

POLICE (INCITEMENT TO DISAFFECTION) ACT, 1922

22 of 1922

[5th October, 1922]

CONTENTS

1. Short title, extent and commencement
2. Definition
3. Penalty for causing disaffection, etc
4. Saving of acts done by police association and other persons for certain purposes
5. Sanction to trial of offences by Subordinate Courts
6. Trial of cases

SCHEDULE 1 :- 1

POLICE (INCITEMENT TO DISAFFECTION) ACT, 1922

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STATEMENT OF OBJECTS AND REASONS "In view of the attempts that have been made and are being made (a) by means of threats, intimidation and otherwise to induce members of the Police-Force to refrain from doing duly. and (b) to spread disaffection among them. the Government of India have for some time had under consideration the question of penalising such attempts. Neither Indian Penal Code, 1860 nor Police Act, 1861, contains provisions to meet this evil. A prosecution could doubtless in certain cases be instituted under S.29 of the Indian Police Act, 1861, read with the abetment sections of Indian Penal Code, 1860, but s.29 Police Act, 1861 was designed to meet ordinary breaches of discipline and would not cover many dangerous forms of tampering with the police. Moreover, the maximum punishment permissible under that section viz., three months' rigorous imprisonment is manifestly inadequate for serious offences of this nature. The Government of India are accordingly of opinion that the authorities should be given additional means of dealing with this form of crime, and it is proposed, therefore, to enact the attached Bill, which has been

framed on the lines of S.3 of the English Police Act of 1919 (9 and 10 Geo. V. Ch. 46)." -Gaz.. of Ind., 1922, Part V, p. 62.

1. Short title, extent and commencement :-

(1) This Act may be called The Police (Incitement to Disaffection) Act, 1922.

¹[(2) It extends to the whole of India except ²[the territories which, immediately before the 1st November, 1956, were comprised in Part B States].]

³[(3) It shall come into force in any State or part of a State on such date ⁴ as the State Government may, by notification in the Official Gazette, direct.

1. Substituted by A.L.O., 1950 (26-1 -1950).

2. Substituted for 'Part B States' by 3 A.L.O., 1956 (with retrospective effect from 1-11-1956). Immediately before 1-11-1956 the following were Part B States : Hyderabad, Jammu and Kashmir, Madhya Bharat, Mysore, Pepsu Rajasthan, Saurashtra and Travancore-Cochin. Of these Jammu and Kashmir, Mysore, Rajasthan and Kerala (Travancore-Cochin) are full fledged States now. The rest have merged with adjoining State or States.

3. For the direction of the President regarding the use of the power by the Administrator of the Union territory of Dadra and Nagar Haveli under sub-section (3) of S. 1-See Gaz. of India, 6-5-1978; Pt. II, S. 3(i) p. 1007 (G.S.R. 582 dtd. 25-4-1978).

4. This Act came into force in Assam from 25-1-1923-See Assam Gaz. 1923, Pt. II, p. 113; in Him. Pradesh on 1-6-1974-See H.P. Gaz., 29-6-74 Pt. I, p. 1144 in the Punjab from 13-3-1930-See Punj. Gaz., 1930, Pt. I, p. 342; in Bihar and Orissa (including the Sonthal Parganas) from 15-5-1930-See Bihar and Orissa Gaz. Extra., dated 13th May, 1930; and in the Bombay Presidency from 5-6-1930-See Born. Gaz., 1930, Pt. 1. p. 1394; in the Union territory of Andaman and Nicobar Islands on 1-5-1966-See Andaman and Nicobar Gaz., 30-4- 1966, Extra. (No. 42); in the Union territory of Delhi on 13-3-1975-See Delhi Gaz. 13-3-1975, Pt. IV Ext., p. 75 (No. 32) in Madhya Bharat and Sironja regions of M.P. on 1-1-1966-See M.P. Gaz., 31-12-1965, Pt. I, p. 1818; in M.P. on 2-6-1979-See M.P. Gaz. 2-6-1979, Ext. p. 1927 in the Union territory of Goa, Daman and Diu on 1-2-1965-See Goa Gaz., 14-1-1965. Sr. I, p. 3; in the Union Territory of Laccadive, Minicoy and Amindivi Islands on 1-10-1967-See Gaz.of Ind., 12-9-1967, P. II, S. 3(ii). Extra., p. 1527; in the Union territory of Pondichery on 1-8-1968-See Pondi. Gaz., 1-8-1968, Extra, in West Bengal on 15-9-1976-See Cal.Gaz"14-9-1976,Pt. I, Ext., p. 2755.

2. Definition :-

In this Act, the expression "member of a police-force" means any person appointed or enrolled for the performance of police duties under any enactment specified in the Schedule.

3. Penalty for causing disaffection, etc :-

Whoever intentionally causes or attempts to cause or does any act which he knows is likely to cause, disaffection towards ¹[* * *] the Government established by law in ² [India] amongst the members of a police-force, or induces or attempts to induce, or does any act which he knows is likely to induce, any member of a police-force to withhold his services or to commit a breach of discipline shall be punished with imprisonment which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Explanation.- Expressions of disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, or of disapprobation of the administrative or other action of the Government, do not constitute an offence under this section unless they cause or are made for the purpose of causing or are likely to cause disaffection.

OBJECTS AND REASONS "We have made some amendments in this clause which are calculated to put it beyond doubt that the clause, in the first place, is only aimed at persons acting with intent to commit the offences constituted by the clause and, in the second place, does not penalise any action taken bona fide to procure in a lawful manner the absence from duty or resignation of a policeman for the purpose of bettering his prospects or otherwise furthering his welfare."-S.C.R.

1. The words 'His Majesty or' were omitted by A.L.O.. 1950 (26-1-1950).

2. Substituted for the words 'British India or British Burma' by A.C.A.O., 1948 (23-3-1948).

4. Saving of acts done by police association and other persons for certain purposes :-

(1) Nothing shall be deemed to be an offence under this Act which is done in good faith-

(a) for the purpose of promoting the welfare or interests of any member of a police force by inducing him to withhold his services in any manner authorised by law: or

(b) by or on behalf of any association formed for the purpose of furthering the interests of members of a police-force as such. where the association has been authorised or recognised by the

Government and the act done is done under any rules or articles of the association which have been approved by the Government.

(2) No bail shall be granted by any Court under this section unless prosecution has been afforded reasonable opportunity of being heard in the matter."-M.P.Act 15 of 1981, section 4 (5-5-1981).

5. Sanction to trial of offences by Subordinate Courts :-

No Court shall proceed to the trial of any offence under this Act except with the previous sanction or on the complaint of the District Magistrate or, in the case of a Presidency-town, ¹ [* * *] of the Commissioner of Police.

1. The words 'or the town of Rangoon' were omitted by A.O. 1937 (1-4-1937).

6. Trial of cases :-

(1) No Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act.

(2) Notwithstanding anything contained in Code Of Criminal Procedure, 1898, no offence under this Act shall be triable summarily.

(2) Notwithstanding anything contained in Code Of Criminal Procedure, 1973 , any Metropolitan Magistrate or any Judicial Magistrate of the first class may, if he thinks fit, try in a summary way all or any of the offences under this Act, and the provisions of sections 262 to Section 265 of the Code of Criminal Procedure, 1973 (both inclusive) of the said Code shall, so far as may apply to such trial : Provided that where any case is tried summarily and the accused is convicted under this Act, no sentence of imprisonment for a term exceeding three months shall be passed by the Magistrate concerned and the provision for awarding punishment of minimum amount of fine under this Act shall not apply".-Maha.Act23of 1983, S.6(w.r.e.f. 18-1-1983).

SCHEDULE 1

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(See Section 2) Year No. Short title. Acts of the Governor General in Council 1859 XXIV. The Madras District Police Act, 1859. 1861 V The Police Act, 1861. a[* *] * * * * 1888 III The Police.Act, 1888. 1892 V The Bengal Military Police Act, 1892. ; Madras Acts 1888 III The Madras City Police Act, 1888. Bombay Acts 1890 IV The Bombay District Police Act, 1890. 1902 IV The City of Bombay Police Act, 1902: Bengal Acts 1866 II The Calcutta Suburban Police Act, 1866. IV The Calcutta Police Act, 1866. 1890 III

The Calcutta Pon Act, 1890: 1920 II The Eastern Frontier Rifles (Bengal Battalion) Act, 1920. b[*] * * * * Assam Act 1920 I The Assam Rifles Act, 1920. ... Regulation by the Governor General in Council 1888 II The Andaman and Nicobar Islands Military Police Regulation, 1888.