

**Madhya Pradesh Dakaiti Aur Vyapharan Prabhavit Kshetra
Adhiniyam, 1981**

36 of 1981

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SCHEDULE 1 :- THE SCHEDULE

Madhya Pradesh Dakaiti Aur Vyapharan Prabhavit Kshetra Adhiniyam, 1981

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An Act to make provision for specifying certain offences in the dacoity and kidnapping affected areas of Madhya Pradesh and in respect of punishments therefor and speedy trial thereof in order to curb effectively the commission of such specified offences and to make provision for the attachment of properties acquired through the commission of specified offences and for matters connected therewith or incidental thereto. Whereas for curbing the menace of organised and unorganised gangs of dacoits affectively it is essential to break the chain of vested interests, assisting, or associate with such gangs and to curb and control them effectively; And, whereas, it is essential to provide for more stringent punishments for certain specified offences in the areas affected by dacoity and kidnapping; And whereas it is necessary to provide for attachment and confiscation of huge properties which have been acquired through the commission of specified offences and are being held in the name of relatives, associates and confidants of the dacoits; It is hereby enacted by the Madhya Pradesh Legislature in the Thirty-second Year of the Republic of India as follows: 1 Received the assent of the President on the 6th October, 1981; assent first published in the M.P. Gazette (Extra-ordinary), dated 7-10-1981.

CHAPTER 1 PRELIMINARY

1. Short Title And Extent :-

- (1) This Act may be called the Madhya Pradesh Dakaiti Aur Vyapharan Prabhavit Kshetra Adhiniyam, 1981.
- (2) It extends to the whole of Madhya Pradesh.

2. Definitions :-

In this Act, unless the context otherwise requires,--

- (a) "Code" means the Code of Criminal Procedure, 1973 (No. 2 of 1974);
- (b) "dacoit" in relation to a dacoity and kidnapping affected area, means a person who commits or has committed an offence punishable under section 395 of the Indian Penal Code (XLV of 1860) or a specified offence, or as the case may be, a person accused of commission of any such offence;
- (c) "dacoity and kidnapping affected area" means an area declared as a dacoity and kidnapping affected area under section 3;
- 1[(cc) "kidnapping" includes abduction].
- (d) "Special Court" means a Special Court constituted under section 6;
- (e) "Special Judge" means a Judge appointed under sub-section (2) of section 6, to preside over a Special Court;
- (f) "specified offence" means--
 - (i) an offence specified in the schedule committee in relation to an area declared under section 3 being an offence forming part or arising out of/or connected with the commission of dacoity or kidnapping;
 - (ii) an offence for which punishment has been provided under section 9, 11 and 12 of this Act;
 - 1[(iii) an offence punishable under section 212, 216, 216-A, 311, 347, 392, 393, 394, 395, 396, 397, 398, 399, 402 and 412 of the Indian Penal Code, 1860 (XLV of 1860) committed in relation to an area declared under section 3; and includes abatement or attempt to commit any of the offences specified in sub-clauses (i), (ii) and (iii).]
- (g) words and expressions used but not defined in this Act and defined in the Code, shall have the meanings respectively assigned to them in the Code or as the case may be, in the Indian Penal Code (XLV of 1860).

1 Inserted by M.P. Act No. 29 of 1982 w.e.f. 27-8-1982.

CHAPTER 2

DECLARATION OF DACOITY AND KIDNAPPING AFFECTED AREA

3. Declaration Of Dacoity And Kidnapping Affected Area :-

If, having regard to the incidence of specified offences in a district or districts or part or parts thereof, or on receiving the report of the police officer or other information in respect thereof, the State

Government considers that a situation has arisen in which the area converted by such district or districts or part or parts thereof should be declared to be a dacoity and kidnapping affected area for the purposes of this Act, the State Government may, by notification, declare the district or districts or part or parts thereof specified therein, to be a dacoity and kidnapping area.

4. Person Assisting The Police To Be Public Servant :-

(1) A person who assists the police in giving information or is engaged to assist the police for giving information relating to the commission of a specified offence or engaged to assist in the investigation of the commission of a specified offence shall, for the purposes of this Act, be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code (XLV of 1860).

(2) A certificate by the Superintendent of Police to the effect that the person mentioned therein is a person who assists or is engaged to assist the police for the purposes specified in sub-section (1) shall be conclusive proof of the facts stated therein.

4A. Procedure Where Investigation Cannot Be Completed In 24 Hours :-

1[(1) Whenever any person who has been concerned, or against whom a complaint has been made, or credible information has been received, or a reasonable suspicion exists, of having been so concerned, with the commission of a specified offence, is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty- four hours fixed by Section 57 of the Code, and there are grounds for believing that accusation or information is well founded, the officer incharge of the police station or the police officer making investigation, if he is not below the rank of Sub-Inspector shall forthwith transmit to the nearest Judicial Magistrate a copy of the entries in the diary as prescribed in the Code relating to the case, and at the same time forward the accused to such Magistrate.

(2) The Magistrate to whom the accused person is forwarded under sub-section (1) may, whether he has or has not the jurisdiction, from time to time authorise detention of the accused in such custody as such Magistrate may think fit, for a term not exceeding 15 days in whole.

(3) If the Magistrate at any time considers detention of the accused unnecessary or after the expiry of the period of detention of 15 days under sub-section (2), whichever is earlier, he shall forward the accused alongwith all papers to the Special Judge having jurisdiction in the matter.

(4) On the accused being so forwarded alongwith the police papers the Special Judge may either take cognizance of the case treating the papers as police report under Section 8 or may pass such orders with respect to remand as a Magistrate having jurisdiction could have passed under the provisions of the Code.

1 Inserted by M.P. Act No. 29 of 1982 w.e.f. 27-8-1982.

5. Regulation Of Grant Of Bail :-

(1) Notwithstanding anything contained in the Code, no application for an anticipatory bail shall be entertained by any court in respect of a dacoit.

(2) Notwithstanding anything contained in the Code, no application for bail of a dacoit shall be allowed, if opposed 1[xxx]:

Provided that no court or Magistrate shall authorise the detention of a person accused of a specified offence in custody during the course of investigation for a period exceeding 120 days and on the expiry of such period 2[in the event of the police report under sub-section (2) of Section 173 of the Code being not filed,] the accused shall be released forthwith if he is prepared to and does furnish bail.

1 Omitted by M.P. Act No. 29 of 1982, w.e.f. 27-8-1982.

1 Substituted by M.P. Act No. 29 of 1982, w.e.f. 27-8-1982.

6. Constitution Of Special Courts :-

(1) For the purposes of providing speedy trial of specified offences committed in a dacoity and kidnapping affected areas, the State Government may in consultation with the High Court, constitute as many Special Courts as may be necessary in or in relation to such dacoity and kidnapping affected area or areas as may be specified in the notification.

1[(1-A) Where two or more Special Courts are constituted for any dacoity and kidnapping affected area or areas, the State Government may, in consultation with the High Court, by general or special order, regulate the distribution business among them, including the power of remand.]

(2) A Special Court shall consist of a single Judge who shall be appointed by the High Court upon a request made by the State Government.

Explanation.-- In this sub-section, the word "appoint" shall have the meaning given to it in the Explanation to section 9 of the Code.

(3) A person shall not be qualified for appointment as a judge of Special Court unless he is a serving Sessions Judge or Additional Sessions Judge under the Code.

1[(4) In the event of a Special Judge being absent on leave or being prevented from performing his duties by illness or other cause, any one of the Additional Sessions Judge in the sessions division as may be directed by the Sessions Judge in this behalf, shall dispose of emergent matters, that may come up before the Special Judge until the Special Judge resumes his duties and for this purposes the Additional Sessions Judge so directed shall

notwithstanding anything contained in this Act be deemed to be a Special Judge.]

1. Inserted by *ibid*.

7. Jurisdiction Of Special Courts :-

(1) Notwithstanding anything contained in the Code, or any other law for the time being in force a specified offence shall be triable only by a Special Court.

(2) In trying any specified offence, a Special Court may also try any offence other than the specified offence with which the dacoit may, under the Code, be charged at the same trial, if the offence is connected with the specified offence.

8. Procedure And Powers Of Special Courts :-

(1) A Special Court may take cognizance of any specified offence,--

(a) upon receiving a complaint which constitutes such offence; or

(b) upon a police report of such facts; or

(c) upon information received from any person other than a police officer, or upon its own knowledge, that such offence has been committed.

(2) A Special Court shall, in trial of a specified offence, follow the procedure provided by the Code for trial of Session cases:

Provided that the Special Court may wherever necessary perform the functions of a Magistrate under section 207 of the Code and proceed to try the case as if the case had been committed to court of session for trial under the provisions of the Code.

(3) Save as otherwise expressly provided in the Act the provisions of the Evidence Act, 1872 (No. 1 of 1872) and the Code shall, in so far they are not inconsistent with the provisions of this Act, apply to the proceedings before a Special Court and for the purposes of the said provisions of the Code, the Special Court shall be deemed to be a Court Session and the person conducting the prosecution before a Special Court shall be deemed to be a public prosecutor.

(4) A Special Court may, with a view to obtaining the evidence of any person suspected to have been directly or indirectly concerned in, or privy to, any specified 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 a principal or a better in the commission thereof and any pardon so tendered shall for the purposes of section 308 of the Code, be deemed to have

been tendered under section 307 thereof.

(5) A Special Court may pass upon any accused person convicted by it any sentence authorised by law for the punishment of offence of which such person is convicted.

CHAPTER 3

OFFENCES AND PENALTY

9. Punishment For Offences Against Public Servant :-

A dacoit who commits murder of more than one person 1[or an offence against the person or property of a public servant or against the person or property of a member of his family] shall,--

(a) if such an offence is punishable with death or with imprisonment for life under the Indian Penal Code (XLV of 1860), be punished with punishment provided for that offence in the Indian Penal Code (XLV of 1860); and

(b) in other cases, be punished with imprisonment which may extend to ten years and with fine.

Explanation.-- For the purposes of this section and section 10, a member of family of a public servant shall mean his parents, spouse, sons and daughters, grand-sons and grand- daughters and great grand-sons and great grand-daughters and their spouses and shall include a person dependent on and residing with him.

1 Substituted by M.P. Act No. 29 of 1982, w.e.f. 27-8-1982.

10. Reasons To Be Recorded For Not Awarding Punishment Of Death :-

Notwithstanding anything contained in sub-section (3) of section 354 of the Code, when the conviction is for the murder of more than one person or murder of a public servant or a member of his family and where the sentence of death is not awarded, the judgment shall state the special reasons for not awarding the death sentence.

11. Punishment For Specified Offences Generally :-

A dacoit who commits a specified offence shall, if no specific punishment is provided for that Act in the Indian Penal Code (XLV of 1860) and that act is also not punishable under section 9, be punished with imprisonment which may extend to ten years and with fine.

12. Punishment For Possessing Property Not Satisfactorily

Accounted For :-

A person living in a dacoity and kidnapping affected area and possessing property in that area or elsewhere for which he cannot satisfactorily account for shall be guilty of an offence and shall be punished with imprisonment which may extend to seven years and with fine;

Provided that if and when an order of release is passed by the Special Court under section 17, the accused shall, whatever be the stage of trial, be discharged and shall be released forthwith if he is under custody and his conviction, if any, shall be deemed as honest.

13. Minimum Period Of Imprisonment :-

Notwithstanding anything contained in section 11 and 12 or any other law for the time being in force, minimum punishment with which a specified offence shall be punished shall be imprisonment for three years.

13A. Presumption In Case Of Possession, Etc. Of Prohibited Arms And Prohibited Ammunition In Contravention Of Arms Act, 1959 :-

1[If any person manufactures, mends, buys, sells or possesses prohibited arms or prohibited ammunition in contravention of the provisions of the Arms Act, 1959 (No. 54 of 1959) it shall be presumed that he manufactures, mends, buys, sells or possesses the same for the commission of a specified offence.

Explanation.-- In this section the expression "prohibited arms" and "prohibited ammunition" shall have the meanings respectively assigned to them in the Arms Act, 1959 (54 of 1959).]

1 Inserted by M.P. Act No. 29 of 1982, w.e.f. 27-8-1982.

CHAPTER 4

ATTACHMENT OF PROPERTY

14. Attachment Of Property :-

(1) If the District Magistrate has reason to think that person living in a dacoity and kidnapping affected area holds property in that area or elsewhere or if a person living outside dacoity and kidnapping affected area holds property in the dacoity and kidnapping affected area, for which he cannot satisfactorily account for, he may make a declaration to that effect and order attachment of the said property.

(2) On attachment of the property under sub-section (1), the

provisions of the Code shall apply thereto.

(3) Notwithstanding the provisions of the Code, the District Magistrate may, in lieu of surety, appoint an administrator who shall have all the powers to administer the property as he deems fit in the best interests of the property.

(4) The District Magistrate may provide police help to the Administrator for proper and effective administration of the property.

(5) The expenses incurred on the administration of the property, including on the assistance by the police shall be a charge on the property.

15. Release Of Property :-

(1) When the property is attached under section 14, the owner thereof may, within three months of the date of knowledge of attachment, make a representation to the District Magistrate, showing the circumstances and the means by which the property was acquired by him.

(2) If the District Magistrate is satisfied with the representation, he may forthwith release the property from attachment and thereupon the property alongwith mesne profits after deducting all expenses charged on the property shall vest in the owner thereof.

16. Inquiry Into The Character Of Acquisition Of Property By Special Courts :-

(1) If the District Magistrate is not satisfied with the representation made under sub-section (1) of section 15, he shall send the matter with his report to the Special Court having jurisdiction for deciding whether or not the property or part thereof was or was not acquired through the commission of a specified offence.

(2) The Special Court shall, in deciding the matter referred to it under sub-section (1), have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (V of 1908).

(3) In any proceeding under this section, the burden of proving that the property or part thereof mentioned in the representation was not acquired 1[through the commission of a specified offence] shall be on the person claiming the property, notwithstanding anything contained in the Evidence Act, 1872 (No. 1 of 1872).

17. Decision Of Special Court And Consequences Thereof :-

If the Special Court finds that the property was acquired 1[through the commission of a specified offence], he shall order confiscation of the said property and shall transmit the records to the District Magistrate for execution of his order and in any other case, the property shall be ordered to be released forthwith.

1 Substituted by MP. Act No. 29 of 1982, w.e.f. 27-8-1982.

18. Appeal :-

An appeal shall lie to the High Court against every decision of the Special Court made under section 17.

19. Bar Of Jurisdiction :-

No order passed or no decision made under this Act shall be appealable except as provided therein and no civil court shall have jurisdiction in respect of any matter which the Special Court is empowered by or under this Act to determine and no injunction or interlocutory order interfering with the attachment or confiscation of the property shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Chapter.

CHAPTER 5

MISCELLANEOUS

20. Protection Of Action Taken In Good Faith :-

(1) No suit, prosecution or other legal proceeding shall lie against the State Government or any officer of the State Government for any thing done or intended to be done in good faith in pursuance of this Act or the rules made thereunder.

(2) No suit or prosecution against an Administrator appointed under sub-section (3) of section 14 shall be instituted unless previous sanction of the District Magistrate has been obtained therefor.

21. Act To Have Overriding Effect :-

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any law for the time being in force.

22. Power To Make Rules :-

(1) The State Government may, by notification, make rules to carry

out the provisions of this Act.

(2) All rules made under this section shall be laid on the Table of the Legislative Assembly.

23. Repeal :-

The Madhya Pradesh Dakaiti Prabhavit KshetraAdhyadesh, 1981 (No. 5 of 1981) is hereby repealed.

SCHEDULE 1

THE SCHEDULE

[See Section 2 (f)]

(i) Offences punishable under sections 1[xxx] 302, 303, 304, 307, 308, 325, 326, 327, 329, 331, 333, 363, 364, 365, 368, 369, 386, 387, 400 and 2[435] of the Indian Penal Code, 1860 (XLV of 1860)];

(ii) kidnapping or abduction for ransom;

(iii) assembly, preparation or attempt for kidnapping or abducting a person for ransom;

(iv) making mending or performing any part of the process of making or mending, buying, selling, disposing of or carrying or processing arms or ammunition or explosive. 1[x x x]

(v) supplying food materials, clothings, means of communication, transport and other articles to the persons assembled before or after the commission of dacoity or preparing to commit dacoity;

(vi) mediating in the settlement or standing surety for the payment of ransom to an abductor or a kidnapper;

(vii) spying for the persons assembled before or after the commission of dacoity or preparing to commit dacoity;

(viii) receiving benefits from the persons committing all or any of the above mentioned offences.

1 Omitted by M.P. Act No. 29 of 1982, w.e.f. 27-8-1982.

2 Substituted by ibid.