

Bill No. 120 of 2011

THE ARMS (AMENDMENT) BILL, 2011

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further to amend the Arms Act, 1959.

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

1. (1) This Act may be called the Arms (Amendment) Act, 2011.
- (2) It shall be deemed to have come into force on the 27th day of May, 1988.
- 5 2. In the Arms Act, 1959, in section 27, in sub-section (3), for the words “shall be punishable with death”, the words “shall be punishable with death or imprisonment for life and shall also be liable to fine” shall be substituted.

Short title
and
commencement.

Amendment
of section 27
of Act 54 of
1959.

STATEMENT OF OBJECTS AND REASONS

The Arms Act, 1959 provides for the law relating to arms and ammunition.

2. Existing provisions contained in section 7 of the Arms Act, 1959, *inter alia*, prohibits acquisition or possession, or of manufacture or sale, of prohibited arms or prohibited ammunition unless one has been specially authorised by the Central Government in this behalf. Sub-section (3) of section 27 of the Arms Act, 1959 provides that whoever uses any prohibited arms or prohibited ammunition or does any act in contravention of aforesaid section 7 and such use or act results in the death of any other person, shall be punishable with death. The provisions contained in sub-section (3) of aforesaid section 27 of the Arms Act, 1959 provides imposition of mandatory sentence of death.

3. The constitutional validity of sub-section (3) of aforesaid section 27 of the Arms Act, 1959 has been challenged before the Hon'ble Supreme Court in the State of Punjab *vs.* Dalbir Singh (Criminal Appeal No. 117 of 2006) and is pending before the Hon'ble Supreme Court. Earlier, the Hon'ble Supreme Court in *Mithu vs. State of Punjab* (1983/2 Supreme Court Cases 277) while adjudicating the constitutional validity of section 303 of the Indian Penal Code (which provided mandatory punishment of death to a person who being under sentence of imprisonment for life commits murder) held that imposition of mandatory sentence of death on commission of murder while undergoing life imprisonment in jail or outside jail when on parole, without giving any scope for application of judicial discretion considering facts and circumstances of each case, was, harsh, oppressive and unjust.

4. In view of the foregoing paragraph, it is proposed to amend sub-section (3) of aforesaid section 27 of the Arms Act, 1959 to provide that whoever uses any prohibited arms or prohibited ammunition or does any act in contravention of section 7 and such use or act results in the death of any other person, shall be punishable with death or imprisonment for life and shall also be liable to fine instead of mandatory sentence of death only.

5. The Hon'ble Supreme Court in the State through CBI, Delhi *vs.* Gian Singh (1999/9 Supreme Court Case 312) held that it is a fundamental right of every person that he should not be subjected to greater penalty than what the law prescribes, and no *ex post facto* legislation is permissible for escalating the severity of the punishment. But if any subsequent legislation would downgrade the harshness of the sentence for the same offence, it would be salutary principle for administration of criminal justice to suggest that the said legislative benevolence can be extended to the accused who awaits judicial verdict regarding sentence. It is further proposed to give retrospective effect to the amendment proposed in the preceding paragraph with effect from the 27th May, 1988 so as to cover the pending Criminal Appeal No. 117 of 2006 referred to in paragraph 3 above.

6. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 17th November, 2011.

P. CHIDAMBARAM.

ANNEXURE

EXTRACT FROM THE ARMS ACT, 1959

(54 OF 1959)

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27. (1) * * * * * Punishment
for using
arms, etc.

(3) Whoever uses any prohibited arms or prohibited ammunition or does any act in contravention of section 7 and such use or act results in the death of any other person, shall be punishable with death.

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further to amend the Arms Act, 1959.

(Shri P. Chidambaram, Minister of Home Affairs)