

**ANDHRA PRADESH
PREVENTION OF
UNLAWFUL ACTIVITIES
ACT - 1998**

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ANDHRA PRADESH PREVENTION OF UNLAWFUL ACTIVITIES

ACT- 1998

...
A Bill to provide special provisions for the prevention of, and for coping with, unlawful activities for such persons and organisations and for matters connected therewith or incidental thereto.

Whereas democratic process and public order are being jeopardized by the unlawful activities of certain association and the groups of people and administration of law and maintenance of order and security if State threatened by their activities.

And whereas it is considered desirable to enact a special law to provide for prosecution; restriction and control of such unlawful activities and matters connected therewith;

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the forty-ninth year of the Republic of India as follows:-

PART - I

Preliminary

I. This Act may be called as **The A.P. Prevention of Unlawful Activities Act, 1998**

- i. It extends to the whole of the State of Andhra Pradesh.
- ii. It shall come into force atonce.
- iii. It shall remain in force for a period of 2 (Two) years.

2. Definitions:

In this Act, unless the context otherwise requires,

- a) "**Code**" means the Code of Criminal Procedure, 1973;
- b) "**Designated Court**" means a Special Court constituted under section 18 of the Act.
- c) "**Public Prosecutor**" means a Public Prosecutor or an Addl. Public Prosecutor or a special Public Prosecutor appointed under section 25 and includes any person acting under the directions of the Public Prosecutor;
- d) "**Superintendent of Police**" includes the Commissioner of Police in the areas of Commissionerate.
- e) "**Unlawful activity**" means the meaning assigned to in section (3) of this Act and expression in "**Unlawful Activity**" shall be construed accordingly;

- f) "**Unlawful association**" means any association ; (i) which is banned under the provisions of any law for the time being inforce, or (ii) Which has for its object any activity which is punishable u/s 121 to 140 and 153 (B) of IPC; or which encourages or aids persons to under-take such activity or whose members under-take any such activity.
- g) "**Notified Area**" means such area which is declared by the District Magistrate by notification under this Act in the District Gazette.
- h) "**Notified Persons**" means such person who is declared by the District Magistrate by notification under this Act in the District Gazette.
- i) Words and expressions used but not defined in this Act and defined in the Code shall have the meanings assigned to them in the Code;

Explanation,-

Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law, or the relevant provision of the corresponding law, if any, in force in that area.

P A R T - II

Punishments for, and measures for coping with, unlawful activity

3. Unlawful activity

Any activity done by a person or group of persons acting either individually or collectively by committing violence or intimidation or coercion or with the object of creating terror or insecurity or waging of war or by members of banned organisation under the Provisions of A.P.Public Security Act or Unlawful Activities (Prevention) Act which, -

- a) disrupts the supplies of essential commodities to the community. OR
- b) by doing any act which disrupts the transport system viz. road, rail by air or any means of transport. OR
- c) disrupts the industrial production, peace, marketing, and supply of raw material. OR
- d) disrupts the communication system by any interference or damage or destruction, or defacing any apparatus; tool or machinery used by Telephone Dept., Telegraphic communication, Broadcasting by AIR, Micro Wave Repeater or any mode of communication. OR
- e) disrupts the electoral process or any election conducted under the provisions of Representation of Peoples Act. OR
- f) is an offence under Chapters VI, VII, XV1, XVII, XXII of Indian Penal Code. OR

g) is an offence under the Explosives Act 1884, Explosive Substances Act 1884, Indian Arms Act, Prevention of Damages to Public Property Act 1984, A.P. Public Security Act 1992, Criminal Law (Amendment) Act 1932 and The Unlawful Activities (Prevention) Act - 1967

4. Punishment for committing an unlawful activity

- (i) Who ever commits an unlawful activity in a notified area or being a notified person commits an unlawful activity shall, -
 - a) if such act has resulted in the death of any person, be punishable with death or imprisonment for life and shall also be liable to fine.
 - b) In any other case, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for the life and shall also be liable to fine.
- (ii) Who ever conspires or attempts to commit, or advocates abets, advises or incites or knowingly facilitates the commission of an unlawful activity or any act preparatory to such an act shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine.
- (iii) Who ever harbours or conceals, or attempts to harbour or conceal a person or group of persons declared as notified persons or proclaimed offender shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine.
- (iv) Any person who is a member of a proscribed organisation, which is involved in unlawful activities shall be punishable with imprisonment for a term which extends to imprisonment for life and shall also be liable to fine.
- (v) Whoever holds any property derived or obtained from commission of any unlawful activity or has been acquired through the unlawful activity shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to forfeiture of property under section 16 of the Act.

PART - III

Power of District Magistrate

5. Declaration of Areas and Persons

- A) The District Magistrate may on the application of, Supdt. of Police may declare an area within the district as Notified Area for coping with unlawful activity.
- B) The District Magistrate on the application of the Supdt. of Police, may declare a person as a notified person who commits any act under section 3 or who solicits, supports, incites, propagates or assists, any unlawful activity as defined in the Act in his jurisdiction.

P A R T - IV

Duties and Restrictions in relation to Notified Areas and Persons

6. Duties in relation to notified area and notified persons

A) Public

It shall be the duty of every citizen

- 1) to uphold the rule of law and integrity of the State; to protect, and improve forests, lakes, communications and transport system and other means of public conveniences and public utility and uphold democracy and electoral process.
- 2) to safe guard public and private property and assist the authorities in maintenance of law and order.
- 3) to dissuade from inciting, exhorting violence and to propagate for maintenance of public peace and tranquility.
- 4) to lay information as soon as he becomes aware about the preparation, or commission of an offence, under the Act before to the concerned police station or superior police officers or Magistrate, and to render necessary assistance to police to detect, and to bring the offenders to Court of Law.

B) Public Servants

Every Public servant shall:

- a) take, such steps, within his command which are necessary for maintenance of public order, prevention of crime, safety of persons and property.
- b) take all such steps for apprehension of notified persons and report occurrence of any offence under this Act in a notified area to the local police or Magistrate.
- c) collect and communicate information about the activities of notified persons in connection with unlawful activities.

C) Police Officers :

It shall be the duty of all police officers :

- 1) To collect and communicate intelligence affecting public peace.
- 2) To prevent commission of offences and to detect and bring the offenders to justice.
- 3) To apprehend all persons who are members of outlawed organisations, or notified persons;
- 4) To enter and inspect any place, and to compel the attendance of any person in good faith.
- 5) To apprehend all persons and use force which is necessary for such apprehension to the extent of even causing death of a person who is accused of an offence punishable with death or imprisonment for life.

7. Restriction on performances;

The District Magistrate on the recommendation of the Supdt. of Police may ban any objectionable performance which, -

- i) incites or encourages any person to resort to violence or sabotage for the purpose of over-throwing or under mining the Govt. established by law or its authority in any area or
- ii) incites or encourages any person to commit murder, sabotage or any offence involving violence; or
- iii) incites or propagates, advocates commission of offences under this Act; or
- iv) seduces any member of the armed forces, or the Police Forces from his allegiance to his duty or prejudice the recruitment of persons to, or the discipline of, any such force; or
- v) Promotes feelings of enmity or hatred between different sections of the people; on ground of religion, race, place of birth, residence, language etc. or
- vi) is grossly indecent, scurrilous or obscene or intended for causing annoyance and for blackmail.

8. Restriction on Meetings :

- (a) The District Magistrate on the recommendation of the Supdt. of Police may issue orders prohibiting congression or assembly of people, or meeting of people in public or private places or delivery of public speeches in any private or public meeting places by organisations or persons with a view to abet, facilitate, advocate and propagate commission of offences punishable under the Act or for the maintenance of public order.
- (b) The District Magistrate on the recommendation of the Supdt. of Police may ban any exercise, movement, drill, training or other similar activity intending that such activity shall use or be trained to use criminal force or violence or knowing it to be likely such participation in such activity will be used in connection with commission, preparation, abatement of the offences under the Act.

9. Externment:

The District Magistrate in consultation with the Supdt. of Police may pass an order externing a notified person persons from his district or jurisdiction or confine his movement to a particular place or places with a view to prevent such person from committing any offence under this Act.

10. Restriction on Movements

- A) The District Magistrate may also direct registration of names, addresses permanent/temporary, particulars, photographs of all the notified persons accused of offences under the provisions of this Act in a notified area by

entering them in a register. Copies of the extract of the said register shall be forwarded to the State Headquarters. The said notified persons shall intimate their movements and change of address to the Supdt. of Police, concerned in which jurisdiction they are normally staying.

- B) The District Magistrate may impose restriction by order in writing prohibiting an admission of any notified person into an educational institution, Hospital, Industry, place of work or into the office of any Unions of Students or Staff;
- C) A statement made by such notified person shall be admissible not only against him, and co-accused, but also against other persons committing any offence under the provisions of this Act.
- D) The District Magistrate may impose restrictions in respect of business of the notified person dealing with others, besides restricting or prohibiting his movements in a notified area.
- E) The Designated Courts on the application of the Investigating Officer forwarded by the Supdt. of Police informing that an accused is absconding or concealing or has gone underground and avoiding his arrest, may issue a non-bailable warrant. The designated court may subject to the provisions of sections 82 and 83 of the Code declare such person as a proclaimed offender. Such proclaimed offender shall, notwithstanding anything in the Code not be released on bail until the conclusion of the trial in the event of his apprehension.

11. A) Banning of Printing:-

The District Magistrate on the recommendation of the Supdt. of Police may issue a prohibitory order; banning publication of any book magazine, pamphlet, leaflet which incites commission of an offence under this Act, or any book magazine, pamphlet leaflet, newspaper or other like publication in electronic media which consists of stories told with or within the aid of pictures or wholly in pictures being stories portraying wholly or mainly -

- (i) the commission of offences; or
- (ii) acts of violence or cruelty; or
- (iii) incidents of a repulsive or horrible nature; in such a way that the publication as a whole would tend to corrupt a person into whose hands it might fall, whether by inciting or encouraging him to commit offences or acts of violence or cruelty or commission of offence under this Act in any manner whatsoever;

B) Documents:

The District Magistrate may prohibit, the dissemination of contents of proscribed document which publishes or circulates, or repetition in public, any passage from a newspaper, from a book, or other document copies of which have been declared to be forfeited.

12. Declaration of prohibited, protected and security areas; -

(1) The District Magistrate may declare any place as

(a) **Prohibited Area** : to prohibit any person to enter or be or any or pass over or loiter and lurk in the vicinity of any prohibitory place by an order in writing displayed on such prohibitory place.

(b) **Protected Area** : to regulate entry into such area by prior permission, pass, identity card or otherwise;

(c) **Security Area** : to regulate entry of any person, vehicle, vessel into an area and prohibit entry of persons or vehicles, vessels, aircraft or an article into such area by an order in writing, for a specific period.

(2) The District Magistrate may prohibit taking of photographs, drawing sketch including rough sketch of such prohibited, protected or security place and any person who is in possession of such photograph, sketch or plan shall be deemed to have committed an offence under this Act.

13. Notice on aggrieved party

(1) All the orders passed by the District Magistrate in relation to printing, publications, performances, meetings, declaration of prohibited, protected, security areas, notified areas, and notified persons, externment, preventive detention, restrictions on movements, business, shall be in writing duly signed and caused to be served on the affected or aggrieved party. Such order shall contain the grounds on which the orders are passed and the copies of which are supplied to the affected parties in the language known.

(2) No such order shall come into force unless it is approved by the Advisory Committee within 30 days from the date of the said order.

14. Revoke/Suspend Orders

The District Magistrate may revoke or suspend : order issued by him u/s 8 to 13 for reasons to be recorded.

PART - V

Punishments and Forfeitures

15. Punishments for contravention of Directions or Orders

Any person who contravene any order or direction issued by the District Magistrate shall be liable for punishment upto 3 years with fine or with both.

16. Forfeiture of property of certain persons

(1) Where a person has been convicted of any offence punishable under this Act or any rule made thereunder, the Designated Court may, in addition to awarding

any punishment, by order in writing, declare that any property, movable or immovable or both belonging to the accused and specified in the order, shall stand forfeited to the Government free from all encumbrances.

(2) Where any person is accused of any offence under this Act or any rule made thereunder, it shall be open to the Designated Court trying him to pass an order that all or any properties, movable or immovable or both belonging to him, shall, during the period of such trial, be attached, and where such trial ends in conviction, the properties so attached shall stand forfeited to the Government free from all encumbrances.

(3)(a) If upon a report in writing made by a police officer or an officer referred to in sub-section(1) of section 17(A), any 'Designated Court has reason to believe that any person, who has committed an offence punishable under this Act or any rule made thereunder, has absconded or is concealing himself so that he may not be apprehended, such court may, notwithstanding anything contained in section 82 of the Code, publish a written proclamation requiring him to appear at a specified place and at a specified time not less than fifteen days but not more than thirty days from the date of publication of such proclamation.

(b) The Designated Court issuing a proclamation under clause (a) may, at any time, order the attachment of any property, movable or immovable or both, belonging to the proclaimed person, and thereupon the provisions of sections 83 to 85 of the Code shall apply to such attachment as if such attachment were made under that Code.

(c) If, within six months from the date of the attachment any person, whose property is, or has been, at the disposal of the Government under sub-section(2) of Section 85 of the Code, appears voluntarily or is apprehended and brought before the Designated Court by whose order the property was attached, or the Court to which such Court is subordinate, and proves to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of avoiding apprehension and that he had not received such notice of the proclamation as to enable him to attend within the time specified therein, such property or, if the same has been sold, the net proceeds of the sale and the residue of the property, shall, after satisfying there from all costs incurred in consequence of the attachment, be delivered to him.

Where any shares in a company stand forfeited to the Government under this section, then the company shall, notwithstanding anything contained in the Companies Act, 1956, or the articles of association of the company, forthwith register the Government as the transferee of such shares.

PART - VI
Conferment of Powers

17. Conferment of Powers

(1) Notwithstanding anything contained in the Code or in any other provision of this Act, the State Government may, if it considers it necessary or expedient so to do for the prevention of unlawful activity or prosecution or apprehension of notified persons or accused or wanted accused for coping with unlawful activities in any part of the State, may confer, by notification in the official Gazette, on any officer of the State Government, powers exercisable by a police officer under the Code in part of the State or, as the case may be, for such case or class or group of cases and in particular, the powers of arrest, investigation and prosecution of persons before any Court.

(2) All officers of police and all officers of the Government are required and empowered to assist the officer of the State Government, referred to in sub-section (1), in the execution of the provisions of this Act or any rule or order made thereunder.

(3) The provisions of the Code shall, so far as may be and subject to such modifications made in this Act, apply to the exercise of the powers by an officer notified under sub-section(1).

(4) If an officer investigating an unlawful activity committed under this Act has reason to believe that any property in relation to which an investigation is being conducted is a property derived or obtained from the commission of any unlawful act and includes proceeds of an unlawful activity, he shall, with the approval of the Superintendent of Police, make an order seizing such property and where it is not practicable to seize such property, make an order of attachment directing that such property shall not be transferred or otherwise dealt with except with the prior permission of the officer making such order, or of the Designated Court and a copy of such order shall be served on the persons concerned:

Provided that the investigating officer shall duly inform the Designated Court within forty-eight hours of the attachment of such property and the said court shall either confirm or revoke the order or attachment so issued.

PART - VII
Designated Courts

18. Designated Courts

(1) The State Government may by notification in --- Official Gazette constitute one or more Designated Courts for such area or areas or for such case or class, or group of cases as may be specified in the notification,

(2) Where a notification constituting a Designated Court for any area or areas for any case or class or group of cases is issued by a State Government under sub-section (1) whether such notification constituting such Court is issued before or

after the issue of the notification constituting the Designated Court by the State Government shall have jurisdiction to try any offence committed in that area or areas or as the case may be the case or class or group of cases and all cases pending before any Designated Court constituted by the State Government.

(3) A Designated Court shall be presided over by the District Sessions Judge appointed by the State Government with the consultation of the Chief Justice of the High Court.

(4) Where any additional judge or additional judges is, or are appointed in a Designated Court, the Designated Court may from time to time by general or special order in writing provide for the distribution of business of the Designated Court among himself and the additional judge or additional judges and also for the disposal of urgent business in the event of his absence or in the absence of any additional judge

19. Jurisdiction of Designated Courts

Notwithstanding anything contained in the Code every offence punishable under any provision of this Act or any rule made thereunder shall be triable only by the Designated Court within whose local jurisdiction it was committed or as the case may be, by the Designated Court constituted for trying such offence under sub-section (1) of section 17.

20. Place of sitting

A Designated Court may, on its own motion or on an application made by the Public Prosecutor and if it considers it expedient or desirable so to do, sit for any of its proceedings at any place, other than its ordinary place of sitting.

Provided that nothing in this section shall be construed to change the place of sitting of a Designated Court constituted by the State Government to any place outside the State

21. Power of Designated Courts with respect to other offences

(1) When trying any offence, a Designated Court may also try any other offence with which the accused may under the code be charged at the same trial if the offence is connected with such other offence.

(2) If, in the course of any trial under this Act of any offence, it is found that the accused person has committed any other offence under this Act or any rule made thereunder or under any other Law the Designated Court may convict such person of such other offence and pass any sentence authorised by this Act or such rule or as the case may be such other law for the punishment thereof.

22. Procedure and Powers of Designated Courts

(1) A Designated Court may take cognizance of any offence without the accused being committed to it for trial upon receiving a complaint of facts which constitute such offence or upon a Police report of such facts.

(2) Where an offence triable by a Designated Court is punishable with imprisonment for a term not exceeding three years or with fine or with both, the Designated Court may notwithstanding anything contained in sub-section (1) of section 260 or section 252 of the code, try the offence in a summary way in accordance with the procedure prescribed in the Code and provisions of sections 263 to 265 of the code shall so far as may be apply to such trial:

Provided that when in the course of a summary trial under this sub section it appears to the Designated Court that the nature of the case is such that is undesirable to try it in a summary way, the Designated Court shall recall any witnesses who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the Code for the trial of such offence and the said provisions shall apply to and in relation to a Designated Court as they apply to and in relation to a Magistrate Court.

Provided further that in the case of any conviction in a summary trial under this section it shall be lawful for a Designated Court to pass a sentence of imprisonment for a term not exceeding one year.

(3) Subject to the other provisions of this Act, Designated Court shall for the purpose of trial of any offence, have all the powers of a Court of Session and shall try such offence, as if it were a Court of Session so far as may be in accordance with the procedure prescribed in the Code for the trial before a Court of Session.

(4) Subject to the other provisions of this Act, every case transferred to a Designated Court under sub-section (2) of section 408 shall be dealt with as if such case had been transferred under section 407 of the Code to such Designated Court.

23. Trial by Designated Courts to have precedence

The trial under this Act of any offence by a Designated Court shall have precedence over the trial of any other case against the accused in any other Court (not being the Designated Court) and shall be concluded in preference to the trial of such other case and accordingly the trial of such other case shall remain in abeyance.

24. Appeal

A) Notwithstanding anything contained in the Code an appeal shall lie from any Judgement, sentence or order not being an interlocutory order of a Designated Court to the High Court both on facts and on law.

B) Except as aforesaid no appeal or revision shall lie to any Court from any Judgement sentence or order including an interlocutory order of a Designated Court within 30 days.

25. Public Prosecutors

(1) For every Designated Court, the State Government shall appoint a person to be the Public Prosecutor and may appoint one or more persons to be the Additional Public Prosecutor or Special Public Prosecutors:

Provided that the State Government may also appoint for any case or cases or group of cases a Special Public Prosecutor.

(2) A person shall not be qualified to be appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section unless he has been in practice as an Advocate for not less than seven years or has held any post of Law Officer for a period of not less than seven years, under the Union or a State.

(3) Every person appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the code and the provisions section 24 of the Code shall have effect accordingly,

26. Protection of Witnesses

Notwithstanding anything contained in the Code, the proceedings under this Act may be held in camera by the Designated Court; and shall have power in respect of -

- (a) the holding of the proceedings at a place to be decided by the Designated Court;
- (b) the avoiding of the mention of the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to public;
- (c) the issuing of any directions for securing that the identity and, addresses of the witnesses are not disclosed;
- (d) ordering in public interest that all or any of the proceedings pending before such a court shall not be published in any manner; or
- (e) ordering for providing such measures to provide security to witnesses and indemnify the damage or losses caused to such witnesses in relation to giving evidence.

PART - VIII **Modified Applications**

27. Modified applications of the provisions of the Code

(1) Notwithstanding anything contained in the Code or any other law, every offence punishable under this Act or any rule made thereunder shall be deemed to be a cognizable offence within the meaning of clause (c) of section - 2 of the Code, and "cognizable case" as defined in that clause shall be construed accordingly.

(2) Section 21 of the Code shall apply in relation to a case involving an offence punishable under this Act or any rule made thereunder subject to the modification that the reference to "the State Government" therein shall be construed as a reference to the State Government."

(3) Section 164 of the Code shall apply in relation to a case involving an offence punishable under this Act or any rule made thereunder, subject to the modification that the reference in sub-section (1) thereof to "Metropolitan Magistrate or Judicial

"Magistrate" shall be construed as a reference to "Metropolitan Magistrate, Judicial Magistrate, Executive Magistrate or Special Executive Magistrate."

(4) Section 167 of the Code shall apply in relation to a case involving an offence punishable under this Act or any rule made thereunder subject to the modification that;

(a) the reference in sub-section(1) thereof to "Judicial Magistrate shall be construed as a reference to "Judicial Magistrate or Executive Magistrate or Special Executive Magistrate".

(b) the references in sub-section(2) thereof to "fifteen days", "ninety days and sixty days" wherever they occur, shall be construed as references to "sixty days, "180 days and 180 days respectively:

(c) "Provided further that, if it is not possible to complete the investigation within the said period of one hundred and eighty days, the Designated Court shall extend the said period up to one year, on the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of one hundred and eighty days",

(7) Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence punishable under this Act or any rule made thereunder.

(8) Notwithstanding anything contained in the Code, no person accused of an offence punishable under this Act or any rule made thereunder shall, if in custody, be released on bail or on his own bond unless

(a) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(b) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence.

(9) The limitation on granting of bail specified in sub-section(8) are in addition to the limitations under the Code or any other law for the time being in force on granting or bail. The proclaimed offender shall not be released on bail till the conclusion of the trial.

(10) For the word 24 hours may read as "15 days".

(11) In Sec.197, clause 5 may be added.

In a prosecution instituted other than by the State if the public servant is an accused of an offence it shall be presumed when the said offence was committed by such public servant in discharge of his duties and the Court shall decide whether the accused is not entitled for protection as preliminary issue,

(12) In Sec.205(3), if a public servant is an accused of an offence, the Designated Court shall dispense with his personal attendance on his representation forwarded by an officer not below the rank of Superintendent of Police recommending such dispensing personal attendance.

"It shall be the duty of Superintendent of Police to cause production of such accused as and when directed by the Court and disobedience of production will be

deemed that he committed an offence u/s 221 IPC in the absence of proper explanation."

(13) the Designated Court shall release accused who was tendered pardon u/s 306 (1) Cr.P.C on an application of S.P for such release.

(14) Sec.309 (3). No proceeding of the Designated Court shall be adjourned on account of absence of the accused who are represented by an advocate.

(15) In Sec.317, clause 3 may be added:

The presiding officer shall proceed to record evidence in the presence of his advocate inspite of the absence of accused if released on bail, The Advocate shall continue to appear to conduct the proceedings till the conclusion of the trial until otherwise permitted by the Court to withdraw, with advance intimation to the accused and the prosecution, such withdrawal of appearance.

28. Modified application of the provisions of Evidence Act

Sec.15(1) Notwithstanding anything contained in the Code or in the Indian Evidence Act, 1872, but subject to the provisions of this section, a confession made by a person before a police officer not lower in rank than a Superintendent of Police and recorded by such police officer either in writing or on any mechanical device like cassettes, tapes or sound tracks from out of which sounds or images can be reproduced, shall be admissible in the trial of such person or co-accused, abettor or conspirator thereunder. "Provided that co-accused, abettor or conspirator is charged and tried in the same case together with the accused."

29. Cognizance of offence

(1) Notwithstanding anything contained in the Code, no information about the commission of an offence under this Act shall be recorded by the police without the prior approval of the District Superintendent of Police.

(2) No Court shall take cognizance of any offence under this Act without the previous sanction of the Inspector General of Police, or as the case may be, the Commissioner of Police.

30. Presumptions as to the offences under the Act

(1) In a prosecution for an offence under the Act it is presumed -

(a) that the arms or explosives or any other substances specified in section-3 were recovered from the possession of the accused and there is reason to believe that such arms or explosives or other substances of a similar nature, were used in the commission of such offence; or

(b) that by the evidence of an expert the finger prints of the accused were found at the site of the offence or on any-thing including arms and vehicles used in connection with the commission of such offence; the Designated Court shall presume, unless the contrary is proved, that the accused had committed such offence.

(2) In a prosecution for an offence under sub-section (3) of section 3 if it is proved that the accused rendered any financial assistance to a person accused of, or reasonably suspected of, an offence under that section, the Designated Court shall presume, unless the contrary is proved, that such person has committed the offence under that sub-section.

(3) In prosecution launched other than by State against a public servant who is accused for an offence having relationship with his duties it shall be presumed that the said offence was committed by him while acting or purporting to act in discharge of his duties.

(4) Where any document is seized during investigation or produced during trial in any court:

(i) is produced or furnished by any person or has been seized from the custody or control of any person, in either case, under this Act or under any other law, or

(ii) has been seized from any place in the course of investigation of any offence under this Act alleged to have been committed by a person, and such document is tendered in any prosecution under this Act in evidence against him or any other person who is tried jointly with him, the Court shall-

(a) presume, unless the contrary is proved, that the signature and every other part of such document which purports to be in the hand-writing of any particular person or which the court may reasonably assume to have been signed by, or to be in the hand-writing of, any particular person, handwriting; and in the case of a document is in that person so executed or attested that it was executed or attested by the person by whom it purports to have been so executed or attested;

(b) admit the document in evidence, notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence;

(c) in a case falling under clause (i), also presume, unless the contrary is proved, the truth of the contents of such document.

PART - IX

31. (a) *Protection against arrest:-*

No member of armed force shall be arrested, without prior permission, of his immediate superior officer. All Warrants, bailable or non-bailable shall be forwarded to the Supdt. of Police of the area in which the accused officer resides for execution. Such warrants shall be executed by such Supdt. of Police and non-execution of warrant will be deemed to be an offence punishable u/s 221 of IPC in absence of proper explanation.

(b) *Protection against prosecution*

a) No court shall take cognizance of any offence alleged to have been committed by public servants while acting or purporting to act in discharge of his official duties except with the prior sanction of the Government.

- b) No Court shall initiate any enquiry or other proceedings against a public servant charged with maintenance of public order in relation to notified areas or notified persons in connection with use of force without permission of the State Govt.

(c) Protection against the Legal remedies:-

No suit, prosecution or other legal proceedings shall lie against any public servant in relation to his using of a power or discharge of any functions or perform his duties under any of the provisions of this Act or under Cr.P.C, or done for anything in good faith or intended to be done for enforcement and implementation of the provisions of the Act or any other law,

32. Privilege from production of documents

No court shall compel for production of document in relation to the movements and the decisions taken in relation to assignment of work of the officers charged with maintenance of public order, in relation to apprehension of accused in notified area, and apprehension of notified persons, or other unpublished record relating to investigation of offences under this Act, or unpublished records relating to the affairs of the State;

33. A) Search

(1) The police officer has duty to stop, search any person, vehicle, vessel if he has reason to suspect that the above person, vehicle or vessel is likely to commit/ used in the commission of any offence under the act and if it becomes necessary he may command such person or vehicle to stop and may use all lawful means for stopping it and whereas such means fail, the vehicle, vessel or man may be fired upon..

(2) Police officers not below the rank of Dy.Suptd.of Police after obtaining the orders of Supdt.of Police in writing may take measurements, photographs, sample handwritings, finger prints from any notified person or any person accused of an offence under the provisions of this Act.

C) Power of Arrest

(i) A Police Officer may use all such force to apprehend a notified person including opening of fire.

(ii) The Police Officer not below the rank of the Sub-Inspector, may, if in his opinion it is necessary so to do for restoring or maintaining public order, after giving such warning, as he may consider necessary, fire upon, or order fire to be opened or otherwise use force, even to the extent of causing death of any person, who in a notified area is acting in contravention of any provisions of the Act or prohibitory order for the time being in force in such area, or prohibit carrying of weapons or of things capable of being used as weapons.

PART - X

Preventive Detention

34. Preventive Detention:

(I) The District Magistrate on the recommendation of the Supdt. of Police may order for detention of a person with a view to prevent him from acting in any manner prejudicial to the maintenance of public order and direct such person to be detained for a period specified in the order. When such order is made by the District Magistrate he shall forthwith report the facts to the State Govt. together with the grounds on which the orders are passed along with copies of such orders and such other particulars as, in his opinion, have a bearing on the matter and no such order shall remain in force for more than 30 days after making thereof, unless, in the mean time approved by the State Govt; -

- a) every person in respect of whom a detention order has been made shall be liable; to be detained in such place and under such conditions, as the Govt. May, by general or special order, specify; and
- b) to be removed from one place of detention to another place of detention within the State by an order of the Govt.

Explanation : Any person committing any offence under this Act would be deemed to have acted in a manner prejudicial to the maintenance of the public order.

(II) Grounds of detention severable :

Where a person has been detained in pursuance of an order of detention under section 34 which has been made on two or more grounds, such order of detention shall be deemed to have been made separately on each of such grounds and accordingly - such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are

- a) Vague,
- b) Non existent,
- c) Not relevant
- d) Not connected or not proximately connected with such person, or
- e) Invalid for any other reason whatsoever, and it is not, therefore, possible to hold that the Govt. or officer making such order would have been satisfied as provided in Section (i) with reference to the remaining ground or grounds and made the order of detention.

(III) the Government or Officer making the order of detention shall be deemed to have made the order of detention under the said section after being satisfied as provided in that section with reference to the remaining ground or grounds.

(IV) Orders including Detention Orders not to be invalid or inoperative on certain grounds : No Order including an order of detention shall be invalid or inoperative merely by reason:-

- (a) that the person to be detained thereunder is outside the limits of the territorial jurisdiction of the Government or officer making the order or
- (b) that the place of detention of such person is outside the said limits.

(V) Power in relation to absconding persons

- (a) If the Government or an officer mentioned in sub-section(i) of section 34, has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed then the provisions of section 82 to 86 (both inclusive) of the Code of Criminal Procedure, 1973, shall apply in respect of such person and his property subject to the modifications mentioned in this sub-section, and irrespective of the place where such person ordinarily resides, the detention order made against him shall be deemed to be a warrant issued by a competent Court, where the detention order is made by the Government, an officer, not below the rank of District Magistrate or Commissioner of Police authorised by the Government in this behalf, or where the detention order is made by an officer mentioned in sub-section(i) of section 34, such officer, as the case may be shall irrespective of his ordinary jurisdiction, be deemed to be empowered to exercise all the powers of the competent Court under section 82, 83, 84 and 85 of the said Code for issuing a proclamation for such person and for attachment and sale of his property situated in any part of the State and for taking any other action under the sections. An appeal from any order made by any such officer rejecting an application for restoration of attached property shall lie to the Court of Session, having jurisdiction in the place where the said person ordinarily resides, as provided in Sec.86 of the said Code.

(b) (A) Notwithstanding anything contained in sub-section notwithstanding anything contained in sub-section (a), if the Government, or an Officer mentioned in sub-section(i) of Section 34 has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, the Government or the Officer as the case may be may, by order notified in the Andhra Pradesh Gazette, direct the said person to appear before such officer at such place and within such period as may be specified in the order.

(B) If such person fails to comply with such order unless he proves that it was not possible for him to comply therewith, and that he had within the period specified in the order, informed the officer mentioned in the order of the reasons which rendered compliance there with impossible and of his whereabouts, or proves that it was not possible for him to so inform the officer mentioned in the order, he shall, on conviction, be punished with imprisonment for a term which may extend to 3 years, or with fine, or with both.

(C) Notwithstanding anything contained in the said Code, every offence under clause (B) shall be cognizable.

(VI) Grounds of order of detention to be disclosed to person affected by order

- a) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be but not later than ten days from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the Government,
- b) Nothing in sub-section (I) shall require the authority to disclose facts which it considers to be against the public interest to disclose.

(VII) Constitution of Advisory Boards

- (a) The Government shall whenever necessary constitute one or more Advisory Boards for the purposes of this Act.
- (b) Every such Board shall consist of three persons who are, or have been or are qualified to be appointed as, Judges of High Court, and such persons shall be appointed by the Government,
- (c) The Government shall appoint one of the members of the Advisory Board who is, or has been, a Judge of a High Court to be its Chairman.

(VIII) Reference to Advisory Boards

Any Order including orders of detention passed by District Magistrate in relation to notified area; notified persons, the Government shall, within four weeks from the date of detention of a person under the order, place before the Advisory Board constituted, the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in case where the order has been made by an officer mentioned in section 33, also the report by such officer under sub-section (3) of that section,

(IX) Procedure of Advisory Boards.

- a) The Advisory Board shall, after considering the material placed before it and, after calling for such further information as it may deem necessary from the Government or from any person called for the purpose through the Government or from the person called for the purpose through the Govt. or from the person concerned and if in any particular case, it considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the Government within eight weeks from the date of detention of the person concerned.
- b) The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.

- c) When there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.
- d) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board; and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential.

(X) Action upon the report of the Advisory Board

- a) In any case where the Advisory Board has reported that there is, in its opinion, sufficient cause for the detention of a person, the Government may confirm the detention order and continue the detention of the person concerned for such period not exceeding the maximum period specified in section 14 as it thinks fit.
- b) In any case where the Advisory Board has reported that there is, in its opinion, no sufficient cause for the detention, of a person, the Government shall revoke the detention order and cause the person concerned to be released forthwith.

(XI) Maximum period of preventive detention

The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under section 13 shall be twelve months from the date of detention;

Provided that nothing contained in this section shall affect the power of the Government to revoke or modify the detention order at any earlier time.

(XII) Revocation of detention order

Without prejudice to the provisions of section 15 of the Andhra Pradesh General Clauses Act, 1891 a detention order may at any time be revoked or modified -

(a) Notwithstanding that the order has been made by an officer mentioned in sub-section (2) of section 34, by the State Government,

(b) The expiry or revocation of a detention order (hereafter in this sub-section referred to as the earlier detention order) shall not bar the making of another detention order (hereafter in this sub-section referred to as the subsequent detention order) under section 3, against the same person.

Provided that in a case where no fresh facts have arisen after the expiry or revocation of the earlier order made against such person, the maximum period for which such person may be detained in pursuance of the subsequent detention order shall, in no case, extend, beyond the expiry of a period of twelve months from the date of detention under the earlier detention order.

(XIII) Temporary release of persons detained

- a) The Government may, at any time, direct that any person detained in pursuance of a detention order may be released for any specified period either

without conditions or upon such conditions specified in the direction as that person accents, and may, at any time cancel his release.

- b) In directing the release of any person under sub-section (1), the Government may require him to enter into a bond with or without sureties for the due observance of the conditions specified in the direction.
- c) Any person released under sub-section (1) shall surrender himself at the time and place, and to the authority, specified in the order directing his release or canceling his release, as the case may be.
- d) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (3), he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.
- e) If any person released under sub-section (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

P A R T - X I

Miscellaneous

35. Saving as to order

Where an order purports to have been made and signed by any authority in exercise of any power conferred by or under this Act, a court shall, within the meaning of the Indian Evidence Act, 1872, presume that such order was so made by that authority.

36. Over-riding effect

The provisions of this Act shall have overriding effect notwithstanding anything inconsistent therewith contained in any Act or instrument having effect by virtue of any rule made thereunder or any order made under any such rule shall have overriding effect notwithstanding anything inconsistent therewith contained in any Act or in any instrument having effect by virtue of any Act or instrument other than this Act.

37. Power to make rules

The State Government may by notification in the official gazette make rules for carrying out the provisions of this Act regulating

- (A) (i) conducting of meetings (ii) publications (iii) conducting of business (iv) movements of notified persons; which is considered necessary or expedient
- (B) the entry into, and search of -
 - (i) any vehicle, vessel or aircraft, or any place, whatsoever, reasonably suspected of being used for committing the offences or manufacturing or storing anything for the commission of any such offence;

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