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Fourteenth Kerala Legislative Assembly

Bill No. 84

**THE CODE OF CRIMINAL PROCEDURE (SECOND
KERALA AMENDMENT) BILL, 2017**

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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-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 (Second Kerala Amendment) Act, 2017.

(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:—

“267 A. *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 proceedings, 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 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. Section 167 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) provides for production of an accused in judicial custody through the medium of electronic video linkage.

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 for the reason that the present system of undertaking the trial by taking the prisoners and undertrials to produce before the Judge and back to prison can be given up. The chances of the prisoners or undertrials 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. In the above circumstances, for the purpose of enabling production of the prisoners referred to in section 267 of the said Code, the Government have decided to insert a new section 267A in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

5. The Bill seeks to achieve the above object.

FINANCIAL MEMORANDUM

Expenditure to the tune of Rs. 98.89 lakh, Rs. 4.12 lakh, Rs. 3.77 lakh, Rs. 112.75 lakh, Rs. 2.57 lakh and Rs. 2.14 lakh was incurred during the financial year 2010-11 to 2015-16 respectively, towards the installation and implementation of video conferencing system connecting courts and jails in Kerala. It includes the advance amount of Rs. 11.25 crores deposited with P.W.D. during 2013-14, ISDN rental charge paid to BSNL etc. for the installation of the system, all over the State. During 2016-17, an amount of Rs. 1.34 lakh has been expended on account of ISDN rental charge, as on 30-11-2016.

PINARAYI VIJAYAN.

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

267. *Power to require attendance of prisoners.*—(1) Whenever, 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.
