

West Bengal Criminal Law Amendment (Special Courts) Act, 1949

21 of 1949

[23 June 1949]

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SCHEDULE 1 :- THE SCHEDULE

West Bengal Criminal Law Amendment (Special Courts) Act, 1949

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An Act to provide for the more speedy trial and more effective punishment of certain offences. whereas it is expedient in the public interest to provide for the speedy trial of the offences specified in the Schedule; It is hereby enacted as follows:-

1. Short Title :-

This Act may be called the West Bengal Criminal Law Amendment (Special Courts) Act, 1949.

2. Special Courts :-

(1) The State Government may, by notification in the Official

Gazette, constitute as many Special Courts as may be necessary for such area or areas, as may be specified in the notification. (2) The State Government shall appoint, as a Judge to preside over a Special Court, any person who-- (a) is or has been, or is qualified under clause (2) of article 217 of the Constitution of India for appointment, as a Judge of a High Court, or (b) has, for a period of not less than one year, been a Sessions Judge or an Additional Sessions Judge. (3) Every Special Court shall have jurisdiction over the particular area for which it has been constituted and shall sit at such place or places as the State Government may, by notification in the Official Gazette, specify in this behalf

3. Special Judge :-

Omitted by s. 4 of the West Bengal Criminal Law Amendment (Special Courts) Amending Act, 1952 (West Ben. Act XII of 1952).

4. Offences To Be Tried By Special Courts :-

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), or in any other law in force, the offences specified in the schedule shall be triable by Special Courts only: Provided that when trying a case, a Special Court may also try any offence other than the offence specified in the Schedule, with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial: Provided further that every offence specified in the Schedule shall be tried by the Special Court constituted for the particular area within which the offence was committed and where there are more than one Special Court constituted for any particular area, by such one of them as may be specified by the State Government by notification in the Official Gazette.

5. Procedure And Powers Of Special Courts :-

(1) A Special Court may take cognizance of offences in the manner laid down in clauses (a) and (b) of sub-section (1) of section 190 of the Code of Criminal Procedure, 1973 (2 of 1974), without the accused being committed to his Court for trial, and in trying the accused persons, shall follow the procedure prescribed by the Code of Criminal Procedure, 1973, for the trial by Magistrates of warrant cases-- (a) instituted on a police report; (b) instituted otherwise than on a police report: Provided that a Special Court shall not be bound to adjourn trial for any purpose unless such adjournment is, in its opinion, necessary in the interests of justice. (1A). For the avoidance of doubt, it is hereby declared that any appeal,

application, complaint, trial, inquiry or investigation in respect of any warrant case referred to in sub-section (1), pending at the date of commencement of the West Bengal Criminal Law Amendment (Special Courts) Amending Act, 1990, shall be continued, held, made, dealt with or disposed of as the case may be, in accordance with the provisions of sub-section (1) as amended by the said Act. (2) A Special Court may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, an offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relating to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof; and any pardon so tendered shall, for the purposes of section 308 of the Code of Criminal Procedure, 1973 (2 of 1974), be deemed to have been tendered under section 307 of that Code. (3) Save as provided in sub-section (1) or sub-section (2), the provisions of the Code of Criminal Procedure, 1973, shall, in so far as they are not inconsistent with this Act, apply to the proceedings of a Special Court, and for the purposes of the said provisions of a Special Court, shall be deemed to be a Court of session trying cases without a Jury, and a person conducting a prosecution before a Special Court shall be deemed to be a Public Prosecutor. (4) A Special Court may pass any sentence authorised by law. Section

5A

- Jurisdiction Magistrates for certain purposes not to cease Nothing in section 4 or section 5 shall affect the jurisdiction and powers of Magistrates under the Code of Criminal Procedure, 1973 (2 of 1974), during the investigation by the police under the said Code of offences specified in the Schedule. Section

5B

- Power to try summarily (1) Where a Special Court tries any of the offences specified in item 1, in item 7 and in item 8 relating to offences specified in items 1 and 7, of the Schedule alleged to have been committed by a public servant in relation to the contravention of any special order referred to in section 12A of the Essential Commodities Act, 1955 (Act 10 of 1955), then, notwithstanding anything contained in sub-section (1) of section 5 of this Act or section 260 of the Code of Criminal Procedure, 1898 (Act 5 of 1898), the Special Court shall try the offence in a summary way, and the provisions of sections 262 to 265, both inclusives of the said Code shall, so far as may be, apply to such trial: Provided that

in the case of any conviction in a summary trial under this section, it shall be lawful for the Special Court to pass a sentence of imprisonment not exceeding one year. (2) Notwithstanding anything to the contrary contained in this Act or in the Code of Criminal Procedure, 1898 (Act 5 of 1898), there shall be no appeal by a convicted person in any case tried summarily under this section in which the Special Court passes a sentence of imprisonment not exceeding one month, or of fine not exceeding two thousand rupees, or both, whether or not any order under section 517 of the said Code is made in addition to such sentence, but an appeal shall lie where any sentence of imprisonment or fine in excess of the aforesaid limits is passed by the Special Court. (3) Where any notification is issued under sub-section (1) of section 12A of the Essential Commodities Act, 1955 (Act 10 of 1955), in relation to a special order, all cases triable summarily under this section in relation to such special order and pending on the date of the issue of such notification shall, if no witnesses have been examined before the said date, be tried by the Special Court in a summary way under this section.

6. Appeal, Revision And Transfer :-

The High Court may exercise, so far as they may be applicable, all the powers conferred by Chapters XXIX, XXX and XXXI of the Code of Criminal Procedure, 1973 (2 of 1974), on a High Court as if a Special Court were a Court of Session trying cases without a Jury within the local limits of the jurisdiction of the High Court.

7. Bar To Certain Jurisdiction :-

Omitted by the West Bengal Criminal Law Amendment (Special Courts) Amending act, 1982 (West Ben. Act XXV of 1982).

8. Special Rules Of Evidence :-

Omitted by the West Bengal Criminal Law Amendment (Special Courts) Amending Act, 1952 (West Ben. Act XII of 1952).

9. Provision Where Services Of Judge Presiding Over Special Court ceases To Be Available :-

(1) If for any reason the services of the person appointed as a Judge to preside over a Special Court ceases to be available, the State Government shall as often as may be necessary, appoint another person having the qualifications referred to in clause (a) or clause (b) of sub-section (2) of section 2, as a Judge to preside over such Special Court. (2) A person appointed under sub-section (1) as a Judge to preside over a Special Court may act on the evidence recorded by his predecessor or predecessors or partly recorded by his predecessor or predecessors and partly recorded by himself: Provided that if the person appointed under sub-section

(1) as a Judge to preside over a Special Court is of opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interests of justice, he may re-summon any such witness and after such further examination, cross-examination and re-examination, if any, as he may permit, the witness shall be discharged.

10. Application Of Act II Of 1947 To Trials Under This Act :-

The provisions of the Prevention of Corruption Act, 1947 (II of 1947), shall apply to trials under this Act.

11. Indemnity :-

No suit, prosecution or legal proceedings whatever shall lie against any person in respect of anything which is, in good faith, done or intended to be done under this Act.

12. Pending Proceedings In Other Courts Not To Be Affected :-

Nothing in this Act shall apply to any proceedings pending on the date of the commencement of the West Bengal Criminal Law Amendment (Special Courts) Amending Ordinance, 1952, (West Ben. Ord. VIII of 1952), in any court other than a Special Court.

13. Certain Sections Of Act XLvi Of 1952, Not To Apply To West Bengal :-

Sections 6, 7, 8, 8A, 9 and 10 of the Criminal Law Amendment Act, 1952 (XLVI of 1952) shall not apply and shall be deemed never to have applied to West Bengal.

SCHEDULE 1

THE SCHEDULE

[See section 4]

Offences triable by Special Judges

1. An offence punishable under section 161, section 162, section 163, section 164, section 165 or section 165A of the Indian Penal Code (Act XLV of 1860).

2. An offence punishable under section 409 of the Indian Penal Code (Act XLV of 1860), if committed by a public servant or by a person dealing with property belonging to Government as an agent of Government or by a person dealing with property belonging to a Government company as defined in section 617 of the Companies Act, 1956 (I of 1956), as an agent of such Government company in respect of property--

with which he is entrusted, or over which he has dominion in his capacity of a public servant or in the way of his business as such agent.

3. An offence punishable under section 417 or section 420 of the Indian Penal Code, if committed by a public servant or by a person dealing with property belonging to Government as an agent of Government or by a person dealing with property belonging to a Government company as defined in section 617 of the Companies

Act, 1956 as an agent of such Government company, while purporting to act as such public servant or agent.

7. An offence punishable under section 5 of the Prevention of Corruption Act, 1947 (II of 1947).

8. Any conspiracy to commit or any attempt to commit or any abetment of any of the offences specified in items 1, 2, 3 and 7