

**Bill No. 126 of 2018**

THE CRIMINAL LAW (AMENDMENT) BILL, 2018

A

BILL

*further to amend the Indian Penal Code, Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012.*

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

- 5      **1.** (1) This Act may be called the Criminal Law (Amendment) Act, 2018.  
(2) It shall be deemed to have come into force on the 21st day of April, 2018.

Short title and commencement.



- 376DB. Where a woman under twelve years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine, or with death:
- 5
- Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:
- Provided further that any fine imposed under this section shall be paid to the victim."
- 10 **7.** In section 376E of the Penal Code, for the word, figures and letter "section 376D", the words, figures and letters "section 376AB or section 376D or section 376DA or section 376DB," shall be substituted. Punishment for gang rape on woman under twelve years of age.  
Amendment of section 376E.
- CHAPTER III**  
AMENDMENTS TO THE INDIAN EVIDENCE ACT, 1872
- 1 of 1872. 15 **8.** In section 53A of the Indian Evidence Act, 1872 (hereafter in this Chapter referred to as the Evidence Act), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted. Amendment of section 53A.
- 20 **9.** In section 146 of the Evidence Act, in the proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted. Amendment of section 146.
- CHAPTER IV**  
AMENDMENTS TO THE CODE OF CRIMINAL PROCEDURE, 1973
- 2 of 1974. 25 **10.** In the Code of Criminal Procedure, 1973 (hereafter in this Chapter referred to as the Code of Criminal Procedure), in section 26, in clause (a), in the proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted. Amendment of section 26.
- 30 **11.** In section 154 of the Code of Criminal Procedure, in sub-section (1),— Amendment of section 154.
- (i) in the first proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB," shall be substituted;
- 35 (ii) in the second proviso, in clause (a), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB," shall be substituted.
- 40 **12.** In section 161 of the Code of Criminal Procedure, in sub-section (3), in the second proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted. Amendment of section 161.
- 45 **13.** In section 164 of the Code of Criminal Procedure, in sub-section (5A), in clause (a), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted. Amendment of section 164.

Amendment of section 173.	<p><b>14.</b> In section 173 of the Code of Criminal Procedure,—</p> <p>(i) in sub-section (1A), for the words "rape of a child may be completed within three months", the words, figures and letters "an offence under sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E of the Indian Penal Code shall be completed within two months" shall be substituted;</p> <p>(ii) in sub-section (2), in clause (i), in sub-clause (h), for the words, figures and letters "sections 376, 376A, 376B, 376C, 376D", the word, figures and letters "sections, 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB" shall be substituted.</p>	45 of 1860. 5
Amendment of section 197.	<p><b>15.</b> In section 197 of the Code of Criminal Procedure, in sub-section (1), in the <i>Explanation</i>, for the words, figures and letters "section 376A, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.</p>	10
Amendment of section 309.	<p><b>16.</b> In section 309 of the Code of Criminal Procedure, in sub-section (1), in the proviso, for the words, figures and letters "section 376A, section 376B, section 376C or section 376D of the Indian Penal Code, the inquiry or trial shall, as far as possible", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA or section 376DB of the Indian Penal Code, the inquiry or trial shall," shall be substituted.</p>	45 of 1860.
Amendment of section 327.	<p><b>17.</b> In section 327 of the Code of Criminal Procedure, in sub-section (2), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.</p>	20
Amendment of section 357B.	<p><b>18.</b> In section 357B of the Code of Criminal Procedure, for the words, figures and letters "under section 326A or section 376D of the Indian Penal Code", the words, figures and letters "under section 326A, section 376AB, section 376D, section 376DA and section 376DB of the Indian Penal Code" shall be substituted.</p>	45 of 1860. 25
Amendment of section 357C.	<p><b>19.</b> In section 357C of the Code of Criminal Procedure, for the figures and letters "376A, 376B, 376C, 376D", the figures and letters "376A, 376AB, 376B, 376C, 376D, 376DA, 376DB" shall be substituted.</p>	
Amendment of section 374.	<p><b>20.</b> In section 374 of the Code of Criminal Procedure, after sub-section (3), the following sub-section shall be inserted, namely:—</p> <p>"(4) When an appeal has been filed against a sentence passed under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code, the appeal shall be disposed of within a period of six months from the date of filing of such appeal."</p>	30  45 of 1860. 35
Amendment of section 377.	<p><b>21.</b> In section 377 of the Code of Criminal Procedure, after sub-section (3), the following sub-section shall be inserted, namely:—</p> <p>"(4) When an appeal has been filed against a sentence passed under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code, the appeal shall be disposed of within a period of six months from the date of filing of such appeal."</p>	40 45 of 1860.
Amendment of section 438.	<p><b>22.</b> In section 438 of the Code of Criminal Procedure, after sub-section (3), the following sub-section shall be inserted, namely:—</p> <p>"(4) Nothing in this section shall apply to any case involving the arrest of any person on accusation of having committed an offence under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code."</p>	45  45 of 1860.

**23.** In section 439 of the Code of Criminal Procedure,—

Amendment of  
section 439.

(a) in sub-section (1), after the first proviso, the following proviso shall be inserted, namely:—

"Provided further that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence triable under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code, give notice of the application for bail to the Public Prosecutor within a period of fifteen days from the date of receipt of the notice of such application.";

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The presence of the informant or any person authorised by him shall be obligatory at the time of hearing of the application for bail to the person under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code."

**24.** In the First Schedule to the Code of Criminal Procedure, under the heading "I.- OFFENCES UNDER THE INDIAN PENAL CODE",—

Amendment of  
First Schedule.

(a) for the entries relating to section 376, the following entries shall be substituted, namely:—

Section	Offence	Punishment	Cognizable or Non-cognizable	Bailable or Non-bailable	By what Court triable
1	2	3	4	5	6
"376	Rape.	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.
	Rape by a police officer or a public servant or member of armed forces or a person being on the management or on the staff of a jail, remand home or other place of custody or women's or children's institution or by a person on the management or on the staff of a hospital, and rape committed by a person in a position of trust or authority towards the person raped or by a near relative of the person raped.	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life which shall mean the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.
	Persons committing offence of rape on a woman under sixteen years of age.	Rigorous imprisonment for a term which shall not be less than 20 years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.";

(b) after the entries relating to section 376A, the following entries shall be inserted, namely:—

1	2	3	4	5	6	
"376AB	Person committing an offence of rape on a woman under twelve years of age.	Rigorous imprisonment of not less than 20 years but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine or with death.	Cognizable	Non-bailable	Court of Session.;"	5
						10
						15

(c) after the entries relating to section 376D, the following entries shall be inserted, namely:—

1	2	3	4	5	6	
"376DA	Gang rape on a woman under sixteen years of age.	Rigorous imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.	20
376DB	Gang rape on woman under twelve years of age.	Imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine or with death.	Cognizable	Non-bailable	Court of Session."	25
						30

## CHAPTER V

### AMENDMENT TO THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012

Amendment of section 42 of Act No.32 of 2012. **25.** In section 42 of the Protection of Children from Sexual Offences Act, 2012, for the figures and letters "376A, 376C, 376D", the figures and letters "376A, 376AB, 376B, 376C, 376D, 376DA, 376DB" shall be substituted. 35

Repeal and savings. **26.** (1) The Criminal Law (Amendment) Ordinance, 2018 is hereby repealed. Ord. No.2 of 2018.  
(2) Notwithstanding such repeal, anything done or any action taken under the Indian Penal Code, the Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act. 40  
45 of 1860.  
1 of 1872.  
2 of 1974.  
32 of 2012.

## STATEMENT OF OBJECTS AND REASONS

Recent incidents of rape and gang rape on women under the age of sixteen years and twelve years have shaken the conscience of the entire Nation. Therefore, the offences of rape and gang rape on women under the age of sixteen years and twelve years required effective deterrence through legal provisions of more stringent punishment. Some of the incidents in recent years have been marked by increased brutality and violence perpetrated on minor girls. This has fueled demands from various sections of the society to make the penal provisions more stringent and effective, immediate arrest of the accused and ensure speedy trial in such cases.

2. As the Parliament was not in session and immediate action was required to be taken in this regard to make necessary amendments in the Indian Penal Code, Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012, the President promulgated the Criminal Law (Amendment) Ordinance, 2018 on 21st April, 2018.

3. It is, therefore, proposed to introduce the Criminal Law (Amendment) Bill, 2018 to replace the Criminal Law (Amendment) Ordinance, 2018, which, *inter alia*, provides for:—

(a) punishment for the offence of rape from the minimum imprisonment of seven years to ten years, which is extendable to imprisonment for life;

(b) punishment for the offence of rape on a woman under sixteen years of age shall be rigorous imprisonment for a term not less than twenty years but may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and shall also be liable to fine;

(c) punishment for the offence of rape on a woman under twelve years of age shall be rigorous imprisonment for a term not less than twenty years but may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and with fine or with death;

(d) punishment for the offence of gang rape on a woman under sixteen years of age shall be imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and with fine;

(e) punishment for the offence of gang rape on a woman under twelve years of age shall be imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and with fine or with death;

(f) investigation in relation to all rape cases shall be completed within a period of two months from the date on which the information recorded by the officer-in-charge of the police station;

(g) completion of inquiry or trial relating to the offence of rape, within a period of two months;

(h) dispose of an appeal against a conviction or a acquittal in rape cases within a period of six months from the date of filing of the appeal;

(i) the provisions of anticipatory bail shall not be applicable in cases of rape or gang rape of woman under sixteen and twelve years of age;

(j) consequential amendments in the Indian Penal Code, Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012 relating to the cases of rape, gang rape of the

woman below the age of sixteen years, twelve years, repeat offenders, to extend the applicability of compulsory registration of FIRs, fine imposed to be paid to victim, facilitate better recording of evidence and protect the dignity of rape survivor and treatment free of cost in hospitals.

4. The Bill seeks to achieve the above objectives.

NEW DELHI;  
*The 19th July, 2018.*

RAJNATH SINGH



*Notes on clauses*

*Clause 1.* — This clause seeks to provide for short title and commencement of the Act.

*Clause 2.* — This clause seeks to amend section 166A of the Indian Penal Code so as to insert newly proposed sections 376AB, 376DA and 376DB therein.

*Clause 3.* — This clause seeks to amend section 228A of the Indian Penal Code so as to insert the newly proposed sections 376AB, 376DA and 376DB therein.

*Clause 4.* — This clause seeks to amend section 376 of the Indian Penal Code to enhance the punishment from seven years to ten years provided therein and to insert a new sub-section (3) to provide for punishment for rape on women under sixteen years of age for a term of twenty years but which may extend to imprisonment for life and with fine.

*Clause 5.* — This clause seeks to insert a new section 376AB in the Indian Penal Code to provide for punishment for rape on women under twelve years of age for a term of twenty years which may extend to imprisonment for life and with fine or with death.

*Clause 6.* — This clause seeks to insert a new section 376DA in the India Penal Code to provide for punishment for gang rape on women under sixteen years of age, committed in furtherance of common intention, for imprisonment for life and with fine.

It further provides to insert a new section 376DB to provide for punishment for gang rape on woman under twelve years of age, committed in furtherance of common intention for imprisonment for life and with fine or with death.

*Clause 7.* — This clause seeks to amend section 376E of the Indian Penal Code to insert therein the newly proposed sections 376AB, 376DA, and 376 DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 8.* — This clause seeks to amend section 53 A of the Indian Evidence Act, 1872 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 9.* — This clause seeks to amend section 146 of the Indian Evidence Act, 1872 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 10.* — This clause seeks to amend section 26 of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 11.* — This clause seeks to amend section 154 of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 12.* — This clause seeks to amend section 161 of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 13.* — This clause seeks to amend section 164 of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 14.* — This clause seeks to amend section 173 of the Code of Criminal Procedure, 1973 to provide that the trial of offences under sections 376, 376A, 376AB,

376B,376C,376D,376DA,376DB,376E shall be completed within a period of two months.

*Clause 15.* — This clause seeks to amend section 197 of the Code of Criminal Procedure, 1973 so as to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 16.* — This clause seeks to amend section 309 of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 17.* — This clause seeks to amend section 327 of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 18.* — This clause seeks to amend section 357B of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 19.* — This clause seeks to amend section 357C of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 20.* — This clause seeks to amend section 374 of the Code of Criminal Procedure, 1973 to insert sub-section (4) therein to provide that appeal against rape offences shall be disposed of within a period of six months from the date of filing of such appeal.

*Clause 21.* — This clause seeks to amend section 377 of the Code of Criminal Procedure, 1973 to insert sub-section (4) therein to provide that appeal against rape offences shall be disposed of within a period of six months from the date of filing of such appeal.

*Clause 22.*— This clause seeks to amend section 438 of the Code of Criminal Procedure, 1973 so as to insert sub-section (4) therein to provide that provisions of this section shall not apply to offences under sub-section (3) of section 376, sections 376AB, 376DA and 376DB of the Indian Penal Code.

*Clause 23.*— This clause seeks to amend section 439 of the Code of Criminal Procedure, 1973 to insert a proviso therein to provide for serving of notice of application of bail relating to offences under sub-section(3) of section 376, section 376A, 376DA or section 376DB to the Public Prosecutor within a period of fifteen days.

It further seeks to insert sub-section (1A) to make it obligatory for the informant or his authorised person to be present at the time of hearing of an application for bail for offences under sub-section (3) of section 376, section 376A, 376DA or 376DB of the Indian Penal Code.

*Clause 24.* — This clause seeks to amend First Schedule of the Code of Criminal Procedure, 1973 which is consequential to the amendments of the Indian Penal Code.

*Clause 25.*— This clause seeks to amend section 42 of the Protection of Children from Sexual Offences Act, 2012 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

*Clause 26.*— This clause seeks to provide for repeal and savings of the Criminal Law (Amendment) Ordinance, 2018.

*Memorandum explaining the modifications contained in the Bill to replace the Criminal Law (Amendment) Ordinance, 2018.*

The Criminal Law (Amendment) Bill, 2018, which seeks to replace the Criminal Law (Amendment) Ordinance, 2018, proposes to make the following modifications apart from the modifications of consequential or drafting nature in the provisions contained in the said Ordinance, namely:—

1. INDIAN PENAL CODE

Insertion of new clause 7 in the Bill to amend section 376E of the Indian Penal Code (punishment for repeat offenders of rape)—"In section 376E of the Penal Code, for the words, figures and letters "section or 376D", the words, figures and letters "section 376 or section 376AB or section 376D or section 376DA or section 376DB shall be substituted."

2. CODE OF CRIMINAL PROCEDURE, 1973

In clause 23 of the Bill, in the First Schedule of the Code of Criminal Procedure under the heading "I—OFFENCES UNDER THE INDIAN PENAL CODE"-inadvertently the second part under column (3) against section 376 has been omitted. To restore the same, the entire entries against the said section has been substituted.

3. INDIAN EVIDENCE ACT, 1872 — No change

4. PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012 — No change

ANNEXURE

EXTRACTS FROM THE INDIAN PENAL CODE

(45 OF 1860)

\* \* \* \* \*

Public servant  
disobeying  
direction under  
law.

**166A.** Whoever, being a public servant,—

\* \* \* \* \*

(c) fails to record any information given to him under sub-section (I) of section 154 of the Code of Criminal Procedure, 1973 in relation to cognizable offence punishable under section 326A, section 326B, section 354, section 354B, section 370, section 370A, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509,

shall be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years, and shall also be liable to fine.

\* \* \* \* \*

Disclosure of  
identity of the  
victim of  
certain  
offences, etc.

**228A.** (I) Whoever prints or publishes the name or any matter which may make known the identity of any person against whom an offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E is alleged or found to have been committed (hereafter in this section referred to as the victim) shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

\* \* \* \* \*

Punishment  
for rape.

**376.** (I) Whoever, except in the cases provided for in sub-section (2), commits rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine.

(2) Whoever,—

\* \* \* \* \*

(i) commits rape on a woman when she is under sixteen years of age; or

\* \* \* \* \*

Punishment  
for repeat  
offenders.

**376E.** Whoever has been previously convicted of an offence punishable under section 376 or section 376A or section 376D and is subsequently convicted of an offence punishable under any of the said sections shall be punished with imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, or with death.

\* \* \* \* \*

EXTRACTS FROM THE INDIAN EVIDENCE ACT, 1872

(1 OF 1872)

\* \* \* \* \*

45 of 1860. **53A.** In a prosecution for an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code or for attempt to commit any such offence, where the question of consent is in issue, evidence of the character of the victim or of such person's previous sexual experience with any person shall not be relevant on the issue of such consent or the quality of consent.

Evidence of character or previous sexual experience not relevant in certain cases.

\* \* \* \* \*

**146.** When a witness is cross-examined, he may, in addition to the questions hereinbefore referred to, be asked any questions which tend—

Questions lawful in cross-examination.

(1) to test his veracity,

(2) to discover who he is and what is his position in life, or

(3) to shake his credit, by injuring his character, although the answer to such questions might tend directly or indirectly to criminate him or might expose or tend directly or indirectly to expose him to a penalty or forfeiture:

45 of 1860. Provided that in a prosecution for an offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code or for attempt to commit any such offence, where the question of consent is an issue, it shall not be permissible to adduce evidence or to put questions in the cross-examination of the victim as to the general immoral character, or previous sexual experience, of such victim with any person for proving such consent or the quality of consent.

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EXTRACTS FROM THE CODE OF CRIMINAL PROCEDURE, 1973

(2 OF 1974)

\* \* \* \* \*

CHAPTER III

POWER OF COURTS

**26.** Subject to the other provisions of this Code, —

Courts by which offences are triable.

45 of 1860. (a) any offence under the Indian Penal Code may be tried by—

(i) the High Court, or

(ii) the Court of Session, or

(iii) any other Court by which such offence is shown in the First Schedule to be triable:

45 of 1860. Provided that any offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code shall be tried as far as practicable by a Court presided over by a woman.

\* \* \* \* \*

CHAPTER XII

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE

Information in cognizable cases.

154. (I) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf:

Provided that if the information is given by the woman against whom an offence under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer: 45 of 1860.

Provided further that—

(a) in the event that the person against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be; 45 of 1860.

\* \* \* \* \*

Examination of witnesses by police.

161. (I) \* \* \* \* \*

(3) The police officer may reduce into writing any statement made to him in the course of an examination under this section; and if he does so, he shall make a separate and true record of the statement of each such person whose statement he records.

\* \* \* \* \*

Provided further that the statement of a woman against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted shall be recorded, by a woman police officer or any woman officer. 45 of 1860.

\* \* \* \* \*

Recording of confessions and statements.

164. (I)\* \* \* \* \*

(5A) (a) In cases punishable under section 354, section 354A, section 354B, section 354C, section 354D, sub-section (I) or sub-section (2) of section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code, the Judicial Magistrate shall record the statement of the person against whom such offence has been committed in the manner prescribed in sub-section (5), as soon as the commission of the offence is brought to the notice of the police: 45 of 1860.

Provided that if the person making the statement is temporarily or permanently mentally or physically disabled, the Magistrate shall take the assistance of an interpreter or a special educator in recording the statement:

Provided further that if the person making the statement is temporarily or permanently mentally or physically disabled, the statement made by the person, with the assistance of an interpreter or a special educator, shall be videographed.

\* \* \* \* \*



Compensation to be in addition to fine under section 326A or section 376D of Indian Penal Code.

**357B.**The compensation payable by the State Government under section 357A shall be in addition to the payment of fine to the victim under section 326A or section 376D of the Indian Penal Code.

45 of 1860.

Treatment of victims.

**357C.** All hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under section 326A, 376, 376A, 376B, 376C, 376D or section 376E of the Indian Penal Code, and shall immediately inform the police of such incident.

45 of 1860.

\* \* \* \* \*

**THE FIRST SCHEDULE  
CLASSIFICATION OF OFFENCES**

**EXPLANATORY NOTES:** (1) In regard to offences under the Indian Penal Code, the entries in the second and third columns against a section the number of which is given in the first column are not intended as the definition of, and the punishment prescribed for, the offence in the Indian Penal Code, but merely as indication of the substance of the section.

(2) In this Schedule, (i) the expression "Magistrate of the first class" and "Any Magistrate" include Metropolitan Magistrates but not executive Magistrates; (ii) the word "cognizable" stands for "a police officer may arrest without warrant"; and (iii) the word "non-cognizable" stands for "a police officer shall not arrest without warrant".

**I.-OFFENCES UNDER THE INIDAN PENAL CODE**

Section	Offence	Punishment	Cognizable or Non-cognizable	Bailable or Non-bailable	By what Court triable
1	2	3	4	5	6
<b>CHAPTER V.-ABETMENT</b>					
*	*	*	*	*	
376	Rape	Rigorous imprisonment of not less than 7 years but which may extend to imprisonment for life and with fine.	Cognizable	Non-bailable	Court of Session.
	Rape by a police officer or a public servant or member of armed forces or a person being on the management or on the staff of a jail, remand home or other place of custody or women's or children's institution or by a person on the management or on the staff of a hospital, and rape committed by a person in a position of trust or authority towards the person raped or by a near relative of the person raped.	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life which shall mean the remainder of that person's natural life and with fine.	Cognizable	Non-bailable	Court of Session.
*	*	*	*	*	



EXTRACT FROM THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012  
(32 OF 2012)

\* \* \* \* \*

45 of 1860.

**42.** Where an act or omission constitutes an offence punishable under this Act and also under section 166A, 354A, 354B, 354C, 354D, 370, 370A, 375, 376, 376A, 376C, 376D, 376E or section 509 of the Indian Penal Code, then, notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offence shall be liable to punishment only under this Act or under the Indian Penal Code as provides for punishment which is greater in degree.

Alternate  
punishment.

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LOK SABHA

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further to amend the Indian Penal Code, Indian Evidence Act, 1872, the Code of  
Criminal Procedure, 1973 and the Protection of Children from  
Sexual Offences Act, 2012.

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*(Shri Rajnath Singh, Minister of Home Affairs)*