

Twelfth Kerala Legislative Assembly
Bill No. 113

THE CODE OF CRIMINAL PROCEDURE (KERALA AMENDMENT)
BILL, 2007

A

BILL

further to amend the Code of Criminal Procedure, 1973, in its application to the State of Kerala.

Preamble.—WHEREAS, it is expedient further to amend the Code of Criminal Procedure, 1973, (Central Act 2 of 1974), in its application to the State of Kerala for the purpose hereinafter appearing;

BE it enacted in the Fifty-eighth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Code of Criminal Procedure (Kerala Amendment) Act, 2007.

(2) It extends to the whole of the State of Kerala.

(3) It shall come in to force at once.

2. *Amendment of section 381.*—In the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), in sub-section (1) of section 381, for the existing proviso, the following proviso shall be substituted, namely:—

“Provided that an appeal against a conviction on a trial held by a Magistrate of the First Class, in a case triable by a Magistrate of the Second Class, may be heard and disposed of by an Assistant Sessions Judge or a Chief Judicial Magistrate.”

STATEMENT OF OBJECTS AND REASONS

Courts of the Judicial Magistrates of the Second Class ceased to exist in the State of Kerala consequent on the integration of Subordinate Civil and Criminal Judiciary. There are only Judicial Magistrates of the First Class in this State with effect from the 1st day of January, 1992.

2. In view of the fact that there are only Judicial Magistrates of the First Class in this State, all criminal appeals from the Courts of the Magistrates of the First Class have to be heard and decided by the Courts of Sessions in accordance with the provisions contained in section 381 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

3. It is considered necessary to vest the Assistant Sessions judges and the Chief Judicial Magistrates with appellate powers, in respect of the cases involving offences triable by the Magistrates of the Second Class, in order to reduce the work load in the Sessions Court and also to impart experience for the Assistant Sessions Judges and Chief Judicial Magistrates for hearing criminal appeals, by substituting the proviso to section 381 of the Code of Criminal Procedure, 1973, to that effect.

4. The Bill seeks to amend the Code of Criminal procedure, 1973, in its application to the State of Kerala, to achieve the above object.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure out of the Consolidated Fund of the State.

KODIYERI BALAKRISHNAN

EXTRACT FROM THE CODE OF CRIMINAL PROCEDURE, 1973
(CENTRAL ACT 2 OF 1974)

** ** ** **

381. *Appeal to Court of Session how heard.*—(1) Subject to the provisions of sub-section (2), an appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge :

Provided that an appeal against a conviction on a trial held by a Magistrate of the Second Class may be heard and disposed of by an Assistant Sessions Judge or a Chief Judicial Magistrate.

(2) An Additional Sessions Judge, Assistant Sessions Judge or a Chief Judicial Magistrate shall hear only such appeals as the Sessions Judge of the division may, by general or special order, make over to him or as the High Court may, by special order, direct him to hear.

** ** ** **
