

Assam.—

**In Section 197 of the Code. —**

(a) in sub-section (1), for the words “in the discharge of” the words “in or in connection with the discharge of” shall be substituted;

(b) in sub-section (2), for the words “in the discharge of” the words “in or in connection with the discharge of” shall be substituted;

(c) after sub-section (4), the following subsections shall be inserted, namely: —

(5) Notwithstanding anything contained in this Code,—

(a) where a complaint is made to a Court against a public servant belonging to any class or category specified under sub-section (3) alleging that he has committed an offence, the Court shall postpone the issue of process against the accused and make a reference to the State Government; or

(b) where an accused, either by himself or through a pleader, claims before a Court that he belongs to any class or category specified under sub-section (3) and that the offence alleged to have been committed by him arose out of any action taken by him while acting or purporting to act in or in connection with the discharge of his official duty, the Court shall forthwith stay further proceedings and make a reference to the State Government.

(6) (i) Where a reference is received from a Court under sub-section (5), the State Government shall issue a certificate to the Court that the accused person was or was not acting or purporting to act in, or in connection with the discharge of his official duty.

(ii) If the State Government certifies that the accused was acting or purporting to act in or in connection with the discharge of his official duty, the Court shall dismiss the complaint or discharge the accused:

Provided that the complainant may, within sixty days from the date of the issue of such certificate prefer an appeal to the High Court against the Certificate:

Provided further that the High Court may entertain the appeal after the expiry of the said period of sixty days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period.

(iii) If the State Government certifies that the accused was not acting or purporting to act in or in connection with, the discharge of his official duty, the Court may proceed further with the complaint in accordance with the provisions of this Code.

(7) The provisions of sub-sections (5) and (6) shall apply to all proceedings pending on the date of commencement of this Act in respect of which a Court had taken cognizance of an offence in accordance with the provisions of this Code.

[Vide Assam Act 3 of 1984, s. 4.]

**198. Prosecution for offences against marriage.**—(1) No Court shall take cognizance of an offence punishable under Chapter XX of the Indian Penal Code (45 of 1860) except upon a complaint made by some person aggrieved by the offence:

Provided that—

(a) where such person is under the age of eighteen years, or is an idiot or a lunatic, or is from sickness or infirmity unable to make a complaint, or is a woman who, according to the local customs and manners, ought not to be compelled to appear in public, some other person may, with the leave of the Court, make a complaint on his or her behalf;

(b) where such person is the husband and he is serving in any of the Armed Forces of the Union under conditions which are certified by his Commanding Officer as precluding him from obtaining leave of absence to enable him to make a complaint in person, some other person authorised by the husband in accordance with the provisions of sub-section (4) may make a complaint on his behalf;