

West Bengal Act X of 1950

THE WEST BENGAL SPECIAL COURTS ACT, 1950.

[Passed by the West Bengal Legislature.]

[Assent of the President was first published in the *Calcutta Gazette, Extraordinary*, of the 15th March, 1950.]

An Act to provide for the speedier trial of certain offences.

WHEREAS it is expedient to provide for the speedier trial of certain offences;

It is hereby enacted as follows:—

1. (1) This Act may be called the West Bengal Special Courts Act, 1950.

Short title, extent and commencement.

(2) It extends to the whole of West Bengal.

(3) It shall come into force on the date on which the West Bengal Special Courts Ordinance, 1949 ceases to operate.

West Ben. Ord. III of 1949.

2. In this Act unless there is anything repugnant in the subject or context,—

Definitions.

(a) "the Code" means the Code of Criminal Procedure, 1898;

(b) "Special Court" means a Special Court of criminal jurisdiction constituted under section 3.

Act V of 1898.

3. The State Government may, by notification in the *Official Gazette*, constitute Special Courts of criminal jurisdiction for such areas and to sit at such places as may be specified in the notification and more than one Special Court may be constituted for the same area or to sit at the same place:

Special Courts.

Provided that a Special Court may, if it is satisfied that it will tend to the general convenience of parties or witnesses in any particular case, sit for the trial of that case at a place other than the place so specified.

4. The State Government may appoint as a Special Judge to preside over a Special Court any person who—

Special Judge.

(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 three years, been a Sessions Judge or an Additional Sessions Judge.

(Sections 5—7.)

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Matters
to be
tried by
Special
Courts.

5. (1) A Special Court shall try such offences or classes of offences or cases or classes of cases, as the State Government may, by general or special order in writing, direct.

(2) No direction shall be made under sub-section (1) for the trial of an offence for which an accused person was being tried at the commencement of this Act before any Court but, save as aforesaid, such direction may be made in respect of an offence, whether such offence was committed before or after the commencement of this Act.

Procedure
of Special
Courts.

6. (1) A Special Court may take cognizance of offences without the accused being committed to it for trial, and in trying accused persons shall follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates :

Provided that for the purpose of sub-section (1) of section 356 of the Code, English shall be deemed to be the language of a Special Court and where under the provisions of that sub-section the evidence of witnesses is taken down in the presence and hearing and under the personal direction and superintendence of a Special Judge appointed under section 4 and not by such Special Judge himself, the provisions of sub-section (3) of section 356 shall not apply.

(2) In matters not coming within the scope of sub-section (1), the provisions of the Code, so far as they are not inconsistent with this Act, shall apply to the proceedings of a Special Court; and for the purposes of the said provisions a Special Court shall be deemed to be a Court of Session.

(3) A Special Court trying under this Act an offence may, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to, the offence, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof. Any pardon so tendered shall, for the purposes of sections 339 and 339A of the Code, be deemed to have been tendered under section 338 of the Code.

Transfer
of cases
from one
Special
Court to
another.

7. (1) The State Government may at any stage of the proceedings before a Special Court transfer a case to another Special Court.

(2) Notwithstanding anything contained in the Code when a case is transferred under sub-section (1), the Special Court to which the case is transferred shall not be bound to resummon or re-hear the witnesses or any of them unless it is satisfied that such a course is necessary in the interests of justice.

(Sections 8—12.)

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8. A Special Court may for reasons to be recorded in writing refuse to summon any witness if satisfied after examination of the accused that the evidence of such witness will not be material.

Power to refuse to summon witness whose evidence is not material.

9. (1) A Special Court shall not be bound to adjourn a trial for any purpose unless such adjournment is, in its opinion, necessary in the interests of justice.

Adjournments.

(2) A Special Court shall not be required to grant an adjournment for the purpose of securing the attendance of a legal practitioner, if, in its opinion, such adjournment would cause unreasonable delay.

10. A Special Court may, if it thinks fit, order at any stage of a trial that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.

Power to exclude persons or public from precincts of Court.

11. (1) Where any accused, in a trial before a Special Court, has, by his voluntary act, rendered himself incapable of appearing before the Court, or resists his production before it, or behaves before it in a persistently disorderly manner, the Court may, at any stage of the trial, by order in writing made after such inquiry as it may think fit, dispense with the attendance of such accused for such period as it may think fit, and proceed with the trial in his absence.

Power of Special Courts to deal with refractory accused.

(2) Where a plea is required in answer to a charge from an accused whose attendance has been dispensed with under sub-section (1), such accused shall be deemed not to plead guilty.

(3) An order under sub-section (1) dispensing with the attendance of an accused shall not affect his right of being represented by a pleader at any stage of the trial, or of being present in person if he has become capable of appearing, or appears in Court and undertakes to behave in an orderly manner.

(4) Notwithstanding anything contained in the Code, no finding, sentence or order passed in a trial before a Special Court shall be held to be illegal by reason of any omission or irregularity whatsoever arising from the absence of any or all of the accused whose attendance has been dispensed with under sub-section (1).

12. A Special Court may pass upon any person convicted by it any sentence authorised by law for the punishment of the offence of which such person is convicted and where the Special Court passes a sentence of death the provisions of Chapter XXVII of the Code shall apply.

Power of Special Courts to pass sentences.

(Sections 13—17.)

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Power to
convict
for offence
proved.

13. If in any trial by a Special Court under this Act it is found that the accused person has committed any offence, whether such offence is or is not an offence directed under section 5 to be tried by the Special Court, the Special Court may convict such person of such offence and pass any sentence authorised by law for the punishment thereof.

Special
rule
about
fine.

14. (1) Notwithstanding anything contained in section 386 of the Code, where any offender has been sentenced by a Special Court to pay a fine, the Court may recover the fine by the issue of a warrant for the levy of the amount by attachment and sale of any property, movable or immovable, of the offender.

(2) Notwithstanding anything contained in section 545 of the Code, a Special Court may, when imposing a fine on any person convicted by the Court, order the whole or any part of the fine recovered to be applied—

(a) in the payment to any person affected by the offence of compensation for any loss, injury or annoyance caused by the offence, or

(b) in the payment of a reward to any person who has given information leading to the detection of the offence or to the conviction of the accused.

Appeals.

15. (1) Any person convicted on a trial held by a Special Court may appeal to the High Court.

(2) The State Government may direct a Public Prosecutor to present an appeal to the High Court from an order of acquittal passed by a Special Court.

(3) An appeal under this section may lie on a matter of fact as well as on a matter of law.

(4) The period of limitation for an appeal under sub-section (1) shall be thirty days from the date of the sentence and for an appeal under sub-section (2) shall be thirty days from the date of the order of acquittal.

Exclusion
of inter-
ference of
other
courts.

16. Notwithstanding the provisions of the Code, or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done, there shall, save as provided by this Act, be no appeal from any order or sentence of a Special Court and, save as aforesaid and subject to the Constitution of India, no Court shall have authority to revise such order or sentence, or to transfer any case from a Special Court, or to make any order under section 491 of the Code, or have any jurisdiction of any kind in respect of any proceedings of a Special Court or in respect of any direction made under this Act.

Applica-
tion of
ordinary
law.

17. The provisions of the Code or of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Act, shall apply to all matters connected with, arising from or consequent upon a trial by a Special Court constituted under this Act.

(Sections 18, 19.)

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18. No suit, prosecution or other legal proceedings whatsoever shall lie against any person for or on account of or in respect of any sentence passed or any act ordered or done by him in good faith whether in exercise of any jurisdiction or power conferred or purporting to have been conferred on him by or under this Act or in carrying out any sentence passed by a Special Court in exercise of any jurisdiction as aforesaid.

Indem-
nity.

19. Any order, direction or appointment made, any notification issued, any Special Court constituted, any proceeding commenced, any action taken or anything whatsoever done in exercise of any power conferred by or under the West Bengal Special Courts Ordinance, 1949, shall, on the said Ordinance ceasing to operate, be deemed to have been made, issued, constituted, commenced, taken or done in exercise of the powers conferred by or under this Act as if this Act had commenced on the 17th day of August, 1949.

Continu-
ance of
action
taken
under
West
Bengal
Ordinance
III of
1949.West Ben.
Ord. III
of 1949.