

RAJASTHAN DACOITY AFFECTED AREAS ACT 1986



forming part or, arising out of, or connected with the commission or, dacoity; scheduled offender", in relation to a dacoity-affected area, a person who commits or has committed or is a person accused of the commission of any scheduled offence; "special court" means a special court constituted under section 6;

and (f) "Special Judge" means a Judge appointed under sub-section (2) of section 6 to preside over a special court. (2) Words and expressions used but not defined in this Act and defined in the Code shall have the meaning respectively assigned to them in the Code or, as the case may be, in the Indian Penal Code, 1860 (Central Act XLV of 1860). CHAPTER—11 Dacoity-affected area and constitution of special courts 3. Declaration of dacoity-affected area. —If on receiving the report of a police officer or any other information in respect of the incidence of scheduled offence in a district or districts or a part or parts thereof, the State Government considers that a situation has arisen in which the area covered by such district or districts or a part or parts thereof should be declared to be a dacoity-affected area for the purposes of this Act, the State Government may, by Notification, declare such area to be a dacoity-affected area, 4. Person assisting the police to be public A person, who assists the police in giving information or is engaged in assisting the police by giving information relating to the commission of a scheduled offence or is assisting in the investigation of such offence, shall, for the purposes of this Act, be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act XLV Of 1860). Scanned with CamScanner qrrr G) i31 (12) tr, Ttt 2g, 1986 (2) Certificate by h'upr;nwndcht of Police to effect that mentioned therein is a who is engaged in assisting police for the specified in (1) shall be conclusive proof of the fact! stated therein

5. Regulation of grant of bail, —Notwithstanding anything contained in the Code, no person accused or convicted of a scheduled offence if in a custody, be released on bail or on his own bond unless— (a) the prosecution been given opportunity to oppose the application for bail; (b) where the prosecution oppose the application for bail, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence: Provided that a person accused of a scheduled offence, who has been in custody for a total period of one hundred and eighty days, may be released on bail subject to such conditions as the court may think fit to impose

6. Constitution of Special For the purpose of providing speedy trial of the scheduled offences committed in a dacoity-affected area, the State Government may, in with the High Court, constitute, by Notification, as many special courts as may be necessary in, or in relation to, such dacoity-affected area or areas as may be specified in such Notification. (2) A special court shall consist of a single Judge who shall be appointed by the Rajasthan High Court upon a request made by the State Government. Explanation.—In this sub-section, the word "appoint" shall have meaning given to it in the Explanation to section 9 of the Code. (3) person shall not be qualified for appointment as a Judge of a special court unless he is serving as a Session Judge or an Additional Session Judge under the Code

7. Jurisdiction of Special Notwithstanding anything contained in the Code or in any other law for the time being in force, a scheduled offence shall be triable only by a special court.(2) While trying any scheduled offence, the special court may also try at same time any offence other than the scheduled offence with which a scheduled offender may be charged under any law for the time being in force

8. Procedure and powers of Special Courts.— (1) A special court may take cognizance of any scheduled offence (a) upon receiving a complaint of facts which constitute such offence; (b) upon a police report of such facts; or (c) upon information received from any person or a police officer or upon its own knowledge that such offence has been committed' 12 Scanned with CamScanner 131 (i3) qq.qa, 28; 1986 (2) A special court shall, while trying a scheduled offence, follow the procedure as prescribed by the Code for the trial of a sessions case: Provided that a special court may wherever necessary, perform the functions of a magistrate under section 207 of the Code and proceed to try the case as if the case had been committed to the court of session for trial under the provisions of the Code. (3) Save as otherwise expressly provided in this Act, the provisions of the Indian Evidence Act, 1872 (Central Act I of 1872) and the Code III so far as they are not with the provisions of this Act, shall, apply to the proceedings before a special court and for the purposes of the said provisions of the Code, the special court shall be deemed to be a court of session and the person conducting the prosecution before the special court shall be deemed to be a Public Prosecutor. (4) A special court may, with a view to obtaining the evidence of any person suspected to have been directly or indirectly concerned with, or privy to, any scheduled offence, tender

pardon to such person on the condition of his making a full and true disclosure of the whole circumstances within his knowledge relating to the offence and to every other person concerned. whether as principal or abettor, with the commission thereof. Any pardon so tendered shall, for the purposes of section 303 of the Code, be deemed to have been tendered under section 307 thereof. (5) A special court may pass upon any accused person convicted by it any sentence prescribed by law for the offence of which such person is convicted. CHAPTER—III Offences and Penalty 9. Punishment for offence against public servant.—A scheduled offender, who commits the offence of murder of more than one person or a scheduled offence against a public servant or against a member of the family of a public servant, shall,— (a) if such offence is punishable with death or with imprisonment for life under the Indian Penal Code, 1860 (Central Act XLV of 1860) be awarded such punishment as is provided for that offence in the Code; and (b) in other cases, be punished with imprisonment which may extend to ten years and with fine. Explanation.— For the purpose of this section and section 10, a member of the family of a public servant shall mean his parents, spouse, sons and daughters, grand-sons grand-daughters and and great-grand-daughters and their spouse* and shall include a person dependent on and residing with such public servant. Scheduled with CamScanner notwithstanding contained in (J) of code, conviction Act (I) in murder or the of public of and special lunatic scheduled order of (I) jccs go/tet(t/b/, A commits a scheduled offence 911011, 00 It. in Indian penal code, two XI, v 01' that is also 110t puni91utl)lo under 9, with J if", imprisonment which may extend to ten years and with fine 12. Punishment for possession of property of a dacoit or. Whether a person in possession of properties in that at CIL or (I) qowlturø lite; bcc:j lit cannot satisfactorily account for and which or as a result of, the commission of a scheduled offence punished with imprisonment shall be liable to be sentenced to imprisonment for life or to imprisonment for a term not less than 10 years and with fine. Provided that if and when order of appeal is made by the court under section 17, the accused shall, whatever be the result of trial, be discharged and shall be released forthwith if he under and his conviction, if any, shall be deemed not to have, but the conviction shall not be set aside.

13. Minimum period of imprisonment.—Notwithstanding anything contained in sections 11 and 12 or any other law for the time being in force, the minimum punishment for a scheduled offence shall be imprisonment for three years. CHAPTER— IV Attachment and release of property 14. Attachment of If the District Magistrate reasons to believe that a person living in a dacoity-affected area has committed an offence punishable under section 12, he may make a declaration to that effect and may order the attachment of the property in respect of which offence is believed to have been committed. (2) The provisions of the Code shall, mutatis mutandis, apply to every attachment made under sub-section (1) (3) Notwithstanding anything otherwise contained in the Code the District Magistrate may appoint an Administrator for any property attached under sub-section (1) and such an administrator shall have all the powers to administer the property in the best interest of the property (4) The District Magistrate may provide police assistance to the administrator for proper and effective administration thereof. (5) The expenses incurred on the administration of the property including the expenses relating to the police provided under sub-section (4) shall be a charge on such property. Scanned with CamScanner (15) (q) 29, 1980 15. Release of Where a property is attached under section 14, its owner may, within three months of the date of knowledge of attachment, make a representation to the District Magistrate showing the circumstances; in, and the means by, which the property was acquired by him. (2) If the District Magistrate is satisfied with the representation made under sub-section (1), he may forthwith release the property from attachment and, thereupon, the property along with the profit, if any, after deducting all the expenses charged on the property shall vest in the owner thereof. 16. Enquiry into the character of acquisition of property by Special —(1) If the District Magistrate is not satisfied with the representation made under section 16, he refers the matter, along with his report to the special court having jurisdiction for deciding whether the property or any part thereof was or was not acquired by, or as result of, the commission of a scheduled offence. (2) On receipt of the reference made under sub-section (1), the special court shall fix a date for enquiry and give notice to the person making the representation and to the State. On the date so fixed, or on any subsequent date to which the enquiry may be adjourned, the special court shall hear the parties, receive evidence produced by them, take such further evidence as it may consider necessary and decide the reference. (3) For the purposes of making enquiry under sub-section (2), the special court shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act V of 1908) in respect of the following matters, namely: (a) Summoning and enforcing the attendance of any person and examining him on oath; (b) requiring the discovery and

production of documents; (c) receiving evidence on affidavit; (d) requiring any public or copy thereof from any court or office; (e) issuing commissions for examination of witnesses or documents; (f) dismissing the reference for default or deciding it ex parte; (g) setting aside an order of acquittal or an order passed by it ex parte; or (h) any other matter which may be prescribed. 15 Scanned with CamScanner 28; 1986 131 (16) (4) In any proceeding under this section, the burden to prove that the property or any part thereof mentioned in the representation under section 15 was not acquired by, or as a result of, the commission of a scheduled offence shall be on the person claiming the property notwithstanding anything contained in the Indian Evidence Act, 1872 (Cen. —If the special court finds that the trial Act I of 1872). property was acquired by, or as a result of, the commission of a scheduled offence, the District Magistrate for execution of its order and the offence, it shall order confiscation of the said property and shall transfer in any other case the property shall be ordered to be released forthwith. CHAPTER—V Appeals 18. No appeal shall lie unless otherwise provided.---No order or decision made under this Act shall be appealable except as hereinafter provided

19. Appeal from convictions.—Any person convicted on a trial held by a special court under this Act may appeal to the High Court

20. Appeal from acquittal.—The State Government may in any case direct the public prosecutor to present an appeal to the High Court from an order of acquittal made by a special court under this Act

21. Provisions of Code to apply to provisions of Chapter XXIX of the Code shall mutatis mutandis apply to every appeal preferred under section 19 or section 20

22. Appeal against order under section 17.—An appeal shall lie to the High Court against every order of the special court made under section 17. CHAPTER—VI Miscellaneous 23. Bar of jurisdiction of civil court shall have jurisdiction in respect of any matter which the special court is empowered by or under this Act to determine and no injunction or interlocutory order interfering with the attachment or confiscation of property shall be granted or made by any court or other authority in respect of any power conferred by or under this Act

24. Presumption in respect of kidnapping abduction.—In any trial of a scheduled offence under this Act where it is proved that— (a) the accused has kidnapped or abducted any person from dacoity affected area, it shall be presumed, unless the contrary is proved, that the accused has kidnapped or abducted such person ransom; or 16 Scanned with CamScanner (17) (b) the accused has wrongfully concealed or confined any person kidnapped or abducted from a dacoity-affected area, it shall be presumed, unless the contrary is proved, that the accused has concealed or confined such person knowing that such person has been so kidnapped or abducted

25. Protection of action taken in good faith. No suit, prosecution or other legal proceeding shall lie against the State Government or any officer of the State Government for anything done or intended to be done in good faith in pursuance of the provisions of this Act or the rules made thereunder. (2) No prosecution against an Administrator appointed under sub-section (3) of section 14 shall be instituted unless previous sanction of the District Magistrate has been obtained therefor

26. Act to have over-riding effect.—The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any law for the time being in force

27. Power to make rules. The State Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect all or any of the provisions of this Act. (2) All rules made under this Act, shall be laid, as soon as may be after they are so made, before the House of the State Legislature while it is in session for a period of not less than thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which they are so laid or of the session immediately following, the House of the State Legislature makes any modification in any such rules, or resolves that any such rules should not be made, such rules shall thereafter have effect only in such modified form or be of no effect, as the case may be. 80. however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder

28. Repeal and Savings. (1) The Rajasthan Dacoity-Affected Areas Ordinance, 1985 (Ordinance No. 7 of 1985) is hereby repealed. (2) Notwithstanding such repeal, all things done or actions taken under the said Ordinance shall be deemed to have been done or taken under this Act. SCHEDULE (I) Officers

punishable under sections 216-A, 302, 303, 304, 307, 308, 31 t, 325, 326, 327, 329, 331, 333, 363, 364, 365, 368, 369, 386.387, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402 and 511 ot the Indian Penal Code, 1860 (Central Act of 1860). Scanned with CamScanner (18) (2). Kidmqopiog,-or ,abducLing: gny person for rancorn,, (3) Msembling or making preparatioo or attcrjpt for or flbdLicting any rangorn, (4) Making or mending or performing any part of the procevy, making or Jncending, buying, scJling, poggclßing, supplying or carrying armg or ammunition or for the commission of dacoity. (5) Mediating in the settlement, or standing surety for the payment of ransom to an abductor or a kidnapper. (6) Spying the persons, assembled before or after the commission (f dacoity or preparing to commit dacoity. (7) Receiving benefits from the persons committing all or any of the above-mentioned offences. Secretary to the Government. 18 Government Central Prey, Jaipur. Scanned with CamScanner

