THE CRIMINAL LAW (AMENDMENT) BILL, 2018

A BILL


Be it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Criminal Law (Amendment) Act, 2018.

(2) It shall be deemed to have come into force on the 21st day of April, 2018.
CHAPTER II
AMENDMENTS TO THE INDIAN PENAL CODE

2. In the Indian Penal Code (hereafter in this Chapter referred to as the Penal Code), in section 166A, in clause (c), for the words, figures and letters "section 376B, section 376C, section 376D", the words, figures and letters "section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

3. In section 228A of the Penal Code, in sub-section (1), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

4. In section 376 of the Penal Code,—

(a) in sub-section (1), for the words "shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine", the words "shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine" shall be substituted;

(b) in sub-section (2), clause (i) shall be omitted;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Whoever, commits rape on a woman under sixteen years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and shall also be liable to fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this sub-section shall be paid to the victim.".

5. After section 376A of the Penal Code, the following section shall be inserted, namely:—

"376AB. Whoever, commits rape on a woman under twelve years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine or with death:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.".

6. After section 376D of the Penal Code, the following sections shall be inserted, namely:—

"376DA. Where a woman under sixteen years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.".
Amendment of section 376A.

3. Where a woman under twelve years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine, or with death:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim."

7. In section 376E of the Penal Code, for the word, figures and letter "section 376D", the words, figures and letters "section 376AB or section 376D or section 376DA or section 376DB," shall be substituted.

CHAPTER III

Amendments to the Indian Evidence Act, 1872

8. In section 53A of the Indian Evidence Act, 1872 (hereafter in this Chapter referred to as the Evidence Act), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

9. In section 146 of the Evidence Act, in the proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

CHAPTER IV

Amendments to the Code of Criminal Procedure, 1973

10. In the Code of Criminal Procedure, 1973 (hereafter in this Chapter referred to as the Code of Criminal Procedure), in section 26, in clause (a), in the proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

11. In section 154 of the Code of Criminal Procedure, in sub-section (1),—

(i) in the first proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB," shall be substituted;

(ii) in the second proviso, in clause (a), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB," shall be substituted.

12. In section 161 of the Code of Criminal Procedure, in sub-section (3), in the second proviso, for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

13. In section 164 of the Code of Criminal Procedure, in sub-section (5A), in clause (a), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

(i) in sub-section (1A), for the words "rape of a child may be completed within three months", the words, figures and letters "an offence under sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E of the Indian Penal Code shall be completed within two months" shall be substituted;

(ii) in sub-section (2), in clause (i), in sub-clause (h), for the words, figures and letters "sections 376, 376A, 376B, 376C, 376D", the word, figures and letters "sections, 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB" shall be substituted.

15. In section 197 of the Code of Criminal Procedure, in sub-section (1), in the Explanation, for the words, figures and letters "section 376A, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

16. In section 309 of the Code of Criminal Procedure, in sub-section (1), in the proviso, for the words, figures and letters "section 376A, section 376B, section 376C or section 376D of the Indian Penal Code, the inquiry or trial shall, as far as possible", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA or section 376DB of the Indian Penal Code, the inquiry or trial shall," shall be substituted.

17. In section 327 of the Code of Criminal Procedure, in sub-section (2), for the words, figures and letters "section 376A, section 376B, section 376C, section 376D", the words, figures and letters "section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB" shall be substituted.

18. In section 357B of the Code of Criminal Procedure, for the words, figures and letters "under section 326A or section 376D of the Indian Penal Code", the words, figures and letters "under section 326A, section 376AB, section 376B, section 376C, section 376D, section 376DA and section 376DB of the Indian Penal Code" shall be substituted.


20. In section 374 of the Code of Criminal Procedure, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) When an appeal has been filed against a sentence passed under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code, the appeal shall be disposed of within a period of six months from the date of filing of such appeal.".

21. In section 377 of the Code of Criminal Procedure, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) When an appeal has been filed against a sentence passed under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code, the appeal shall be disposed of within a period of six months from the date of filing of such appeal.".

22. In section 438 of the Code of Criminal Procedure, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) Nothing in this section shall apply to any case involving the arrest of any person on accusation of having committed an offence under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code.".
23. In section 439 of the Code of Criminal Procedure,—

(a) in sub-section (1), after the first proviso, the following proviso shall be inserted, namely:—

"Provided further that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence triable under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code, give notice of the application for bail to the Public Prosecutor within a period of fifteen days from the date of receipt of the notice of such application."

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) The presence of the informant or any person authorised by him shall be obligatory at the time of hearing of the application for bail to the person under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code.".

24. In the First Schedule to the Code of Criminal Procedure, under the heading "I.-OFFENCES UNDER THE INDIAN PENAL CODE", —

(a) for the entries relating to section 376, the following entries shall be substituted, namely:—

<table>
<thead>
<tr>
<th>Section</th>
<th>Offence</th>
<th>Punishment</th>
<th>Cognizable or Non-congnizable</th>
<th>Bailable or Non-bailable</th>
<th>By what Court triable</th>
</tr>
</thead>
<tbody>
<tr>
<td>376</td>
<td>Rape</td>
<td>Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.</td>
<td>Cognizable</td>
<td>Non-bailable</td>
<td>Court of Session.</td>
</tr>
<tr>
<td>25</td>
<td>Rape by a police officer or a public servant or member of armed forces or a person being on the management or on the staff of a jail, remand home or other place of custody or women's or children's institution or by a person on the management or on the staff of a hospital, and rape committed by a person in a position of trust or authority towards the person raped or by a near relative of the person raped.</td>
<td>Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life which shall mean the remainder of that person's natural life and with fine.</td>
<td>Cognizable</td>
<td>Non-bailable</td>
<td>Court of Session.</td>
</tr>
<tr>
<td>50</td>
<td>Persons committing offence of rape on a woman under sixteen years of age.</td>
<td>Rigorous imprisonment for a term which shall not be less than 20 years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and with fine.</td>
<td>Cognizable</td>
<td>Non-bailable</td>
<td>Court of Session.&quot;;</td>
</tr>
</tbody>
</table>
(b) after the entries relating to section 376A, the following entries shall be inserted, namely:—

<table>
<thead>
<tr>
<th></th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>&quot;376AB Person committing an offence of rape on a woman under twelve years of age.</td>
<td>Rigorous imprisonment of not less than 20 years but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine or with death.</td>
<td>Cognizable</td>
<td>Non-bailable</td>
<td>Court of Session.&quot;;</td>
<td></td>
</tr>
</tbody>
</table>

(c) after the entries relating to section 376D, the following entries shall be inserted, namely:—

<table>
<thead>
<tr>
<th></th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>&quot;376DA Gang rape on a woman under sixteen years of age.</td>
<td>Rigorous imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine.</td>
<td>Cognizable</td>
<td>Non-bailable</td>
<td>Court of Session.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>376DB Gang rape on a woman under twelve years of age.</td>
<td>Imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine or with death.</td>
<td>Cognizable</td>
<td>Non-bailable</td>
<td>Court of Session.&quot;;</td>
<td></td>
</tr>
</tbody>
</table>

CHAPTER V

AMENDMENT TO THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012


26. (1) The Criminal Law (Amendment) Ordinance, 2018 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Indian Penal Code, the Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of those Acts, as amended by this Act.
STATEMENT OF OBJECTS AND REASONS

Recent incidents of rape and gang rape on women under the age of sixteen years and twelve years have shaken the conscience of the entire Nation. Therefore, the offences of rape and gang rape on women under the age of sixteen years and twelve years required effective deterrence through legal provisions of more stringent punishment. Some of the incidents in recent years have been marked by increased brutality and violence perpetrated on minor girls. This has fueled demands from various sections of the society to make the penal provisions more stringent and effective, immediate arrest of the accused and ensure speedy trial in such cases.

2. As the Parliament was not in session and immediate action was required to be taken in this regard to make necessary amendments in the Indian Penal Code, Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012, the President promulgated the Criminal Law (Amendment) Ordinance, 2018 on 21st April, 2018.

3. It is, therefore, proposed to introduce the Criminal Law (Amendment) Bill, 2018 to replace the Criminal Law (Amendment) Ordinance, 2018, which, inter alia, provides for:

   (a) punishment for the offence of rape from the minimum imprisonment of seven years to ten years, which is extendable to imprisonment for life;

   (b) punishment for the offence of rape on a woman under sixteen years of age shall be rigorous imprisonment for a term not less than twenty years but may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person’s natural life and shall also be liable to fine;

   (c) punishment for the offence of rape on a woman under twelve years of age shall be rigorous imprisonment for a term not less than twenty years but may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person’s natural life and with fine or with death;

   (d) punishment for the offence of gang rape on a woman under sixteen years of age shall be imprisonment for life, which shall mean imprisonment for the remainder of that person’s natural life and with fine;

   (e) punishment for the offence of gang rape on a woman under twelve years of age shall be imprisonment for life, which shall mean imprisonment for the remainder of that person’s natural life and with fine or with death;

   (f) investigation in relation to all rape cases shall be completed within a period of two months from the date on which the information recorded by the officer-in-charge of the police station;

   (g) completion of inquiry or trial relating to the offence of rape, within a period of two months;

   (h) dispose of an appeal against a conviction or an acquittal in rape cases within a period of six months from the date of filing of the appeal;

   (i) the provisions of anticipatory bail shall not be applicable in cases of rape or gang rape of woman under sixteen and twelve years of age;

   (j) consequential amendments in the Indian Penal Code, Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012 relating to the cases of rape, gang rape of the
woman below the age of sixteen years, twelve years, repeat offenders, to extend the applicability of compulsory registration of FIRs, fine imposed to be paid to victim, facilitate better recording of evidence and protect the dignity of rape survivor and treatment free of cost in hospitals.

4. The Bill seeks to achieve the above objectives.

NEW DELHI;

RAJNATH SINGH

The 19th July, 2018.
Notes on clauses

Clause 1. — This clause seeks to provide for short title and commencement of the Act.

Clause 2. — This clause seeks to amend section 166A of the Indian Penal Code so as to insert newly proposed sections 376AB, 376DA and 376DB therein.

Clause 3. — This clause seeks to amend section 228A of the Indian Penal Code so as to insert the newly proposed sections 376AB, 376DA and 376DB therein.

Clause 4. — This clause seeks to amend section 376 of the Indian Penal Code to enhance the punishment from seven years to ten years provided therein and to insert a new sub-section (j) to provide for punishment for rape on women under sixteen years of age for a term of twenty years but which may extend to imprisonment for life and with fine.

Clause 5. — This clause seeks to insert a new section 376AB in the Indian Penal Code to provide for punishment for rape on women under twelve years of age for a term of twenty years which may extend to imprisonment for life and with fine or with death.

Clause 6. — This clause seeks to insert a new section 376DA in the India Penal Code to provide for punishment for gang rape on women under sixteen years of age, committed in furtherance of common intention, for imprisonment for life and with fine.

It further provides to insert a new section 376DB to provide for punishment for gang rape on woman under twelve years of age, committed in furtherance of common intention for imprisonment for life and with fine or with death.

Clause 7. — This clause seeks to amend section 376E of the Indian Penal Code to insert therein the newly proposed sections 376AB, 376DA, and 376 DB of the Indian Penal Code so as to bring these sections within its purview.

Clause 8. — This clause seeks to amend section 53 A of the Indian Evidence Act, 1872 to insert therein the newly proposed sections 376AB,376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

Clause 9. — This clause seeks to amend section 146 of the Indian Evidence Act, 1872 to insert therein the newly proposed sections 376AB,376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

Clause 10. — This clause seeks to amend section 26 of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB,376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

Clause 11. — This clause seeks to amend section 154 of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB,376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

Clause 12. — This clause seeks to amend section 161 of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

Clause 13. — This clause seeks to amend section 164 of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

Clause 14. — This clause seeks to amend section 173 of the Code of Criminal Procedure, 1973 to provide that the trial of offences under sections 376, 376A,376AB,
Clause 15. — This clause seeks to amend section 197 of the Code of Criminal Procedure, 1973 so as to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

Clause 16. — This clause seeks to amend section 309 of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

Clause 17. — This clause seeks to amend section 327 of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

Clause 18. — This clause seeks to amend section 309 of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

Clause 19. — This clause seeks to amend section 357B of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

Clause 20. — This clause seeks to amend section 357C of the Code of Criminal Procedure, 1973 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

Clause 21. — This clause seeks to amend section 377 of the Code of Criminal Procedure, 1973 to insert sub-section (4) therein to provide that appeal against rape offences shall be disposed of within a period of six months from the date of filing of such appeal.

Clause 22. — This clause seeks to amend section 438 of the Code of Criminal Procedure, 1973 so as to insert sub-section (4) therein to provide that provisions of this section shall not apply to offences under sub-section (3) of section 376, sections 376AB, 376DA and 376DB of the Indian Penal Code.

Clause 23. — This clause seeks to amend section 439 of the Code of Criminal Procedure, 1973 to insert a proviso therein to provide for serving of notice of application of bail relating to offences under sub-section (3) of section 376, section 376A, 376DA or section 376DB to the Public Prosecutor within a period of fifteen days.

It further seeks to insert sub-section (1A) to make it obligatory for the informant or his authorised person to be present at the time of hearing of an application for bail for offences under sub-section (3) of section 376, section 376A, 376DA or 376DB of the Indian Penal Code.

Clause 24. — This clause seeks to amend First Schedule of the Code of Criminal Procedure, 1973 which is consequential to the amendments of the Indian Penal Code.

Clause 25. — This clause seeks to amend section 42 of the Protection of Children from Sexual Offences Act, 2012 to insert therein the newly proposed sections 376AB, 376DA and 376DB of the Indian Penal Code so as to bring these sections within its purview.

Clause 26. — This clause seeks to provide for repeal and savings of the Criminal Law (Amendment) Ordinance, 2018.
Memorandum explaining the modifications contained in the Bill to replace the
Criminal Law (Amendment) Ordinance, 2018.

The Criminal Law (Amendment) Bill, 2018, which seeks to replace the Criminal
Law (Amendment) Ordinance, 2018, proposes to make the following modifications apart
from the modifications of consequential or drafting nature in the provisions contained
in the said Ordinance, namely:—

1. INDIAN PENAL CODE
   Insertion of new clause 7 in the Bill to amend section 376E of the Indian Penal
   Code (punishment for repeat offenders of rape)—“In section 376E of the
   Penal Code, for the words, figures and letters “section or 376D”, the words,
   figures and letters “section 376 or section 376AB or section 376D or section
   376DA or section 376DB shall be substituted.”

2. CODE OF CRIMINAL PROCEDURE, 1973
   In clause 23 of the Bill, in the First Schedule of the Code of Criminal Procedure
   under the heading “I—OFFENCES UNDER THE INDIAN PENAL CODE”-
   inadvertently the second part under column (3) against section 376 has been
   omitted. To restore the same, the entire entries against the said section has
   been substituted.

3. INDIAN EVIDENCE ACT, 1872 — No change

4. PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012 — No
   change
ANNEXURE

EXTRACTS FROM THE INDIAN PENAL CODE

(45 OF 1860)

166A. Whoever, being a public servant,—

(c) fails to record any information given to him under sub-section (1) of section 154 of the Code of Criminal Procedure, 1973 in relation to cognizable offence punishable under section 326A, section 326B, section 354, section 354B, section 370, section 370A, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509,

shall be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years, and shall also be liable to fine.

228A. (1) Whoever prints or publishes the name or any matter which may make known the identity of any person against whom an offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E is alleged or found to have been committed (hereafter in this section referred to as the victim) shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

376. (1) Whoever, except in the cases provided for in sub-section (2), commits rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine.

(2) Whoever,—

(i) commits rape on a woman when she is under sixteen years of age; or

376E. Whoever has been previously convicted of an offence punishable under section 376 or section 376A or section 376D and is subsequently convicted of an offence punishable under any of the said sections shall be punished with imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, or with death.
53A. In a prosecution for an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code or for attempt to commit any such offence, where the question of consent is in issue, evidence of the character of the victim or of such person's previous sexual experience with any person shall not be relevant on the issue of such consent or the quality of consent.

146. When a witness is cross-examined, he may, in addition to the questions hereinbefore referred to, be asked any questions which tend—

1. to test his veracity,
2. to discover who he is and what is his position in life, or
3. to shake his credit, by injuring his character, although the answer to such questions might tend directly or indirectly to criminate him or might expose or tend directly or indirectly to expose him to a penalty or forfeiture:

Provided that in a prosecution for an offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code or for attempt to commit any such offence, where the question of consent is an issue, it shall not be permissible to adduce evidence or to put questions in the cross-examination of the victim as to the general immoral character, or previous sexual experience, of such victim with any person for proving such consent or the quality of consent.

26. Subject to the other provisions of this Code, —

(a) any offence under the Indian Penal Code may be tried by—

(i) the High Court, or
(ii) the Court of Session, or
(iii) any other Court by which such offence is shown in the First Schedule to be triable:

Provided that any offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code shall be tried as far as practicable by a Court presided over by a woman.
Information to the Police and their Powers to Investigate

154. (1) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf:

Provided that if the information is given by the woman against whom an offence under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:

Provided further that:

(a) in the event that the person against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person’s choice, in the presence of an interpreter or a special educator, as the case may be;

155. (1) The police officer may reduce into writing any statement made to him in the course of an examination under this section; and if he does so, he shall make a separate and true record of the statement of each such person whose statement he records.

Provided further that the statement of a woman against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, sub-section (1) or sub-section (2) of section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted shall be recorded, by a woman police officer or any woman officer.

164. (1) In cases punishable under section 354, section 354A, section 354B, section 354C, section 354D, sub-section (1) or sub-section (2) of section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code, the Judicial Magistrate shall record the statement of the person against whom such offence has been committed in the manner prescribed in sub-section (5), as soon as the commission of the offence is brought to the notice of the police:

Provided that if the person making the statement is temporarily or permanently mentally or physically disabled, the Magistrate shall take the assistance of an interpreter or a special educator in recording the statement:

Provided further that if the person making the statement is temporarily or permanently mentally or physically disabled, the statement made by the person, with the assistance of an interpreter or a special educator, shall be videographed.
173. (1) *                        *                            *                            *                         *

(1A) The investigation in relation to rape of a child may be completed within three months from the date on which the information was recorded by the officer in charge of the police station.

(2) (i) As soon as it is completed, the officer in charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Government, stating—

*                             *                            *                            *                         *

(h) whether the report of medical examination of the woman has been attached where investigation relates to an offence under section 376, 376A, 376B, 376C, 376D or section 376E of the Indian Penal Code.

197. (1) When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction save as otherwise provided in the Lokpal and Lokayuktas Act, 2013.

*                             *                            *                            *                         *

Explanation.—For the removal of doubts it is hereby declared that no sanction shall be required in case of a public servant accused of any offence alleged to have been committed under section 166A, section 166B, section 354, section 354A, section 354B, section 354C, section 354D, section 370, section 375, section 376, section 376A, section 376C, section 376D or section 509 of the Indian Penal Code.

309. (1) In every inquiry or trial the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded:

Provided that when the inquiry or trial relates to an offence under section 376, section 376A, section 376B, section 376C or section 376D of the Indian Penal Code, the inquiry or trial shall, as far as possible be completed within a period of two months from the date of filing of the charge sheet.

*                             *                            *                            *                         *

327. (1) *                        *                            *                            *                         *

(2) Notwithstanding anything contained in sub-section (1), the inquiry into and trial of rape or an offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code shall be conducted in camera:

Provided that the presiding Judge may, if he thinks fit, or on an application made by either of the parties, allow any particular person to have access to, or be or remain in, the room or building used by the Court:

Provided further that in camera trial shall be conducted as far as practicable by a woman Judge or Magistrate.

*                             *                            *                            *                         *
Compensation to be in addition to fine under section 326A or section 376D of Indian Penal Code.

The compensation payable by the State Government under section 357A shall be in addition to the payment of fine to the victim under section 326A or section 376D of the Indian Penal Code.

All hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under section 326A, 376, 376A, 376B, 376C, 376D or section 376E of the Indian Penal Code, and shall immediately inform the police of such incident.

THE FIRST SCHEDULE
CLASSIFICATION OF OFFENCES

EXPLANATORY NOTES: (I) In regard to offences under the Indian Penal Code, the entries in the second and third columns against a section the number of which is given in the first column are not intended as the definition of, and the punishment prescribed for, the offence in the Indian Penal Code, but merely as indication of the substance of the section.

(2) In this Schedule, (i) the expression "Magistrate of the first class" and "Any Magistrate" include Metropolitan Magistrates but not executive Magistrates; (ii) the word "cognizable" stands for "a police officer may arrest without warrant"; and (iii) the word "non-cognizable" stands for "a police officer shall not arrest without warrant".

I.-OFFENCES UNDER THE INIDAN PENAL CODE

<table>
<thead>
<tr>
<th>Section</th>
<th>Offence</th>
<th>Punishment</th>
<th>Cognizable or Non-cognizable</th>
<th>Bailable or Non-bailable</th>
<th>By what Court triable</th>
</tr>
</thead>
<tbody>
<tr>
<td>376</td>
<td>Rape</td>
<td>Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life and with fine.</td>
<td>Cognizable</td>
<td>Non-bailable</td>
<td>Court of Session.</td>
</tr>
<tr>
<td></td>
<td>Rape by a police officer or a public servant or member of armed forces on the staff of a jail, remand home or other place of custody, or the staff of a hospital, and rape committed by a person in a position of trust or authority towards the person raped or by a near relative of the person raped.</td>
<td>Rigorous imprisonment of not less than 7 years but which may extend to imprisonment for life and with fine.</td>
<td>Cognizable</td>
<td>Non-bailable</td>
<td>Court of Session.</td>
</tr>
</tbody>
</table>

45 of 1860.
42. Where an act or omission constitutes an offence punishable under this Act and also under section 166A, 354A, 354B, 354C, 354D, 370, 370A, 375, 376, 376A, 376B, 376C, 376D, 376E or section 509 of the Indian Penal Code, then, notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offence shall be liable to punishment only under this Act or under the Indian Penal Code as provides for punishment which is greater in degree.
A BILL


(Shri Rajnath Singh, Minister of Home Affairs)