

The Code of Criminal Procedure (Rajasthan Amendment) Act, 1977

RAJASTHAN

India

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Act 10 of 1977

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The Code of Criminal Procedure (Rajasthan Amendment) Act, 1977(Rajasthan Act No. 10 of 1977)Statement of Objects and Reasons:-The Code of Criminal procedure, 1973 (Central Act No. 2 of 1974) has been passed by the Parliament in exercise of the legislative power conferred by the Parliament in exercise of the legislative power conferred upon it by Entry 2 of the list III (Concurrent list) of the Seventh Schedule of the Constitution. This Entry relates to a subject on which the State Legislature is also competent to legislate.Under the existing provision of sub-section (1) of section 11 of the Code of Criminal procedure, 1973 a Judicial Magistrate of the first class or of the second class may exercise his jurisdiction only within the territorial area of the revenue district. It some times becomes necessary or expedient to entrust the trial of particular cases or particular class of cases pertaining to local areas within different revenue districts to a single Magistrate. This may become necessary in the interest of quick disposal of cases of a particular class or classes. under the existing law as found in sub-section (1) of section 11 making such arrangements may not be free from legal doubt. It is, therefore, left to be expedient to insert sub-section (1A) in section 11 of the Code so as to enable the State Government, after consultation with the High Court, to confer powers on the Judicial Magistrate of the first class or of the second class to try particular cases or a particular class or classes of cases pertaining to any local area in the State. Clause 2 of the Bill is intended to achieve that object.Under the existing law the trial of session case opened by a particular Session Judge has to be completed by the same Session Judge. However, where a Session Judge has been transferred and the trial commenced by him has not reached an advanced stage the High Court passes orders for the de novo trial of the case by the successor Judge. This, apart from entailing wastage of public money and time, causes avoidable inconvenience, expenses and hardship both to the accused and the witnesses. As a natural corollary, the disposal of session cases is also considerably delayed. In order therefore, to ensure quicker disposal of session cases it is though expedient that the law should be so amended as to enable a successor Session Judge to continue the trial of a session case from the stage at which it was left by his predecessor Judge. Clause 3 of the

Bill, by proposing amendment in section 326 of the Code purports to achieve that object. The Code of Criminal Procedure (Rajasthan Amendment) Ordinance, 1976 (Ordinance No. 12 of 1976) was promulgated by the Governor on the 20th day of November, 1976 with the prior instructions of the President of India. But the Bill replacing the said Ordinance could not be passed in the last session of the last Assembly due to its dissolution and said Ordinance ceased to be in force after the 3rd day of March, 1977, As a result of such lapse of the said Ordinance, Now clause 4 has been added to validate the acts, if any, done in consonance with the provisions of the said Ordinance. Hence this Bill. Published in Rajasthan Gazette, Extraordinary, Part-3-A, dated 25.7.1977. Published in Rajasthan Gazette, Extraordinary, Part 4-A, dated 13.9.1977 Received the assent of the President on the 31st day of August, 1977. An Act to amend the Code of Criminal Procedure, 1973 in its application to the State of Rajasthan. Be it enacted by the Rajasthan State Legislature in the Twenty-eighth Year of the Republic of India as follows :

1. Short title and extent

(1) This Act may be called the Code of Criminal procedure (Rajasthan Amendment) Act, 1977. (2) It shall extend to the whole of the State of Rajasthan.

2. Amendment of section 11, Central Act 2 of 1974

- In the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) in its application to the State of Rajasthan, hereinafter referred to as the principal Act, after sub-section (1) of section 11, the following new sub-section shall be inserted, namely:-(1A) The State Government may likewise establish as many courts of Judicial Magistrates of the first class and of the second class in respect to particular cases or to a particular class or particular classes of cases, or in regard to cases generally, in any local area".

3. Amendment of section 326, Central Act 2 of 1974

- In the principal Act, in sub-section (1) of section 326, for the word "Magistrate" wherever occurring, the words "Judge or Magistrate" shall be substituted and in sub-section (2) thereof, before the words "from one Magistrate to another Magistrate" the words "from one Judge to another Judge or " shall be inserted.

4. Savings and Validation

- All acts done, trials conducted, inquiries made, orders passed, courts established, powers conferred and exercised on and from the 3rd day of March, 1977, up to the date of the commencement of this Act, which would have been in consonance with the provisions of the code of Criminal procedure (Rajasthan Amendment) Ordinance, 1976 (Ordinance No. 12 of 1976) had the said Ordinance continued in operation, shall be deemed to have been validly and lawfully done, conducted, made, passed, established, conferred and exercised.