

THE PROTECTION FROM LYNCHING ACT, 2017

An act to provide for effective protection of the Constitutional rights of vulnerable persons, to punish acts of lynching, to provide for Special Courts for the expeditious trial of such offences, for rehabilitation of victims of lynching and their families and for matters connected therewith or incidental thereto.

Whereas the Constitution of India guarantees to all persons the right to life and the equal protection of laws;

And whereas in recent times, there have been a spate of incidents resulting in loss of livelihood, injuries and death of persons at the hands of lynch mobs;

And whereas it is deemed necessary and expedient to enact legislation for the protection of these rights guaranteed by the Constitution;

Be it enacted by Parliament in the sixty-eight year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. Short Title, Extent and Commencement – (1) This Act maybe called the Protection From Lynching Act, 2017.

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

(3) The act shall come into force within 30 days of its enactment.

2. Definitions – In this act, unless the context otherwise requires;

(a) “lynching” shall mean any act or series of acts of violence, whether spontaneous or planned, committed to inflict extra judicial punishment, or as an act of protest and caused by the desire of a mob to enforce upon a person or group of persons any perceived legal, societal & cultural norms/ prejudices;

- (b) "mob" shall mean a group of two or more individuals, assembled with an intention of lynching
- (c) "victim" shall mean any person, who has suffered physical, mental, psychological or monetary harm as a result of the commission of any offence under this Act, and includes his or her relatives, legal guardian and legal heirs of a deceased victim
- (d) "Offensive material" shall mean any material that can be reasonably construed to have been made to incite a mob to lynch a person and shall include material promoting lynching on the grounds of religion, race, culture or any other ground.
- (e) Words and expressions used but not defined in this Act and defined in the Code of Criminal Procedure, 1973 (2 of 1974) or the Indian Penal Code (45 of 1860) shall have the meanings assigned to them respectively in the Code of Criminal Procedure, 1973, or as the case may be, in the Indian Penal Code.

CHAPTER II

DUTIES OF POLICE OFFICER AND DISTRICT MAGISTRATE

3. **Duties of Police Officer** – (1) Every police officer, directly in charge of maintaining law and order in an area shall take all reasonable steps to prevent any act of lynching including its incitement and commission; and to that end –
- (i) make all possible efforts to identify instances of dissemination of offensive material or any other means employed in order to incite or promote lynching of a particular person or group of persons;
 - (ii) act in furtherance of the duty to prevent lynching in accordance with the powers vested in them;

(2) Every police officer shall take action, to the best of his or her ability, to prevent the commission of all offences under this Act.

4. **Duties of District Magistrate** - Notwithstanding anything contained in the Code, whenever the District Magistrate has reason to believe that in any area within his jurisdiction, a situation has arisen where there is an apprehension of lynching, he may, by order in writing, prohibit any act which in his opinion is likely to lead to the incitement and commission of an act of lynching.

CHAPTER III

PREVENTION OF ACTS LEADING TO LYNCHING

5. **Duty to Prevent Lynching** - (1) It shall be duty of every police officer, in-charge of a police station to take all reasonable steps to prevent any incident of lynching, including its incitement, commission and possible spread; in the area under his jurisdiction and to that end –

(i) Make all possible efforts to identify patterns of violence in the area under his jurisdiction, that indicate occurrence of targeted violence, including the creation or existence of hostile environment against a person or group of persons

(ii) Obtain information regarding the likelihood of an act of lynching; and,

(iii) Act in furtherance of the duty to prevent any act of lynching in accordance with the powers vested in them;

(2) Every police officer shall take action, to the best of his or her ability, to prevent the commission of all offences under this Act.

(3) Every police officer exercising powers under this Act in discharge of his or her duties shall act without any delay in a fair, impartial and non-discriminatory manner.

6. **Power to exercise authority against mobs** – It shall be the duty of every police officer in-charge of a police station to exercise his authority on a mob in order to cause it to disperse.
- (i) In exercise of his authority, a police officer in-charge of a police station may use such powers as vested in him under Section 129 of the Code.

CHAPTER IV

OFFENCE OF LYNCHING AND PUNISHMENT THEREOF

7. **Punishment for Offence of Lynching** :- Whoever commits an act of lynching–

- (a) Where the act leads to the victim suffering hurt, shall be punished with imprisonment of either description for a term which may extend to seven years and with fine which may extend to one lakh rupees.
- (b) Where the act leads to the victim suffering grievous hurt, shall be punished with imprisonment of either description for a term which may extend to ten years, and with fine which may extend to three lakh rupees.
- (c) Where the act leads to the death of the victim, shall be punished with rigorous imprisonment for life and with fine which may extend to five lakh rupees.

8. **Punishment for Conspiracy or Abetment to Lynch** - Whoever takes part in a conspiracy or conspires to lynch another person, or abets an act of lynching shall be punished in the same manner as if he had taken part in the actual incident of lynching.

9. **Punishment for Obstructing Legal Process** - Any person -

- (a) who knowing or having reasonable cause to believe that any other person is guilty of an offence under this Act, gives that other

person any assistance with intent thereby to prevent, hinder or otherwise interfere with his arrest, trial or punishment for the said offence, shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine.

(b) threatens a witness with any injury to his person or property or to the person or property of any one in whom that person is interested, with intent to cause harm to that person, or to compel that person to refrain or withdraw from being a witness in any investigation or trial under this Act shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine.

CHAPTER – V

OTHER OFFENCES AND PUNISHMENT THEREOF

10. **Punishment for Dissemination of Offensive Material** - Notwithstanding anything contained in any other law for the time being in force, whoever publishes, communicates or disseminates by any method; physical or electronic, any offensive material, shall be punished with imprisonment of either description for a term of not less than one year which may extend to three years, and with fine which may extend to fifty thousand rupees.
11. **Dereliction of Duty by Police Officer** – When any police officer, directly in charge of maintaining law and order in an area, omits to exercise lawful authority vested in him or her under law, without reasonable cause, and thereby fails to prevent lynching, shall be guilty of dereliction of duty.

Explanation: - For the purposes of this Section, dereliction of duty by a police officer shall also include the following:

- i. Failure to provide protection to a victim of lynching
- ii. Failure to act upon apprehension of lynching

- iii. Refusing to record any information under sub-section (1) of Section 154, Code of Criminal Procedure, 1973 relating to the commission an offence under this Act
- iv. Failure to perform his or her duties under Section 3, 4 and 5 of this Act.

12. **Punishment for Dereliction of Duty by Police Officer** – Whoever commits an act of dereliction of duty by police officer shall be punished in accordance with the Police Act of the respective state. In states where the Police Act does not provide such punishment, with imprisonment of either description for a term which may extend to six months, and with fine which may extend to fifty thousand rupees.

13. **Dereliction of Duty by District Magistrate** - Whoever being a District Magistrate authorized to act under any provisions of this Act —

(a) exercises the lawful authority vested in him under this Act in a mala fide manner, which causes or is likely to cause harm or injury to any person or property; or

(b) wilfully omits to exercise lawful authority vested in him under this Act and thereby fails to prevent the commission of any act of lynching, shall be punished with imprisonment which may extend to six months, or with fine, or with both.

CHAPTER VI

INVESTIGATION, PROSECUTION AND TRIAL

14. **Application of Code of Criminal Procedure, 1973**- Provisions of the Code of Criminal Procedure, 1973, shall apply to this Act, save and except as amended or supplemented to the extent provided under this Chapter.

15. **Offences to be cognizable and non-bailable**- Unless otherwise specified, all offences specified under this Act, shall be cognizable and non-bailable.

16. **Investigation by Senior Police Officers-** No police officer below the rank of Inspector of Police shall investigate any offence committed under this Act.
17. **Sanction not required for offences under the Act-** The provisions of Section 196 and 197 of the Code of Criminal Procedure, 1973 shall not apply to offences by police officers and the Court may take cognizance of such offence when satisfied that the said offence has been committed.
18. **Cases triable by Designated Judges** – (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, or in any other law for the time being in force, the offences specified under this Act shall be tried by Designated Judges appointed under this Act.
19. **Power to appoint Designated Judges-** (1) The Central Government in relation to the Union Territories or the State Government may, by notification in the Official Gazette appoint as many Designated Judges in consultation with the Chief Justice of the High Court as it may be necessary to try offences punishable under this Act.
- (2) A person shall not be qualified for appointment as a Designated Judge or Additional Designated Judge under this Act unless he or she is or has been a Sessions Judge under the Code of Criminal Procedure, 1973.
20. **Procedure and power of the Designated Judge** – (1) In trying the accused persons, the Designated Judge shall follow the procedure for the trial of warrant cases prescribed by the Code of Criminal Procedure, 1973.
- (2) The provisions of the Code of Criminal Procedure, 1973, shall, so far as they are not inconsistent with this Act, apply to the proceedings before a Designated Judge; and for the purposes of the said provisions, the Court of the Designated Judge shall be deemed to be a Court of Session.

(3) When trying the accused person, a Designated Judge may also try any offence, other than an offence specified under this Act, with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial if the offence is connected with the offence under this Act.

(4) If, in the course of any trial under this Act, it is found that the accused person has committed any other offence, the Designated Judge may, whether such offence is or is not an offence under this Act, convict such person of such offence and pass any sentence authorised by law for the punishment thereof.

(5) Notwithstanding anything contained in the Code of Criminal Procedure, a Designated Judge shall hold the trial of an offence on day-to-day basis save and except for reasons beyond the control of parties .

(6) In so far as reasonably possible, all statements of victims and witnesses should be recorded within a period of 180 days from the date of incident.

(7) In so far as reasonably possible, it shall be the endeavour of the Court to ensure that any witness is not required to attend court on more than two dates of hearing.

21. Rights of victims and witnesses during trial - (1) A Designated Judge may, on an application made by a witness in any proceedings before it or by the Public Prosecutor in relation to such witness or on its own motion, take such measures as it deems fit for keeping the identity and address of the witness secret.

(2) A victim shall have the right to reasonable, accurate, and timely notice of any court proceeding. He or she shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any

connected proceedings or arguments and file written submissions on conviction, acquittal or sentencing.

(3) A victim shall be entitled to receive free legal aid if he/ she so chooses and to engage any advocate who he or she chooses from among those enrolled in the legal aid panel under the Legal Services Authorities Act, 1987 and the Legal Aid Services Authority established under the said Act shall pay all costs, expenses and fees of the advocate appointed by the victim or informant in accordance with relevant rules.

Nothing in the sub section should be construed to take away the right of the witness to legal representation of his choice.

(4) It shall be the duty and responsibility of the State Government for making arrangements for the protection of victims, and witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence.

(5) The State Government shall inform the concerned Designated Judge under about the protection provided to any victim, informant or witnesses and the Designated Judge shall periodically review the protection being offered under this section and pass appropriate orders.

(6) It shall be the duty of the Investigating Officer to record the complaint of victim, informant or witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence, whether given orally or in writing. A copy of the same shall be sent to the Designated Judge within twenty-four hours of recording it.

22. **Constitution of Review Committee** :- Notwithstanding anything contained in the Code, every case, registered in connection with an offence under this act, and where the Investigating Officer does not file a charge sheet within a period of three months from the date of registration of the First Information Report shall be reviewed by a committee headed by an officer of the level of an

Inspector-General of Police to be constituted by the State Government and such committee may pass orders for a fresh investigation by another officer not below the rank of Deputy Superintendent of Police wherever it comes to the conclusion that, having regard to the nature of investigation already carried out, such investigation would be necessary.

(2) The committee constituted under sub-section (1) may also review cases of such offences where the trial ends in acquittal and issue orders for filing appeal, wherever required.

(3) The committee shall submit a report of its findings and action taken in each case or cases to the Director General of Police.

CHAPTER VII COMPENSATION

23. **Duty to Provide Compensation:** - (1) The State Government through the office of the Chief Secretary shall provide Compensation to victims of lynching within 30 days of the incident.

(2) Where the death of a person has occurred as a consequence of lynching, the compensation for such death shall be paid to the next of kin of the deceased.

(3) While computing compensation, the State Government must give due regard to the bodily injury, psychological injury, material injury and loss of earnings including loss opportunity of employment and education, expenses incurred on account of legal and medicinal assistance.

Provided that in no case of death caused due to lynching should the compensation given be less than 25 lakh rupees.

CHAPTER VIII APPEALS

24. **Appeals** - Notwithstanding anything contained in the Code – (1) an appeal shall lie as a matter of right from any judgment, sentence or

order, not being interlocutory order, of a Designated Judge to the High Court both on facts and on law.

(2) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, sentence or order of a Designated Judge.

(3) Every appeal under this section shall be preferred within a period of sixty days from the date of the judgment, sentence or order appealed from:

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days.

CHAPTER IX

MISCELLANEOUS

25. **Power to remove difficulties-** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government, may by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty.

26. **Act to be in addition to 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 except to the extent the provisions of other laws are inconsistent with the provisions of this Act.