

THE RAJASTHAN PREVENTION OF WITCH-HUNTING Act, 2015

An
Act

to provide for effective measures to tackle the menace of witch-hunting and to prevent the practice of witch craft in the State of Rajasthan and for matters connected therewith and incidental thereto.

Be it enacted by the Rajasthan State Legislature in the Sixty-sixth Year of the Republic of India, as follows:-

1. Short title, extent and commencement.- (1) This Act may be called the Rajasthan Prevention of Witch-hunting Act, 2015.

(2) It extends to the whole of the State of Rajasthan.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.- In this Act, unless the context otherwise requires,-

(a) “witch” means a woman, locally known as “Dayan”, “Dakan”, “Dakin” or otherwise, who has been identified by any person or persons believing her to be in possession of, or as having, any evil power for causing any harm to any person or property;

(b) “witch craft” means use of supernatural or magical power with evil intention to call up spirit or cast spell or discover the whereabouts of stolen goods and includes such other similar practices which are known as “Tona-Totaka”, “Tantra-Mantra”, “Jadu-Tona”, “Jhad-Phunk” or the like;

(c) “witch doctor” means a person who is locally known as “Gunia”, “Ojha”, “Tantrik” or otherwise and claims that he has supernatural or magical power to control or cure a witch or performs any ritual purportedly to free a woman from evil spirit;

(d) “witch-hunting” means any act or conduct on the part of any person,-
(i) identifying, accusing or defaming a woman as a witch;
(ii) harassing, harming or injuring such woman whether mentally or physically or by damaging her property; and

(e) words and expressions used but not defined in this Act and de-fined in the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974) or the Indian Penal Code, 1860 (Central Act No. 45 of 1860) shall have the meanings assigned to them respectively in those Codes.

3. Prohibition of witch-hunting and practising witch craft.- No person shall commit witch-hunting or exercise or practise witch craft.

4. Punishment for witch-hunting.- (1) Whoever, except in the cases provided for in sub-section (2), commits witch-hunting shall be punishable with

rigorous imprisonment for a term which shall not be less than one year but which may extend to five years or with fine which shall not be less than fifty thousand rupees or with both.

(2) Whoever forces a woman, branding her as witch, to drink or eat any inedible substance or any obnoxious substance or parade her naked or with scanty cloths or with painted face or body or commits any similar acts which is derogatory to human dignity or displaces her from her house or other property shall be punishable with rigorous imprisonment for a term which shall not be less than three years but which may extend to seven years or with fine which shall not be less than fifty thousand rupees or with both.

5. Punishment for witch craft.- Whoever practises witch craft or other similar practices with intent to cause harm or injury to any person shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years or with fine which shall not be less than ten thousand rupees or with both.

6. Punishment for witch doctor.- Whoever-

(i) claims that he has supernatural or magical power to control or cure a witch shall be punishable with rigorous imprisonment for a term which shall not be less than one year but which may extend to three years or with fine which shall not be less than ten thousand rupees or with both;

(ii) performs any ritual purportedly to free a woman from evil spirit shall be punishable with rigorous imprisonment for a term which shall not be less than three years but which may extend to seven years or with fine which shall not be less than fifty thousand rupees or with both;

(iii) causes a witch doctor to perform any ritual purportedly to free a woman from evil spirit shall be punishable with rigorous imprisonment for a term which shall not be less than three years but which may extend to seven years or with fine which shall not be less than fifty thousand rupees or with both.

7. Punishment for unnatural death of a woman subjected to witch-hunting.- Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances and it is proved that soon before her death she was subjected to witch-hunting, notwithstanding anything contained in section 4, every person who involved in the commission of such witch-hunting shall be punishable with rigorous imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life or with fine which shall not be less than one lakh rupees or with both.

8. Power of State Government to impose collective fine.- (1) If, after an inquiry in the prescribed manner, the State Government is satisfied that the inhabitants of an area are concerned in, or abetting, the commission of, any offence punishable under this Act, or harbouring persons concerned in the

commission of such offence or failing to render all the assistance in their power to discover or apprehend the offender or offenders or suppressing material evidence of the commission of such offence, the State Government may, by notification in the Official Gazette, impose a collective fine on such inhabitants and apportion such fine amongst the inhabitants who are liable collectively to pay it, and such apportionment shall be made according to the State Government's judgment of the respective means of such inhabitants:

Provided that the fine apportioned to an inhabitant shall not be realized until the petition, if any, filed by him under sub-section (3) is disposed of.

(2) The notification made under sub-section (1) shall be proclaimed in the area by beat of drum or in such other manner as the State Government may think best in the circumstances to bring the imposition of the collective fine to the notice of the inhabitants of the said area.

(3) (a) Any person aggrieved by the imposition of the collective fine under sub-section (1) or by the order of apportionment, may, within the prescribed period, file a petition before the State Government or such other authority as the State Government may specify in this behalf for being exempted from such fine or for modification of the order of apportionment:

Provided that no fee shall be charged for filing such petition.

(b) The State Government or the authority specified by it shall, after giving to the petitioner a reasonable opportunity of being heard, pass such order as it may think fit:

Provided that the amount of the fine exempted or reduced under this section shall not be realizable from any person, and the total fine imposed on the inhabitants of an area under sub-section (1) shall be deemed to have been reduced to that extent.

(4) Notwithstanding anything contained in sub-section (3), the State Government may exempt the victims of any offence punishable under this Act or any person who does not, in its opinion, fall within the category of persons specified in sub-section (1), from the liability to pay the collective fine imposed under sub-section (1) or any portion thereof.

(5) The fine payable by any person under this section shall be recovered as an arrear of land revenue.

(6) The net proceeds of the fine realized under this section shall be utilized in the rehabilitation and resettlement of the victims of offences punishable under this Act.

9. Order for compensation.- (1) Where a sentence of fine is imposed under sections 4, 5, 6 and 7, the Court shall, in fixing the amount of fine, take into consideration the physical and mental damage caused to the victim

including any cost of treatment and also the damage, if any, caused to the property of the victim.

(2) When a Court imposes sentence of fine, the Court shall, while passing judgment, order at least sixty per cent of the fine recovered to be paid as compensation to the victim.

10. Application of certain provisions of the Indian Penal Code.- Subject to the other provisions of this Act, the provisions of section 34, Chapter III, Chapter IV, Chapter V, Chapter VA, section 149 and Chapter XXIII of the Indian Penal Code, 1860 (Central Act No. 45 of 1860), shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the said Code.

11. Preventive action to be taken by the law and order machinery.- (1) A District Magistrate or a Sub-divisional Magistrate or any other Executive Magistrate or any police officer not below the rank of a Deputy Superintendent of Police may, on receiving information and after such inquiry as he may think necessary, has reason to believe that a person or a group of persons residing in or frequenting any place within the local limits of his jurisdiction is likely to commit an offence under this Act and is of the opinion that there is sufficient ground for proceeding, declare such an area to be an area prone to offences punishable under this Act and take necessary action for keeping the peace and good behaviour and maintenance of public order and tranquility and may take preventive action.

(2) The provisions of Chapters VIII, X and XI of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974) shall, so far as may be, apply for the purposes of sub-section (1).

(3) The State Government may, by notification in the Official Gazette, make one or more schemes specifying the manner in which the officers referred to in sub-section (1) shall take appropriate action specified in such scheme or schemes to prevent offences punishable under this Act.

12. Preventive and protective actions to be taken by the State Government.- The State Government may, by notification in the Official Gazette, make one or more scheme or schemes for-

- (i) rehabilitation and resettlement of, and for providing legal or medical aid to, the victims of offences punishable under this Act;
- (ii) to conduct awareness programme on blind belief and educate people about the absurd concept of evil spirit, witch craft and for such other matters as the State Government may deem proper.

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

14. Protection of action taken in good faith.- No suit, prosecution or other legal proceedings shall lie against the State Government or any officer or authority thereof or any other person for anything which is in good faith done or intended to be done under this Act.

15. Power to make rules.- (1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) All rules made under this Act shall be laid, as soon as may be after they are made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which they are so laid or the session immediately following, the House of the State Legislature makes any modification in any such rule or resolves that any such rule should not be made, the rules shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.