

**THE KERALA PREVENTION AND ERADICATION OF INHUMAN
EVIL PRACTICES, SORCERY AND BLACK MAGIC BILL, 2019**

**A
BILL**

to promote social awareness and awakening in the society and to create a healthy and safe social environment with a view to protect the common people against the fraudulent and exploitative practices thriving on ignorance and to control and eradicate inhuman evil practices propagated in the name of the so called supernatural or magical powers or evil spirits commonly known as black magic, and for matters connected therewith or incidental thereto.

Preamble: *WHEREAS*, an alarming number of incidents of exploitation of the common people in the society, using inhuman evil and sinister practices, sorcery and practices of black magic by conmen, had come to light;

AND WHEREAS, under the circumstances it became absolutely necessary for the Government to take appropriate and stringent social and legal measures to effectively prevent such evil efforts and spread of these harmful practices, usages, black magic, sorcery and such other inhuman evil practices and to save the common people falling prey to the sinister designs of black magicians and conmen, whose anti-social and harmful activities are threatening to damage the very social fibre of the society and driving the common people, on account of their ignorance, to take recourse to such activities of black magicians and conmen;

AND *WHEREAS* the Constitution of India, in Article **51 A(g)** proclaims it to be the fundamental duty of every citizen of India “to develop the scientific temper, humanism and the spirit of inquiry and reform”;

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

1. Short title, extent and commencement.- (1) This Act may be called the Kerala Prevention and Eradication of Inhuman Evil Practices, Sorcery and Black Magic Act, 2019.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. Definitions.- (1) In this Act, unless the context otherwise requires,-

(a) "**Code**" means the Code of Criminal Procedure 1973 (Central Act 2 of 1974);

(b) "**Government**" means Government of Kerala;

(c) "**Inhuman evil practices and black magic**" means any act specified in the Schedule, done by any person by himself or through any other person;

(d) "**Magic Remedy**" includes a talisman, mantra, or any other charm of any kind claimed to possess miraculous powers for or in the diagnosis, cure, mitigation, treatment or prevention of any disease or for affecting or influencing in any manner the structure or any organic function of human beings or animals;

(e) "**Offender**" means any person who has contravened any of the provisions of this Act or has committed any act constituting an offence specified in the Schedule;

(f) "**Person**" includes a company or association or body of individuals whether incorporated or not.

(g) "**Propagate**" means issuance or publication, including publication in electronic form of advertisements, literature, articles or books relating to inhuman evil practices, sorcery and black magic and includes any form of direct or indirect help, abetment, participation or co-operation with regard to inhuman evil practices, sorcery or black magic;

(h) "**Schedule**" means the Schedule appended to this Act;

(i) "**Sorcery**" means supernatural magic performed by using the power of evil spirits, separate from religion and science;

(j) "**Victim**" means a person who is harmed or injured physically or mentally, extorted, threatened or exploited financially or sexually or whose dignity is offended by the commission of an offence under this Act;

Words and expressions used but not defined herein, shall have *the* respective meanings assigned to them in the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 (Central Act 21 of 1954) and the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) or in any other law for the time being in force.

3. Prevention and eradication of inhuman evil practices, sorcery and black magic.- (1) No person shall by himself or through any other person, promote, propagate or practice or cause to promote, propagate or practice inhuman evil practices, black magic or sorcery specified in the Schedule.

(2) Whoever commits any act in violation of Sub Section (1) shall on conviction be punished with imprisonment for a term which shall not be less than one year but which may extent to seven years and with fine which shall not be less than five thousand rupees but which may extent up to fifty thousand rupees.

Provided that, if as a consequence of any offence punishable under this sub section, death of the victim occurs, he shall be deemed to have committed an offence under Section 300 of Indian Penal Code, 1860 (Central Act 45 of 1860) and shall on conviction be punished accordingly.

Provided further that if the said act causes grievous hurt as defined under Section 320 of the Indian Penal Code, 1860 (Central Act 45 of 1860) the offender shall be deemed to have committed an offence u/s 326 of Indian Penal Code 1860 and shall on conviction be punished accordingly.

(3) Whoever abets the commission of any act or offence punishable under sub-section (2), shall be deemed to have committed that offence and shall on conviction be punished with the same punishment provided for such offences.

(4) Whoever attempts to commit any offence punishable under Sub Section 2 shall, on conviction be punished with the same punishment as provided under section 511 of Indian Penal Code 1860 (Central Act 45/1860)

(5) Consent of the victim shall not be a defence under this section.

4. The offences to be cognizable and non bailable.-The offences punishable under this Act shall be cognizable and non- bailable.

5. (1) Prohibition on any activity of sorcery or advertisement etc:-
No person shall carry on any activity of administering magic remedies or Sorcery or take any part in the publication of any advertisement referring to any magic remedies or sorcery which directly or indirectly claims to be efficacious for any purposes specified in the schedule.

(2) Any person who commits any act in violation of Sub Section (1) shall on conviction be punished with imprisonment for a term which shall not be not less than one year but which may extent to 7 years and with fine

which shall not be less than five thousand rupees but which may extend up to fifty thousand rupees.

6. Offences by companies.- (1) If the person committing an offence under this Act is a company whether incorporated or not, the company as well as every person in charge of, and responsible to the company for the conduct of its business at the time of commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of offence is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation:- For the purpose of this section,-

(a) “Company” means any body corporate and includes a firm or other Association of individuals; and

(b) “Director” in relation to a firm means a partner in the firm.

7. Jurisdiction to try offences.- Any offence punishable under sub-section (2) and the 2nd proviso of Sub Section 2 of section 3 and section 5 shall be triable by a court of Judicial First Class Magistrate and the offences punishable under the first proviso to sub-section (2) of section 3 shall be triable only by a court of Session and the offences punishable under sub

sections 3 and 4 of Section 3 and Section 6 shall be triable by the Court of competent jurisdiction as the case may be and the procedure under the Code shall mutatis mutandis apply for the trial of offences under this Act.

8. Powers of entry, search etc.- (1) Subject to general or special orders issued in this behalf by the State Government from time to time a police officer may, within the local limits of the area of his jurisdiction,

(i) enter and search at all reasonable times with such assistance, if any, as he considers necessary, any place in which he has reason to believe that an offence under this Act has been or is being committed;

(ii) seize any material, instrument or advertisement which he has reason to believe has been or is being used for any act or commission of an offence which is in contravention of the provisions of this Act; and

(iii) examine any record, document or material object found in any place mentioned in clause (i), and seize the same, if, he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.

(2) The provisions of the Code shall, so far as may be, apply to any search or seizure made under this Act as they apply to such search or seizure made under the authority of warrant issued under section 94 of the Code.

(3) Where any Police Officer seizes anything under clause (ii) or (iii) of sub-section (1), he shall, as soon as may be, inform the Judicial Magistrate having jurisdiction over the area and take his orders as to the custody thereof.

9. Application of provisions of the Code.- The provisions of the Code shall apply to the investigation and trial of the offences under this Act.

10. Act to be in addition to and not in derogation of any other law.-

The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

11. Publication of fact of conviction.- Where any person is convicted of any offence punishable under this Act, it shall be competent for the court convicting such offender to cause the name and place of residence of such person to be published by the police in the local news papers where such offence has taken place together with the fact that such offender had been convicted under this Act and such other particulars as the court may deem fit and appropriate to be allowed to be published.

12. Awareness programs.- The Government may undertake programs to spread awareness in the society about the ill-effects of inhuman evil practices, and black magic or sorcery and to provide proper counseling and medical relief to the injured victims in Government/Private hospitals through appropriate ways and authorities as may be prescribed.

13. Power to make rules.- (1) The State Government may, by notification in the Official Gazette make rules for the purpose of carrying into effect the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the State Legislature while it is in session for a total period of fourteen days, which may be comprised in one session or in two successive sessions and if before the expiry of the session or in which it is so laid or the session immediately following, the Legislative Assembly makes any modifications to the rule or decides that the rule should not be made, the rule shall, thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

14. Power to amend the Schedule.- (1) The State Government may by notification published in the Official Gazette add, amend or alter the Schedule.

(2) Every such notification issued under sub-section (1), shall be laid before the State Legislature.

15. Savings.- For removal of doubts, it is hereby declared that nothing in this Act shall apply in respect of the following, namely:-

- (i) The form of worship performed at any religious or spiritual places.
- (ii) Teaching of ancient Saints and traditional learning's, arts, practice, and propagation and circulation thereof.
- (iii) to state about the miracles of the deceased saints, propagation, publicity and circulation of the same and the propagation, publicity and distribution of the literature about the miracles of religious preachers.
- (iv) the performance of religious rituals at places such as home, temple, church, mosque or other religious places, which do not cause physical harm to any person.
- (v) All religious celebrations, festivals, prayers, processions and any other act relating thereto.
- (vi) The advice in regard to vasthusastra, or advice by astrologers, unless such advice results in cheating, defrauding or exploiting any person.
- (vii) Any traditional religious rites and acts which the State government may notify in the official gazette.

16. Power to remove difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Act, within two years of the coming into force of the Act, the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty.

(2) Every order made under Sub section (i) shall be laid, as soon as may be after it is made, before the State Legislature.

SCHEDULE

SEE SECTION 2(1)(h)

(1) Performing any inhuman evil act, black magic or sorcery, parading naked or putting a ban on a person's daily activities or uses such alleged powers to extort, threaten or intimidate people or assaulting any person in search of precious things, bounty or hidden treasure or instigate, advice or encourage committing of such inhuman acts.

(2) Instilling an impression by declaring that a power inapprehensible by senses has influenced one's body or that a person is possessed of such power, and thereby create fear in the mind of another or to threaten another of evil consequences for not following the advice of such person.

(3) Under the pretext of expelling ghost, assaulting any person or tying the person with rope or chain, beating by stick or whip causing pain to the person, hanging a person to roof fixing with rope or plucking hair or causing pain by way of touching heated object to organs or body of a person, or inflicting pain by any other means; forcing a person to perform sexual act, practice inhuman acts, putting urine or human excreta forcibly in the mouth of a person or practice any similar acts.

(4) To create panic in the minds of public in general on the pretext of invoking ghost or threaten to invoke ghost creating an impression that there is some super natural power inapprehensible by senses, and preventing a person from taking medical treatment, or threatening a person with death or causing physical pain or causing financial loss by practicing or tending to practice black magic, sorcery or inhuman evil act.

(5) (a) To create an impression that one has special supernatural powers or that he is the incarnation and thereby indulging in sexual activity with another person.

(b) to indulge in sexual act with a woman who is unable to conceive, assuring her of motherhood through supernatural power.

(6) Involving in evil practices against women by forcing isolation, prohibiting re-entry into the village or facilitating segregation of menstruating postpartum women; and subjecting women to inhuman and humiliating practices such as parading them naked in the name of worship or otherwise.

(7) Forcing any person to carry on evil practices such as causing hurt or killing of an animal or bird.

(8) The practice of piercing rod or arrow from one side of cheek to other side.

(9) Pelting of stones on residential houses or polluting food or water making it unfit for human consumption, under the purported influence of 'kuttichathan' ;

(10) Prohibiting and preventing a person from taking medical treatment for any illness and instead giving him treatment like mantra-tantra or chanting prayers or such other things.

STATEMENT OF OBJECTS AND REASONS

Considering the alarming number of incidents of exploitation in the society, using inhuman evil and sinister practices and practices of black magic by conmen, there have been demands for enacting a law to prohibit and eradicate such practices. Creating social awareness and awakening is the best strategy to achieve this purpose. The role of stringent legal measures

in support of social awareness is equally important in creating a healthy and safe social environment.

The inhuman evil practices, usages and black magic, propagated and performed by people who claim to possess supernatural or magical power, result in defrauding and exploiting innocent and ignorant people, in addition to inflicting pain and suffering on them. Such practices produce a harmful and deleterious impact not only on the victims as individuals, but also on the social fibre of society. Since the evil inhuman and sinister practices continue to affect the society in spite of efforts by social and cultural organizations and Government, it is considered necessary to enact a law to prohibit and eradicate such anti-social inhuman practices, and hence the Bill.