

Thirteenth Kerala Legislative Assembly

Bill No. 223

**THE CODE OF CRIMINAL PROCEDURE
(KERALA AMENDMENT)
BILL, 2013**

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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, in its application to the State of Kerala, for the purposes hereinafter appearing;

BE it enacted in the Sixty-fourth 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, 2013.

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

(3) It shall come into force at once.

2. *Insertion of new section 267A.*—In the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), after section 267, the following section shall be inserted, namely:—

“267A. *Power to secure attendance of persons confined or detained in prisons through the medium of electronic video linkage.*—In addition to and without prejudice to the powers of the Criminal Courts under this Code, the court may, in the course of any inquiry, trial or other proceeding, if it is expedient in the circumstances, order that the attendance of a person confined or detained in prison be secured through the medium of electronic video linkage.”

STATEMENT OF OBJECTS AND REASONS

The Honourable High Court of Kerala has directed the State Government to introduce video conferencing system in courts and jails. Various Prison Reforms Commissions, Committees and Human Rights Commission have also made similar recommendations.

2. As per the Code of Criminal Procedure (Amendment) Act, 2008 (Central Act 5 of 2009), the video conferencing system has been introduced for the purpose of extension of detention in judicial custody under section 167 of the said Code. But, this system has not been made applicable in the case of attendance of prisoners in the course of an inquiry, trial or other proceeding or for answering to a charge of an offence, as provided under section 267 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

3. The introduction of video conferencing system will lead to considerable saving of time, energy, money and manpower to judicial as well as prison authorities and the present system of conducting inquiry, trial or other proceeding under the Code after producing the prisoners before the Judge and back to prison can be given up. The chances of the prisoners getting access to prohibited articles such as narcotic drugs, currency, weapons, communication equipments and to antisocial elements may also be ruled out once their physical presence is dispensed with.

4. For the above purpose, a new section 267A has to be inserted in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

5. The Bill seeks to achieve the above objects.

FINANCIAL MEMORANDUM

The Bill provides for introduction of video conferencing system in the case of attendance of prisoners also under section 267 of the Code of Criminal Procedure, 1973. Expenditure to the tune of rupees 51.47, 89.26, 79.49 and 98.89 lakh was incurred during the financial year 2005-06, 2006-07, 2007-08 and 2010-11, respectively, for installing the video conferencing system in jails and courts of Thiruvananthapuram, Kottayam, Ernakulam, Thrissur and Kannur Districts. Rupees 15 crores have been earmarked during the year 2012-13 under the 13th Finance Commission for establishment of this facility in the jails. A recurring annual expenditure of rupees two crores is anticipated for BSNL connectivity and maintenance of the system.

OOMMEN CHANDY.

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

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267. *Power to require attendance of prisoners.*—(1) Wherever, in the course of any inquiry, trial or other proceeding under this Code, it appears to a Criminal Court,—

(a) that a person confined or detained in a prison should be brought before the Court for answering to a charge of an offence, or for the purpose of any proceedings against him, or

(b) that it is necessary for the ends of justice to examine such person as a witness,

the Court may make an order requiring the officer-in-charge of the prison to produce such person before the Court for answering to the charge or for the purpose of such proceeding or, as the case may be, for giving evidence.

(2) Where an order under sub-section (1) is made by a Magistrate of the second class, it shall not be forwarded to, or acted upon by, the officer-in-charge of the prison unless it is countersigned by the Chief Judicial Magistrate to whom such Magistrate is subordinate.

(3) Every order submitted for countersigning under sub-section (2) shall be accompanied by a statement of the facts which, in the opinion of the Magistrate, render the order necessary, and the Chief Judicial Magistrate to whom it is submitted may, after considering such statement, decline to countersign the order.

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