

The Jammu and Kashmir Prevention and Suppression of Sabotages Act, 1965

JAMMU & KASHMIR

India

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Act 22 of 1965

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The Jammu and Kashmir Prevention and Suppression of Sabotages Act, 1965(Act No. 22 of 1965)[Received the assent of the Governor on the 27th September, 1965, and published in the Government Gazette dated the 28th September, 1965, Extraordinary, Part No. III, 26-4].An Act to provide for the speedy trial of, and enhanced punishment for, the offences of sabotage.Be it enacted by the Jammu and Kashmir State Legislature in the Sixteenth Year of the Republic of India as follows :-

1. Short title.

- This Act may be called The Jammu and Kashmir Prevention and Suppression of Sabotages Act, 1965.

2. Definitions.

- In this Act, unless the context otherwise requires,-(a)"Sabotage" means wilfully doing of an act by using an explosive or an incendiary substance which causes or is likely to cause death or bodily injury or damage to or destruction of any building, vehicle, machinery, road, bridge, culvert, causeway, an aerodrome or any other property;(b)"Court" means the Court of the Sessions Judge specially appointed or [empowered by the Government in consultation with the High Court] [Substituted by Act XL of 1966 for 'empowered by the Government'.] by a notification in the Government Gazette for the trial of offences under this Act:Provided that no person shall be so appointed or empowered unless he is qualified for appointment as a Judge of the High Court under section 96 of the Constitution of Jammu and Kashmir;(c)"Code" means the Code of Criminal Procedure, Samvat 1989.

3. Punishment for sabotage.

- Whoever commits sabotage shall be punishable with death or rigorous imprisonment for life or with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine.

4. Offences triable under this Act.

- Notwithstanding anything contained in any other law for the time being in force, any offence punishable under section 3, whether committed before or after the commencement of this Act, shall be triable by the Sessions Judge under the provisions of this Act.

5. Place of trial.

- A Sessions Judge shall hold his sittings for the trial of a case or cases under this Act at any place fixed and notified by the Government.

6. Procedure before the Sessions Judge for trial of offences under this Act.

- Notwithstanding anything contained in any other law' for the time being in force; the Sessions Judge shall take cognizance of an offence under this Act without the accused being committed to this court for trial, and in trying the accused shall follow the following procedure(1)When the accused appears or is brought before the Sessions Judge at the commencement of the trial he shall satisfy himself that the documents referred to in section 173 of the Code have been furnished to the accused, and if he finds that the accused has not been furnished with such documents or any of them, he shall cause them to be so furnished.(2)If upon consideration of all the documents referred to in section 173 of the Code, the Sessions Judge is of opinion that there is ground for presuming that the accused has committed an offence triable under this Act he shall frame in writing a charge against the accused.(3)The charge shall then be read and explained to the accused and he shall be asked whether he pleads guilty or claims to be tried.(4)If the accused pleads guilty, the Sessions Judge shall record the plea and may, in his discretion, convict him thereon.(5)If the accused refuses to plead, or does not plead or claims to be tried the Sessions Judge shall forthwith proceed to take all such evidence as may be produced in support of the prosecution but he shall ordinarily record a memorandum only on the substance of the evidence of each witness examined before him and he shall not be bound to adjourn any trial for any purpose unless such adjournment is, in his opinion, necessary in the interests of justice:Provided that the Sessions Judge may permit the cross examination of any witness to be deferred until any other witness or witnesses have been examined.(6)For the purposes of enabling the accused to explain any circumstances appearing in the evidence against him at any stage of the trial the Court may, without previously warning the accused, put such questions to him as it considers necessary' and shall for purposes aforesaid question the accused generally on the case after the witnesses for prosecution have been examined and before he is called on for his defence :Provided further that no oath shall be administered to the accused when he is examined under this clause.(7)The answers given by the accused during his examination under clause (6) shall not render him liable to punishment for giving false answers or for his

refusal to answer, but the answers given by him may be taken into consideration in the trial and the court may draw such inference from such refusal, or answers as it thinks just.(8)The accused shall be then called upon to enter upon his defence and procedure his evidence, and if the accused puts in any written statement, the Sessions Judge shall file it with the record.(9)If the accused, after he has entered upon his defence, applies to the Court to issue any process for compelling the attendance of any witness for the purpose of examination or cross examination or the production of any document or other thing, the Court shall issue such process unless it considers that such application should be refused on the ground that it is made for purpose of vexation or delay or for defeating the ends of justice. Such ground shall be recorded by it in writing and its finding shall be final:Provided that when the accused has cross examined or had the opportunity of cross examining any witness, the attendance of such witness shall not be compelled under this clause, unless the Court is satisfied that it is necessary for the ends of justice :Provided further that the Court may, before summoning any witness on such application under this clause, require that his reasonable expenses incurred in attending for the purpose of the trial be deposited in the court.(10)If the Sessions Judge, after giving the prosecution and the accused an opportunity of being heard, finds the accused guilty he shall convict him and pass sentence upon him under this Act, and if he finds the accused not guilty he shall record an order of acquittal

7. Review of convictions.

(1)If in any proceeding before the Sessions judge,-(a)a person convicted is sentenced to death or to imprisonment for life,or(b)though no person is so sentenced the Sessions Judge certifies that in his opinion the case has involved questions of special difficulty whether of law or fact or is one which for any other reason ought properly to be reviewed;the proceedings shall be submitted for review by a person chosen by the Government from the Judges of the High Court and the decision of that person shall be final.(2)Where any proceedings are so submitted for review, the Judge reviewing the proceedings may exercise in his discretion any of the powers exercisable under section 439 of the Code, by the High Court in the case of any proceedings which the said section 439 refers:Provided that where in the exercise of these powers the Judge reviewing the proceedings directs a retrial of the accused or directs further evidence to be taken, the reviewing Judge may direct the retrial to be held or the further evidence to be taken by the Sessions Judge by whom the case was tried in the first instance or by any other Sessions Judge to be appointed for the purpose by the Government.(3)The person appointed under sub-section (1) to review the proceedings of a Sessions Judge may call for and examine the record of any proceeding before the Sessions Judge for the purpose of satisfying himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed and as to the regularity of any proceedings of the Sessions Judge and may exercise, in the case of the proceedings the record of which has been so called for, any of the powers which would have been exercisable by him in the case of such proceedings had they been submitted to him for review under sub-section (1).

8. Transfer of cases from one Sessions Judge to another.

(1)The Government may, at any stage of the proceedings before a Sessions Judge, transfer the case to another Sessions Judge.(2)Notwithstanding anything contained in the Code, when a case is

transferred under sub-section (1) the Sessions Judge to whom the case is transferred shall not be bound to resummon or rehear the witnesses or any of them.

9. Trial of other offences.

- Where a person is charged before a Sessions Judge with an offence punishable under section 3, he may be charged with and tried at the same trial for any other offence with which he might under the Code, be charged at one trial and the procedure of this Act shall apply to the trial of any such other offence.

10. Appointment of legal Counsel to defend the accused.

(1)The Sessions Judge or a Judge, reviewing under section 7 the proceedings of a Sessions Judge, may appoint a lawyer to defend at any stage of the proceedings a person accused of an offence triable under this Act who has not himself engaged a lawyer.(2)A Sessions Judge shall not be required to grant an adjournment for the purpose of securing the engagement or attendance of a lawyer if in his opinion the accused had reasonable time do so and such adjournment would cause unreasonable delay in the disposal of the case.

11. Special rule of evidence.

- Notwithstanding anything contained in the evidence Act, Samvat 1977, when the statement of any person has been recorded by any Magistrate such statement may be admitted in evidence in any trial before the Sessions Judge, if such person is dead or cannot be found or is incapable of giving evidence.

12. Exclusion of jurisdictions of other Courts.

- Notwithstanding the provisions of the Code, or of any other law for the time being in force or of anything having the force of law by whatsoever authority made or done, there shall be no appeal from any order or sentence made or passed by the Sessions Judge or reviewing Judge under this Act and save as provided in this Act, no Court shall have authority to revise such order or sentence or to transfer any case from the Court of the Sessions Judge or to make any order under section 491 of the Code or having any jurisdiction of any kind in respect of any proceedings under this Act.

13. Application of the Code.

- The provisions of the Code and of any law for the time being in force in so far as they may be applicable and is so far as they are not inconsistent with the provisions of this Act, shall apply to all matters connected with, arising from or consequent upon, a trial under this Act.

14. Power to make rules.

- The Government may make rules providing for any matter necessary to carry into effect the purposes of this Act.