

Amendment in the Arms Ordinance, 1965

(Report No. 88)

Amendment in the Arms Ordinance 1965

Mr. Justice Muhammad Sadiq Leghari, Judge, High Court of Sindh has proposed amendments in Section 14-A of the W.P. Arms Ordinance '1965 for the reasons that offence under section 13 or 14 of the Arms Ordinance is triable by the Magistrate but often the offence is connected with the offences punishable under some other law which are triable by the Court of Sessions, therefore, the change in law will exclude the possibility of clash in the decisions of the two courts (Annex). The learned Judge stated that presently there are frequent cases of conflicting judgments, hence puts forward a proposal reading as follows:

“Section 14-A(1) Arms Ordinance may be reshaped by way of substituting the words "Notwithstanding anything contained in Cr.PC" or by inserting the words 'It is connected with an offence punishable under any other law or' after the word "unless" and before the words "it has been committed....."

The reasons given by the learned Judge in support of the proposal also read as under:-

"In many cases the offence under sections 13 or 14 of the Ordinance is connected with the offences punishable under some other law which are triable by the Court of Sessions, therefore, the change in law will exclude the possibility of clash in the decisions of the two courts. Presently there are frequent cases of conflicting judgments."

The section 14-A provides that an offence punishable under section 13 or 14 of the Ordinance shall unless committed in respect of Military Stores be triable by the Magistrate which reads as follows:-

"Section 14-A.- **Certain offences triable by Magistrate.**- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), an offence punishable under Section 13 or Section 14 shall, unless it has been committed in respect of any of the arms, ammunition or military stores referred to in the proviso to the said section 13, be triable by a Magistrate of the first class.

(2) All cases relating to offences triable by a Magistrate of the first class under subsection (1) and pending in a Court of Session immediately before the commencement of the Pakistan Arms (Amendment) Ordinance, 1976 (XXI of 1976), in which the charge has not been framed shall, on such commencement, stand transferred to the Court of the Magistrate of the first class having jurisdiction over such cases."

Section 13 Arms Ordinance provides penalty for breach of section 4, 5, 8 to 11 of the Ordinance reading as follows:-

"Section 13.- Penalty for breach of sections 4-, 5, 8 to 11. Subject to the provisions of Section 13-A and 13-B, whoever commits any of the following offences, namely:-

- (a) Sells or keeps, offers or exposes for sale, any arms, ammunition of military stores, or undertakes the repairs of any arms in contravention of the provisions of section 4;
- (b) Fails to give notice of the sale of arms and ammunition and of the purchasers name and address as required by section 4;
- (c) Transports any arms, ammunition or military stores in contravention of a regulation or prohibition issued under section 5;
- (d) Goes armed in contravention of the provisions of section 8;
- (e) Has in his possession or under his control any arms, ammunition or military stores in contravention of the provisions of section 9;
- (f) Fails to deposit arms, ammunition or military stores as required by section 10;
- (g) Intentionally makes any false entry in a record or account which by a rule made under clause (d) of section 11 he is required to keep;
- (h) Intentionally fails to exhibit anything which by a rule made under clause of section 11 he is required to exhibit; or
- (i) Keeps, carries or displays any arms in contravention of an order issued under section 1-8.

Shall be punished with imprisonment for a term which may extend to seven years or with fine or with both:

Provided that the punishment for an offence committed in respect of any rifle of .303 bore or over, musket of .410 bore or over, pistol or revolver of .441 bore or over, or ammunition which can be fired from such musket, pistol or revolver, shall be imprisonment for a term which is not less than three years.

Section 14, which also provides punishment of certain breaches of sections 4, 5, 9 and 21 also read as follows:-

“Section 14.- **Certain breaches of sections 4, 5, 9 and 21.-** Whoever,

(a) (omitted)

(b) On any search being made under section 21, conceals or attempts to conceal any arm, ammunition or military stores,

Shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both:

Provided that the punishment for an offence committed in respect of any-

(a) cannon, grenade, bomb or rocket; or

(b) light or heavy automatic weapon, rifle of .303 bore or over, musket

of .410 bore or over or pistol or revolver of .441 bore or over, or ammunition which can be fired from such weapon, rifle, musket, pistol or revolver, shall be imprisonment for a term which is not less than two years."

The proposal sounds valid and timely to avoid any future complications or conflicting judgments among courts. Therefore as proposed by the learned Judge, the comparative statement showing the existing provisions and amended provisions alongwith the draft Bill, are placed below for consideration.

Existing law	Amendment proposed
<p>"Section 14-A.- Certain offences triable by Magistrate.- (1) <u>Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898)</u>, an offence punishable under Section 13 or Section 14 shall, unless it has been committed in respect of any of the arms, ammunition or military stores referred to in the proviso to the said section 13, be triable by a Magistrate of the first class.</p> <p>(2) All cases relating to offences triable by a Magistrate of the first class under subsection (1) and pending in a Court of Session immediately before the commencement of the Pakistan Arms (Amendment) Ordinance, 1976 (XXI of 1976), in which the charge have not been framed shall, on each commencement, stand transferred to the Court of the Magistrate of the first class having jurisdiction over such cases."</p>	<p>"Section 14-A.- Certain offences triable by Magistrate.- (1) An offence punishable under Section 13 or Section 14 shall, unless it has been committed in respect of any of the arms, ammunition or military stores referred to in the proviso to the said section 13, be triable by a Magistrate of the first class.</p> <p>(2) An offence triable by a Magistrate of the first class under subsection (1), if connected with any other offence triable by Court of Session shall, be tried alongwith that offence by a Court.</p> <p>(3) Any case pending in a Court of the magistrate which is connected with other offence triable by a Court of Session, immediately before the commencement of the Arms (Amendment) Act, 2006 (of 2006), in which the charge have not been framed shall, on such commencement, stands transferred to Court of Sessions having jurisdiction over such cases."</p>

A

Bill

to amend the West Pakistan Arms Ordinance, 1965

WHEREAS it is expedient to amend the West Pakistan Arms Ordinance, 1965 for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.- (1) This Act may be called the West Pakistan Arms (Amendment) Act, 2006.

(2) It shall come into force at once.

2. Amendment of section 14-A, Ordinance XX of 1965.- In the West Pakistan Arms Ordinance, 1965 (XX of 1965), in section 14-A,-

(i) In sub-section (1) the words; figures, bracket and comma "Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), " shall be omitted; and for the word "an" the word "An" shall be substituted.

(ii) for sub-section (2), the following shall be substituted, namely;-

"(2) An offence triable by a Magistrate of the first class under subsection (1) if connected with any offence triable by Court of Session shall be, alongwith offence, specified in sub-section (1) tried by a Court of Session.

(iii) after sub-section (2), amended as aforesaid, the following new sub-section shall be added, namely;-

"(3) Any case pending in a court of the Magistrate immediately before the commencement of the West Pakistan Arms (Amendment) Act, 2006 (of 2006), in which the charge have not been framed shall, on such commencement, stands transferred to Court of Session having jurisdiction over such cases."

Commission's deliberation on 10.06.2006

The working paper was considered by the Commission in its meeting held on 10.6.2006 and the following are the deliberations: -

The Commission considered amendment in the Arms Ordinance, 1965 proposed by Mr. Justice Muhammad Sadiq Leghari, Judge High Court of Sindh that offence under section 13 and 14 of the Arms Ordinance, 1965 is triable by the Court of Magistrate however, in many cases it has been connected with the offence punishable under some other law triable by the Court of Sessions which results in clash of decisions of the two courts. It was therefore, proposed that when an offence triable by court of Sessions is connected with the case triable by Court of Magistrate under the Arms Ordinance the later case may be tried by Court of Sessions instead of the Magistrate. The Chairman observed that the proposed amendment is very useful which addresses the anomaly in trial of two connected offences and the accused on having acquitted by the Court of Magistrate produces copy of the judgment of his acquittal by the Magistrate under the Arms Ordinance in the Court of Sessions as a defence or a notice of circumstance going in his favour and gets acquittal or lesser punishment. After these deliberation the Commission proposed the amendment in the Arms Ordinance, 1965.