

NATIONAL-SECURITY-GUARD-ADJUSTMENT-OF-JURISDICTION-RULE-1987

)-72 TERED No. m (D.N.) 72 Che Gazette of andic 23) No. 23) EXTRAORDINARY PART U—Section (11) BY AUTHORITY 21, 1987/q-rq 1, NEW DELHI, WEDNESDAY, JANUARY 21, 1987/MAGHA 1, 1908 k given to thb Put in order that It —y b' Med 21 1987 24(q) 1986 (1986 47) 139 (2) (q) artr 1987 I 2. 1482 01/86 (3) (4) (1) 2 THE GAZETTE OF INDIA 4; frü fq, Tr vxr 10 1973 (1974 2) 252 zrr t.TT7r 255(1), (2) 7xr ETT7.r 256 txrcr. 257 mffT, -254 W) mfr 246 (T) €ftq-rr Err 192 #fWrr 192 EXTRAORDINARY [PART n SEC. 3(ii)] 1973 (1974 2) 475 (J) gqur-rr svrfrlT;r9r q-fr•« f*-qv 3 (q) vrTr # 3(tz itqrfrqfr fr:rqr fem;qz zrf< ii 2, 3Rr it, 1973 (1974 2) 475 it ur TTf3fëz 7Tr f7trr qrqr 9, 3(ii)] 8 qg_ T:cft fFir 601 I MINISTRY OF HOME AFFAIRS NOTIFICATION New Delhi, the 21st January, 1987 S.O. exercise of the powers conferred by clause (q) Of sub-section (2) of section i 3') of the National Security Guard Act, 1986 (47 of J9S6), the Central Government hereby makes the following rules, namely I, Short title.—These rules may be called the Criminat Courts and Security Guard Courts (Adjustment of Jurisdic- lion) Rules, 1987

2. Definitions.—In these rules, unless the context other- Wise requires (i) "Act" means the National Security Guard Act, 1986 (47 of 1986) (ii) "Commander" in relation to a person subject to the Act, means the Officer Commanding the unit or detachment to which such person belongs or is attached ; (ili) • "Competent Authority" means the Director-Genernl, Inspector-General, or a Deputy Inspector-General of the National Security Guard (iv) words and expression used in these rules and not defined but defined in the Act. shall have the mean- ing respectively assigned to them in the Act

3. Trial of nerson subject to the Act.—Where a person guhjecl to the .Act. is brought before a Magistrate and charged with an offence for Which hc is liable to be tried by u Secu- rilv Gnard Court, socii Magistrate shall not proceed IO triy such rcrrson or to inquire with a view to his commitment 3 for triat by the Court of Sessions or the High Court for any offence triable by such Court, unless,— (a) he is of the opinion, for reasons to be recorded in writing that he should so proceed without being moved thereto by the competent authority ; or (b) he is moved thereto by such authority

4. Notice Magistrate.—Before proceeding under clause Gi) Of rule 3. lhc Magistrate shall give Written notice to the Commander of the accused and until the expiry of a period of (i) three weeks. in the cue of notice given to a Commander in command of a unit or detachment. located in any of the following areas, that is to say Nagahnl. Mimram, Meghalaya and North Cachar Hill Districts of Assam, or (ii) ten days in the case of a notice given to any other Commander in command of a unit or detachment located elsewhere in India. from the date of the servicp of surch notice, he shall not,— (ay convict or acquit the HCCUSCd undec section 253 or section 255 (1), (2) or section 256 or section 257 of the Code of Criminal Procedure, 1973 (2 of 1974) or hear him in his defence under section 254 of the said Code ; or (b) frame in writing a charge ugainst the aceused under section 246 of the said Code ; or (c) Jnake an order committing the accused for trial by the High Court or lhc Court of Sessions under section 192 of the said Code ; or (d) transfer the case for inquiry or trial under sec- lion 192 of the said Code

5. Procedure on notice to the Mugistrate.—Where within the period mentioned in rule 4 above, or at any time thereafter before the Magistrate hus done any act or made any order referred to in that rule. the Commander of the accused or the competent authority, as the case may •be, gives notice to the Magistrate that in the opinion Of such authority. the accused should be tried by a Security Guard Court, the Magistrate shall stay proceedings and if the accused is in his power or under his control, shall deliver him with the statement prescribed in sub-section (I) of section 475 Of the COfde of C.Yiminal Procedure 1973 (2 of 1974) to the authority specified in the said sub-section

6. Procedure on notice to Magistrate before Commence- ment of trial.Where Magistrate hus been moved by the competent authority under clause • (b) of rule 3. and the Commander of the accused or the competent authority, as the case may be, givcä notice to such Magistrate that. in the opinion of such authority the accused should be tried by a Guard Court, such Magistrate if bc has not before receiving such notice, done any act or made anv order referred to in rule 4, shall stay and, if the accused is in his power or under his control, Ghall in the like mnnner deliver him, with the statement prescrihed in sub-section (I) of

section 475 of the Code of Criminal Procedure, 1973 (2 of 1974) to the authority specified in the said sub-section

7. Intimation regarding trial of When an accused has been delivered by the Magistrate under Rule 5 or 6. The Commander of the accused or the competent authority, as the case may be, shall, as soon as may be, inform the Magistrate whether the accused has been tried by Security Guard Court or other effectual proceedings have been taken or ordered to be taken against him. 4 THE GAZETTE OF INDIA ; EXTRAORDINARY [PART 11—SEC. (2) When the Magistrate has been informed under sub-rule (1) that the accused has not been tried or other effectual proceedings have not been taken or not ordered to be taken against him the Magistrate shall report the circumstances to the State Government, which may, in consultation with the Central Government, take appropriate steps to ensure that the accused person is dealt with in accordance with law

8. Reference to Central Government for determination of court of trial.—Notwithstanding anything contained in the foregoing rules, where it comes to the notice of a Magistrate that a person subject to the Act has committed an offence, proceedings in respect of which ought to be instituted before him and that the presence of such person cannot be procured except through the Commander or the competent authority, the Magistrate may, by a written notice, require the Commander of such person either to deliver such person to a Magistrate to be named in the said notice for being proceeded against according to law, or to stay the proceedings against such person before the Security Guard Court, if so instructed, and to make a reference to the Central Government for determination as to the Court before which proceedings should be instituted

9. Delivery of accused to the Magistrate.—Where a person subject to the Act has committed an offence which, in the opinion of the competent authority ought to be tried by a Magistrate in accordance with the civil law in force or where the Central Government on a reference mentioned in rule 8, decides that the proceedings against such person should be instituted before a Magistrate, the Commander of such person shall, after giving a written notice to the Magistrate concerned deliver such person under proper escort to that Magistrate. [No. K-16011/4/R6.NSG1 V. K. JAIN. It. secy. PRINTED BY MANAGER, cover. OF INDIA PRESS, RENO ROAD, NEW DELHI-110064 AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI-110054, 1987