

SENATE OF PAKISTAN



REPORT OF THE SENATE STANDING COMMITTEE ON INTERIOR

ON

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL, 2022
(Amendments of Sections 4, 14, 14A, 408 and 414A of Cr.P.C)
[Introduced by Senator Irfan-ul-Haque Siddiqui on 17th January, 2022]

PRESENTED BY

SENATOR MOHSIN AZIZ
CHAIRMAN SSC ON INTERIOR



SENATE SECRETARIAT

Subject: REPORT OF THE SENATE STANDING COMMITTEE ON INTERIOR ON THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL, 2022 (Amendments of Sections 4, 14, 14A, 408 and 414A of Cr.P.C)

1. Senator Mohsin Aziz, Chairman Senate Standing Committee on Interior, have the honor to present report of the Committee on the Code of Criminal Procedure (Amendment) Bill, 2022 (Amendments of Sections 4, 14, 14A, 408 and 414A of Cr.P.C), introduced by Senator Irfan-ul-Haque Siddiqui in the Senate on 17th January, 2022. Upon introduction, the Bill was referred to the SSC on Interior for consideration and report.

2. The composition of the Committee is as under: -

Senator Mohsin Aziz	Chairman
Senator Syed Yousuf Raza Gillani	Member
Senator Azam Nazeer Tarar	Member
Senator Samina Mumtaz Zehri	Member
Senator Moula Bux Chandio	Member
Senator Saifullah Abro	Member
Senator Rana Maqbool Ahmad	Member
Senator Faisal Saleem Rehman	Member
Senator Shahadat Awan	Member
Senator Muhammad Talha Mehmood	Member
Senator Fawzia Arshad	Member
Senator Syed Faisal Ali Subzwari	Member
Senator Sarfraz Ahmed Bugti	Member
Senator Dilawar Khan	Member
<u>Minister for Interior</u>	<u>Ex-Officio Member</u>

3. The Committee considered the Bill in its meeting held on 4th February, 2022. The meeting was attended by the following:-

Senator Mohsin Aziz	Chairman
Senator Syed Yousuf Raza Gillani	Member
Senator Azam Nazeer Tarar	Member
Senator Saifullah Abro	Member
Senator Rana Maqbool Ahmad	Member
Senator Shahadat Awan	Member
Senator Muhammad Talha Mehmood	Member
Senator Fawzia Arshad	Member
Senator Sarfraz Ahmed Bugti	Member
<u>Senator Dilawar Khan</u>	<u>Member</u>
Senator Irfan-ul-Haque Siddiqui	Mover
Minister for Interior	Ex-officio Member

4. The senior officers of the Ministry of Interior, Ministry of Law and Justice, District Attorney's office ICT, office of the Chief Commissioner ICT and Deputy Commissioner Islamabad were also present in the meeting.

5. The Mover briefed the background of introduction of the instant Bill. He mentioned a personal incident happened with him wherein the provisions of sections 4, 14, 14A, 408 and 414A of the Code of Criminal Procedure, 1898 were invoked for his personal victimization on the basis of political bias. He briefed the Committee that the spirit of Article 175(3) of Constitution is that Judiciary has to be separated from Executive progressively whereupon all the provincial assemblies have already legislated in the spirit of Article 175(3) of the Constitution but strangely the Federal legislature has not yet made the requisite amendments in the Cr.P.C.

6. The Members of the Committee unanimously supported the amendment proposed by Senator Irfan-ul-Haque Siddiqui. The representatives of the office of Chief Commissioner Islamabad supported the Bill in principal as it is in line with the spirit of Article 175(3) which provides that judiciary shall be separated from Executive progressively. However, the District Attorney Islamabad stated that the matter is also sub-judice before the Islamabad High Court, therefore, the Bill may be deferred for further deliberation on the same.

7. The Chairman Committee enquired about the sub-judice of the matter which could not be replied by the District Attorney in a satisfactorily manner. The Committee negated the plea of sub-judice. The Committee was of strong view point that nothing can restrict the legislature to legislate.

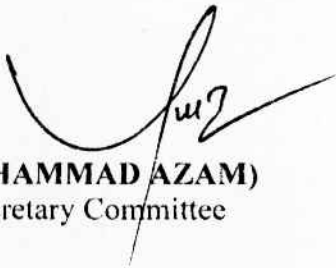
8. The Deputy Commissioner, Islamabad apologized Senator Irfan-ul-Haque Siddiqui on the unfortunate incident happened with him and supported the Bill in principal.

9. The representatives of Ministry of Law and Justice and the Ministry of Interior also supported the Bill in principal. The Ministry of Interior was of the view that Article 175(3) guarantees independence and separation of judiciary from the Executive Branch of the Government. Originally the Constitution provided a period of three years for the separation but later the period was enhanced by fourteen years through Constitutional amendments. Yet there are certain provisions in the prevailing legal system compromising the spirit of the said Article. The Special Judicial Magistrates being the part of the Executive are being conferred with judicial powers which impedes the impartial administration of justice and is also in contravention of the contours of separation of judiciary from the Executive as safeguarded in the Constitution of Pakistan.



10. The Committee after detailed discussion, recommended that the Bill as introduced in the Senate may be passed with some minor incidental and grammatical corrections made by the Committee in consultation with the draftsman of the Ministry of Law and Justice. [The Bill as introduced in the House is at annexure A. The Bill as reported by the Committee is at Annexure B.]

11. In view of the above recommendation, the Committee also gave approval for presentation of report to the House. Hence, this report is presented to the House.



(MUHAMMAD AZAM)
Secretary Committee



(SENATOR MOHSIN AZIZ)
Chairman Committee

AS
[TO BE INTRODUCED IN THE SENATE]

Annexure - A

A

BILL

further to amend the Code of Criminal Procedure, 1898

WHEREAS It is expedient further to amend the Code of Criminal Procedure, 1898 (V of 1898), in its application to the Islamabad Capital Territory, for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.- (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2022.

(2) It shall come into force at once.

2. Amendment of section 4, Act V of 1898.- In the Code of Criminal Procedure, 1898 (V of 1898), hereinafter referred to as the Code, in section 4,-

(i) in paragraph (ma), the words "and includes a Special Judicial Magistrate" shall be omitted and for figure "14" the figure and alphabet "14A" shall be substituted,-

(ii) after paragraph (u) the following new paragraph (v) shall be inserted, namely:-

"(v) **Summary Court**" means the court established under section 14, of this Act."

3. Substitution of section 14, Act V of 1898.- In the Code, for section 14, the following shall be substituted, namely:-

"14. Summary Courts.- (1) The Federal Government on the recommendation of Islamabad High Court, shall establish as many Summary Courts in Islamabad Capital Territory, as they may deem necessary, to try offences in respect to particular cases or to particular class or particular classes of cases, or in regard to cases generally in any local area.

(2) Such courts shall be called Summary Courts and shall be established for such term as the Federal Government, may in consultation with the Islamabad High Court, by general or special order, direct."

4. **Substitution of section 14A, Act V of 1898.**- In the Code, for section 14A, the following shall be substituted, namely:-

"14A. Appointment of Summary Court Magistrates.- Notwithstanding anything contained in this Code or any other law for the time being in force or any judgment of any court including superior courts, the Federal Government, may designate any Judicial Magistrate exclusively for the trial of offences relating to price control under any law for the time being in force.

(2) The Islamabad High Court in this behalf may, from time to time, define local areas within which such Judicial Magistrates may exercise all or any of the powers with which they may respectively be invested under any law relating to price control."

5. **Amendment of section 408, Act V of 1898.**- In the Code, in section 408, the words and comma "Special Magistrate," shall be omitted.

6. **Amendment of section 414A, Act V of 1898.**- In the Code, in section 414A, for the words, "Special Magistrate" the words "Judicial Magistrate" shall be substituted.

STATEMENTS OF OBJECTS AND REASONS

The Constitutions of Pakistan in Article 175(3) says "The Judiciary shall be separated progressively from Executive within fourteen years from commencing day". The said Article guarantees independence and separation of the judiciary from the Executive Branch of the Government. Originally, the Constitution provided a period of three years for the separation but later the period was enhanced to fourteen years through Constitutional amendments. Yet there are certain provisions in the prevailing legal system compromising the spirit of the said Article, in which Special Judicial Magistrates are among them. The Special Judicial Magistrates being the executive are conferred with judicial power impedes the impartial administration of justice.

2. Amendments in various sections of Criminal Procedure Code seek to separate Judiciary from the Executive through substitution of the Special Judicial Magistrates with Judicial Magistrates designated for the trial of petty offences in the Summary Courts. Under the provision of section 14 and 14A of the Criminal Procedure Code, the Special Judicial Magistrates being representative of the executive, were empowered to exercise judicial functions and conduct summary trials of minor offences which are in contravention of the contours of separation of judiciary from the executive as safeguarded in the Constitution of Pakistan.

3. The bill seeks to achieve the above said purpose.

SENATOR IRFAN-UL-HAQ SIDDIQUI
MEMBER IN CHARGE

[AS REPORTED BY THE COMMITTEE]

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BILL

further to amend the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898 (V of 1898), in its application to the Islamabad Capital Territory, for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.- (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2022.

(2) It shall come into force at once.

2. Amendment of section 4, Act V of 1898.- In the Code of Criminal Procedure, 1898 (V of 1898), hereinafter referred to as the Code, in section 4,-

- (i) in paragraph (ma), the words "and includes Special Judicial Magistrate" shall be omitted and for figure "14" the expression "14A" shall be substituted; and
- (ii) after paragraph (u) the following new paragraph (v) shall be added, namely:-

"(v) Summary Court" means the court established under section 14, of this Act."

3. Substitution of section 14, Act V of 1898.- In the Code, for section 14, the following shall be substituted, namely:-

"14. Summary Courts.- (1) The Federal Government **in consultation with the Islamabad High Court**, shall establish as many Summary Courts in the Islamabad Capital Territory, as they may deem necessary, to try offences in respect to particular cases or to particular class or particular classes of cases, or in regard to cases generally in any local area as determined by the Federal Government.

(2) Such courts shall be called Summary Courts and shall be established by the Federal Government, **in consultation with the Islamabad High Court.**"

4. **Substitution of section 14A, Act V of 1898.-** In the Code, for section 14A, the following shall be substituted, namely:-

"14A. Appointment of Summary Court Magistrates.-

(1) Notwithstanding anything contained in this Code or any other law for the time being in force or any judgment of any court including superior courts, the Federal Government **in consultation with the Islamabad High Court**, may **appoint** any Judicial Magistrate for the **trial** of offences relating to price control under any law for the time being in force.

(2) The Islamabad High Court in this behalf may, from time to time, define local **limits** within which such Judicial Magistrates may exercise all or any of the powers with which they may respectively be **vested** under any law relating to price control."

5. **Amendment of section 408, Act V of 1898.-** In the Code, in section 408, the expression ",Special Magistrate" shall be omitted.

6. **Amendment of section 414A, Act V of 1898.-** In the Code, in section 414A, for the words "Special Magistrate", the words "Judicial Magistrate" shall be substituted.

STATEMENTS OF OBJECTS AND REASONS

The Constitutions of Pakistan in Article 175(3) says "The Judiciary shall be separated progressively from Executive within 3 [fourteen] years from commencing day". The said Article guarantees independence and separation of the judiciary from the Executive Branch of the Government. Originally, the Constitution provided a period of three years for the separation but later the period was enhanced to fourteen years through Constitutional amendments. Yet there are certain provisions in the prevailing legal system compromising the spirit of the said Article, in which Special Judicial Magistrates are among them. The Special Judicial Magistrates being the executive are conferred with judicial power impedes the impartial administration of justice.

2. Amendments in various sections of Criminal Procedure Code seek to separate Judiciary from the Executive through substitution of the Special Judicial Magistrates with Judicial Magistrates designated for the trial of petty offences in the Summary Courts. Under the provision of section 14 and 14A of the Criminal Procedure Code, the Special Judicial Magistrates being representative of the executive, were empowered to exercise judicial functions and conduct summary trials of minor offences which are in contravention of the contours of separation of judiciary from the executive as safeguarded in the in the Constitution of Pakistan.

3. The bill seeks to achieve the above said purpose.

SENATOR IRFAN-UL-HAQ SIDIQI
MEMBER IN CHARGE