of policemen for this duty, as a result of constant and substantial increase in the number of accused persons being required to be produced before the Magistrates, many prisoners remain to be produced before the Magistrates within the specified period, resulting into Courts directing to take disciplinary action against the concerned police personnel. This is also resulting in much inconvenience and dislocation of the regular duties and administration of the police department. It has, therefore, been decided by the Government of Maharashtra that the production of accused persons, detained in various jails other than those against whom evidence is being recorded in Courts, and those who are not in the police custody, for the purposes of subsequent remand extension through the medium of electronic video linkage before the respective Magistrates should be permitted by suitably amending the existing section 167 of the Code of Criminal Procedure, 1973 in its application to the State of Maharashtra. This would also minimise the risk of escape of the remand prisoners during the transit and would facilitate utilisation of the police personnel for other duties. In the Budget. Session of the State Legislature which had commenced on the 24th May, 2004, the Code of Criminal Procedure (Maharashtra Second Amendment) Bill, 2004 (L. A. Bill No. XV of 2004) was introduced in the Maharashtra Legislative Assembly on the 28th May, 2004. However, before the Bill came for consideration in the Maharashtra Legislative Assembly the session of the State Legislature came to be prorogued on the 11th June, 2004. As the

Government felt that the production of accused persons, otherwise than those in the police custody, through the medium of electronic video linkage before the concerned Magistrate should be made immediately, it was expedient, to amend the Code of Criminal Procedure, 1973 in its application to State of Maharashtra, suitably, by promulgating an Ordinance. As both the Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the said Code, in its application to the State of Maharashtra, for the purposes aforesaid, and therefore, promulgated the Code of Criminal Procedure (Maharashtra Amendment) Ordinance, 2004 (Maharashtra Ordinance XXXIV of 2004) on the 25th November, 2004. The Bill is intended to replace the said Ordinance by an Act of the State Legislature.

## 1.

In section 167 of the Criminal Procedure Code, 1973, in its application to the State of Maharashtra, - (a) in sub-section (2), in the proviso, for paragraph (b), the following paragraph shall be substituted, namely :- "(b) no Magistrate shall authorise detention in any custody, of the accused person under this section unless, the accused person is produced before him in person, and for any extension of custody otherwise than the extension in the police custody, the accused person may be produced either in person or through the medium of electronic video linkage."; (b) in Explanation II, for the words "an accused person was produced" the words "an accused person was produced in person, or as the case may be, through the medium of electronic video linkage" shall be substituted.