

No.24/E1/2023/KLRC



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Dated: 27.02.2023

From

Secretary

To

The Secretary,
Law Department
Govt. of Kerala.

Sir,

Sub: Kerala Law Reforms Commission - Submission of Twentieth
report of this Commission through e-mail - - reg:

Ref: Lr.No.SP-CEL/28/2023/LAW dated 23.02.2023 of Law (Unified
Special Cell) Department.

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Attention is invited to the letter under reference. As intimated
therein, 20th Report of the Commission is submitted herewith through e-mail
for further necessary action.

Yours faithfully,

V.M.Chacko,
Secretary

TWENTIETH REPORT OF THE LAW REFORMS COMMISSION

This is the Twentieth report of the Kerala Law Reforms Commission constituted by the Government of Kerala ,consisting of Justice K.T. Thomas as Chairman, Sri .K. Sasidharan Nair as Vice Chairman and DR. N.K. Jayakumar, Smt . Lizamma Augustin and Sri K. George Oommen as Members.

2. The Law Reforms Commission along with its nineteenth report has proposed de-criminalisation of the penal provisions in State Laws so as to enable the effective implementation of the Ease of Doing Business in the State and after detailed discussions prepared Amendment Bills to 35 State Acts in connection with the Industrial, Labour and Welfare Laws in the State.

3. In the aforesaid Amendment Bills fine amount has been substantially enhanced as the above Laws were enacted long ago and fine existing now are meagre amounts.

4. The offences in all these Laws are to be tried by Judicial Magistrate of First Class and as per sub section (2) of Section 29 of the Code of Criminal Procedure 1973 (Central Act 2 of 1974) the Judicial Magistrate of the First Class is authorised to impose a fine only up to ten thousand rupees. If the Magistrate considers that a fine exceeding ten thousand rupees has to be imposed, then the case has to be forwarded to the Chief Judicial Magistrate concerned. Since most of the provisions in the Amendment Bills the maximum fine amount provided is exceeding ten thousand rupees and a

separate provision included for enabling compounding of such offences on payment of seventy five percent of the maximum fine amount, it become necessary to have an amendment to sub section (2) of Section 29 of the Code of Criminal Procedure.

5. In this context it is also relevant to point out that as per Section 138 of the Negotiable Instruments Act, 1881 the fine amount provided is up to the double of the cheque amount. In most of the cheque cases, the amount covered by the cheque is for amounts exceeding ten thousand rupees. But the Judicial Magistrate of the First Class is now not competent to impose a fine above the limit of ten thousand rupees. To address this issue the Courts are now awarding compensation under sub section (3) of Section 357 of Criminal Procedure Code without imposing any fine and ordering the said compensation to be paid to the Complainant either in part or in full. However in such cases no default sentence can be passed for non payment of compensation. This also makes it necessary to amend sub section (2) of Section 29 of the Criminal Procedure Code.

6. Hence the Commission is submitting a draft of the Kerala Amendment Bill to amend sub section (2) of section 29 of the Code of Criminal Procedure 1973 so as to authorise the Judicial Magistrate of the First Class to impose a fine up to one lakh rupees.

7. Therefore the Commission recommends the Government to bestow its urgent attention to amend the Code of Criminal Procedure 1973 as proposed in the Bill.

CODE OF CRIMINAL PROCEDURE (KERALA AMENDMENT) BILL, 2023

A

BILL

further to amend the Code of Criminal Procedure 1973 (Central Act 2 of 1974) in its application to the State of Kerala.

Be it enacted in the Seventy-fourth year of the Republic of India as follows:

- 1. *Short title, extent and commencement.*- (1) This Act may be called the Code of Criminal Procedure (Kerala Amendment) Act, 2023**
(2) It extends to the whole of the State of Kerala.
(3) It shall come into force at once.
- 2. *Amendment of section 29.*- In the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) in section 29, in sub section (2), for the words “ten thousand rupees”, the words “One lakh rupees” shall be substituted.**

STATEMENT OF OBJECTS AND REASONS

In sub-section(2) of section 29 of the Code of Criminal Procedure 1973, (Central Act 2 Of 1974), the Judicial Magistrate of the First Class is authorised to impose a fine up to ten thousand rupees only. If the Magistrate considers that a fine exceeding ten thousand rupees has to be imposed then the case has to be forwarded to the Chief Judicial Magistrate concerned.

The Law Reforms Commission along with its nineteenth report has proposed de-criminalisation of the penal provisions in several State Laws so as to enable the effective implementation of the Ease of Doing Business in the State and after detailed discussions prepared Amendment Bills relating to 35 State Laws in connection with the Industrial, Labour and Welfare Laws in the State. In the aforesaid Amendment Bills fine amounts have been substantially enhanced as the above Laws were enacted long ago and fine existing now are meagre amounts.

Since most of the provisions in the aforesaid Amendment Bills the maximum fine amount provided is exceeding ten thousand rupees and a separate provisions are included for enabling compounding of such offences on payment of seventy five percent of the maximum fine amount, it become necessary to have an amendment to sub section (2) of Section 29 of the Code of Criminal Procedure,1973.

In this context it is also relevant to point out that as per Section 138 of the Negotiable Instrument Act, 1881, the fine amount provided is up to double the cheque amount. Since in most of the cheque cases the amounts covered by the cheques are for amounts exceeding ten thousand rupees, the Judicial Magistrate of the First Class is now not competent to impose a fine exceeding the limit of ten thousand rupees. To address this issue the Courts are now awarding compensation under sub section (3) of Section 357 of Criminal Procedure Code without imposing any fine and ordering the said compensation to be paid to the Complainant either in part or in full. However in such cases no default sentence can be awarded for non payment of compensation. This also makes it necessary to amend sub section (2) of Section 29 of the Code of Criminal Procedure 1973.

In these circumstances the Law Reforms Commission has decided to prepare an amendment to sub section (2) of Section 29 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) so as to authorise the Judicial Magistrate of First Class to impose a fine up to One lakh rupees.

This Bill is intended to achieve the above purpose.