

## **Chhattisgarh Tonahi Pratadna Nivaran Act, 2005**

**17 of 2005**

**[30 September 2005]**

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## **Chhattisgarh Tonahi Pratadna Nivaran Act, 2005**

**17 of 2005**

**[30 September 2005]**

Be it enacted by the Chhattisgarh Legislature in the Fifty-sixth year of the Republic of India as follows :- 1 Received the assent of the Governor on the 26th September, 2005; assent first published in the Chhattisgarh Rajpatra (Asadharan), dated the 30th September, 2005, at pp. 500 (2-3).

### **1. Short Title, Extent And Commencement :-**

- (1) This Act may be called the Chhattisgarh Tonahi Pratadna Nivaran Adhiniyam, 2005.
- (2) It extends to the whole State of Chhattisgarh.
- (3) It shall come into force from the date of its publication in the

## **2. Definitions :-**

In this Act, unless the context otherwise requires,-

- (1) "Tonahi" means person indicated by any person or persons that he will harm or possesses power to harm or thereby he intends to harm any other person or persons or society or animal or living things by black magic, evil eye or by any other means, whether known as Dayan, Tonaha or by any other names;
- (2) "Identifier" means person who indicates any person as Tonahi or induces other person to indicate or by his deed, words, gesture or behaviour helps to indicate or knowingly does anything so, thereby on the basis of such indication that person may be harmed or apprehended to be harmed or his security and honour may be adversely affected;
- (3) "Ojha" may he be known by any other name whatsoever, means person who claims to possess power to control, cure, treat Tonahi or any person or animal or living things alleged to be affected by Tonahi and make him powerless, by jharphook, totka, tantra-mantra or by any means;
- (4) "Damage" includes physical, mental and economic harm and harm to reputation;
- (5) "Code" means the Code of Criminal Procedure, 1973 (No. 2 of 1974).

## **3. Act Not In Derogation Of Any Other Law :-**

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

## **4. Punishment For Identifying Tonahi :-**

Whoever identifies any person as Tonahi by any means shall be punished with rigorous imprisonment for a term which may extend to 3 years and also with fine.

## **5. Punishment For Harassment :-**

Whoever causes physical or mental harassment or damage to any person identified by him or any person as Tonahi shall be punished with rigorous imprisonment for a term which may extend to 5 years and also with fine.

## **6. Punishment For Alleged Curing :-**

Whoever does any act of jhar-phook, totka, use of tantra-mantra or anything as Ojha upon any person indicated as a Tonahi or any other person or animal or living thing alleged to be affected by such Tonahi, under any claim of treatment or control shall be punished with rigorous imprisonment for a term which may extend to 5 years and also with fine.

## **7. Punishment For Claiming To Be Tonahi :-**

Whoever claims to have power to harm any person or animal or living things by black magic, evil eye or by any other means and publicizes it and tries to disturb the public tranquillity or peace or causes annoyance or harms others shall be punished with rigorous imprisonment for a term which may extend to one year and also with fine.

## **8. Punishment For Attempt To Commit Offence :-**

Whoever attempts to commit any offence punishable under this Act or to cause such offence to be committed and in such attempt does any Act towards the commission of the offence shall be punished with the punishment provided for the offence.

## **9. Trial Of Offences Under The Act :-**

Every offence under this Act shall be triable by the Judicial Magistrate First Class.

## **10. Offences To Be Cognizable And Non-Bailable :-**

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (No. 2 of 1974),-

(a) every offence punishable under this Act shall be cognizable and non-bailable;

(b) no person accused of an offence punishable under this Act shall be released on bail or on his own bond unless, the Public Prosecutor has been given an opportunity to oppose the application for such release.

## **11. Application Of Section 360 Of The Code Of Criminal Procedure, 1973 And Of The Probation Of Offenders Act, 1958 :-**

Nothing contained in Section 360 of the Code of Criminal Procedure, 1973 (No. 2 of 1974) or in the Probation of Offenders Act, 1958 (No. 20 of 1958) shall apply to a person convicted of an offence under this Act unless such person is under eighteen years of age.

**12. Matters To Be Taken Into Consideration For Fixing Fine :-**

Where a sentence of fine is imposed under Sections 4, 5 and 6, the Court in fixing the amount of the fine shall take into consideration the physical and mental damage caused to victim including any cost of treatment.

**13. Order For Compensation :-**

When a Court imposes sentence of fine, the Court shall when passing judgment, order the whole or part of the fine recovered to be awarded as compensation to the victim.

**14. Bar Of Jurisdiction :-**

No Civil Court shall entertain any suit or proceeding against any decision made or order passed by any officer or authority under this Act or any rule made thereunder.

**15. Protection Of Action Taken In Good Faith :-**

No suit, prosecution or other legal proceeding shall lie against the State Government or any officer of the State Government or any other person exercising any power or discharging any function or performing any duty under this Act, for anything done in good faith or intended to be done under this Act or any rule made thereunder.

**16. Power To Make Rule :-**

The State Government may, by notification make the rules to carry out the provisions of this Act.

Every rule made under this Act by the State Government shall be laid, as soon as may be after it is made, before the State Legislature.