

THE JAMMU AND KASHMIR STATE NEWSPAPERS (INCITEMENTS TO OFFENCES) ACT, SVT.1971 (1914 A.D.)

Chief Minister's No.6509/N-102/07, dated 3rd December, 1914

[Sanctioned by His Highness the Meharaja Sahib Bahadur, vide Chief Minister's No.6509/N-102/07, dated 3rd December, 1914 and published in Government Gazette dated 7th Poh, 1971.]

An Act for the prevention of incitement to murder and to other offences in newspapers.

WHEREAS it is expedient to make better provision for the prevention of incitements to murder and to other offences in newspapers;

It is hereby enacted as follows :-

1 Short title and extent

(1) This act may be called the Jammu and Kashmir State Newspapers (Incitements to Offences) Act, Svt.1971.

(2) It extends to the whole of the Jammu and Kashmir State.

2 Definitions

(1) In this Act unless there is anything repugnant in the subject or context

(a) "Magistrate" means a District Magistrate, Sub-Divisional Magistrate, or District and Session Judge;

(b) "Newspaper" means any periodical work containing public news or comments on public news;

(c) "Printing Press" includes all engines, machinery, types, lithographic stones, implements, utensils and other plant or materials used for the purpose of printing.

(2) Save as herein otherwise provided, all words and expressions in this Act shall have the same meanings as those respectively assigned to them in the Code of Criminal Procedure, Samvat 1989.

3 Powers to forfeit printing presses in certain cases

(1) In case, where, upon application made by order of or under authority from [the Government,] a Magistrate is of opinion that a newspaper printed and published within the Province contains any incitement to murder or to any offence under the Explosive Substances Act, 1908 (VI of 1908,) or to any act of violence, such Magistrate may make a conditional order declaring the Printing Press used, or intended to be used, for the purpose of printing or publishing such newspaper, or found in or upon the premises where such newspaper is, or at the time of the printing of the matter complained of was, printed and all copies of such newspaper, wherever found, to be forfeited to the Government and shall in such order state the material facts and call on all persons concerned to appear before him, at a time and place to be fixed by the order, to show cause why the order should not be made absolute.

(2) A copy of such order shall be fixed on some conspicuous part of the premises specified in the declaration made in respect of such newspaper under section 5 of the Jammu and Kashmir State Press and Publications Act, 1989, or on any other premises in which such newspaper is printed and the affixing of such copy shall be deemed to be the due service of the said order on all persons concerned.

(3) In cases of emergency or in cases where the purposes of the application might be defeated by delay, the Magistrate may, on or after the making of a conditional order under sub-section (1), make a further order ex-parte for the attachment of the printing press or other property referred to in the conditional order.

(4) If any person concerned appears and shows cause against the conditional order, the Magistrate shall take evidence, whether in support of or in opposition to such order, in manner provided in section 356 of the Code of Criminal Procedure, Samvat 1989.

(5) If the Magistrate is satisfied that the newspaper contains matter of nature specified in sub-section (1)

He shall make the conditional order of forfeiture absolute in respect of such property as he may find to be within the terms of the said sub-section.

(6) If the Magistrate is not satisfied, he shall set aside the conditional order of forfeiture and the order of attachment, if any

4 Power to seize

(1) The Magistrate may by warrant empower any police Officer not below the rank of a Deputy Inspector to seize and detain any property ordered to be attached under section 3, sub-section (3), or to seize and carry away any property ordered to be forfeited under section 3, sub-section (5), wherever found and to enter upon and search for such property in any premises—

(a) Where the newspaper specified in such warrant is printed or published,

Or

(b) Where any such property may be or may be reasonably suspected to be,

Or

(c) Where any copy of such newspaper is kept for sale, distribution, publication or public exhibition or reasonably suspected to be so kept.

(2) Every warrant issued under sub-section (1) so far as it relates to a search shall be executed in manner provided for the execution of search warrants by the Code of Criminal Procedure, S. 1989.

5 Appeal

Any person concerned who has appeared and shown cause against a conditional order of forfeiture may appeal to the High Court within fifteen days from the date when such order is made absolute.

6 Bar of other proceedings

Save as provided in section 5, no order duly made by a Magistrate under section 3 shall be called in question in any Court.

7 Power to annual declaration under the Jammu and Kashmir State Press and Publication Act, 1989.

Where an order of forfeiture has been made absolute in relation to any newspaper, [the Government] may, by notification in the Jammu and Kashmir Government Gazette, annual any declaration made by the printer or publisher of such newspaper under the Jammu and Kashmir State Press and Publications Act, 1989, and may by such notification prohibit any further declaration being made or subscribed under the said Act in respect of the said newspaper or of any newspaper which is the same in substance as the said newspaper, until such prohibition be withdrawn.

8 Penalty

Any person who prints or publishes any newspaper specified in any prohibition notified under section 7 during continuance of that prohibition shall be liable, on conviction, to the penalties prescribed by section 20 of the Jammu and Kashmir State Press and Publications Act, Samvat 1989.

9 Application of Code of Criminal Procedure

All proceedings under this Act shall be conducted, so far as may be, in accordance with the provisions of the Code of Criminal Procedure, Samvat 1989.

10 Operation of other laws not barred

No Proceedings taken under this Act shall operate to prevent any person from being prosecuted for any act which constitutes an offence under any other law.
