

[AS INTRODUCED IN THE SENATE]

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), 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, 2017.

(2) It shall come into force at once.

2. Amendment of section 154, Act V of 1898.- In the Code of Criminal Procedure, 1898 (V of 1898), hereinafter referred to as the said Code, the existing section 154 shall be numbered as sub-section "(1)" and after sub-section (1) numbered as aforesaid, the following new sub-sections shall be inserted, namely:-

"(2) No officer in-charge of a police station shall refuse, on any ground whatsoever, to reduce information relating to the commission of cognizable offence to writing, under sub-section (1) and, the information so provided shall be reduced to writing without undue delay.

(3) After recording of the first information report, a Magistrate empowered under section 190 may, record statement of the informant on oath, stating therein that the information provided under sub-section (1) are true and has been provided honestly to the police:

Provided that no proceeding shall be invalid or called into question on the ground that statement on oath has not been recorded under this sub-section:

Provided further that statement under this sub-section shall have no evidentiary value elsewhere except its using against the informant under section 154A.

(4) The Court having jurisdiction to do so, upon complaint under the provisions of this Code, may direct for initiating proceeding against the officer in-charge of a police station, responsible for not proceeding in accordance with sub-sections (1) and (2) of this section; for the offence under section 166 of the Pakistan Penal Code, 1860 (XLV of 1860) and other offences, if any, according to law.

(5) In case of refusal by the officer in-charge of a police station, to reduce information relating to the commission of cognizable offence to writing; unless the contrary is proved, it shall be presumed that the officer in-charge of a police station intended to cause, or knowing it to be likely that he will, by such refusal, cause injury to the informant or to the person against whom offence has been committed."

3. Insertion of new section 154A, Act V of 1898.- In the said Code, after section 154, amended as aforesaid, the following new section 154A shall be inserted, namely:-

"154A. Providing false information to the Police.- (1) When at any stage of investigation, inquiry, or trial, it is established that the information given to the police was false and provided dishonestly, the Court after satisfaction, shall issue show cause notice to the informant indicating why he should not be prosecuted for the offence under section 182 of the Pakistan Penal Code, 1860 (XLV of 1860) and other offences, if any, according to law:

Provided that the Court shall have powers to direct the police, without issuing such show cause notice to the informant, to take action against the informant and proceed according to law.

(2) The burden of proof that the information was true and honestly provided to the police shall lie on the informant.

(3) Notwithstanding anything contained in chapter XXII to the contrary, the Court may try a case under this section summarily and if the informant fails to prove that the information were true and provided honestly to the police under sub-section (1) of section 154, the Court shall convict him accordingly.

Explanation.- In this section "informant" includes, a person who abetted in providing false and dishonest information to the police."

4. Amendment of section 156, Act V of 1898.- In the said Code, in section 156, after sub-section (4), the following new sub-sections shall be inserted, namely:-

"(5) The Court, having jurisdiction to do so, upon complaint under the provisions of this Code; may direct for initiating proceeding against the police officer responsible for not acting or investigating properly, diligently or lawfully, for the offence under section 166 of the Pakistan Penal Code, 1860 (XLV of 1860) and other offences, if any, according to law.

(6) On the commencement of investigation or proceeding on the information received under section 154, the police officer, keeping in view nature of the offence and the provisions of section 157, shall; take into consideration the grounds for believing the truth or falsity of the information, strive for truth and, act judiciously to ensure no party shall suffer unjustly."

STATEMENT OF OBJECTS AND REASONS

Access to justice is the inalienable right of every individual. The Constitution of the Islamic Republic of Pakistan provides for speedy and inexpensive justice to the people. Police being the prime institution for the protection of rights of the people and for bringing to justice the culprits bears huge responsibility to perform. However, in most cases, due to the arrogant attitude of the police and the culture of bribery, the poor complainant even cannot enter the police station for lodging first information report. Thus they wander here and there without initiating proceeding by the police. In some cases, these refusal and denying tactics lead to destruction of evidences and thus leaving no option for the bona fide complainants to achieve justice. Therefore, the people in general don't trust police and the judicial system of the country.

In some cases, the influential people in collusion with the police get register false cases against the innocent people. Thus innocent people are tortured for years and bear the agony of trial without any justification. The amendment has covered both these issues. Through this amendment, the police will be bound not to refuse registering first information report. Action against the police who does not conduct proper and diligent investigation shall be ensured through this amendment. Similarly, a person who dishonestly provides false information to the police will face the consequences of his dishonest and false information and will not be relieved from his liability. Thus this amendment will make both the complainant and police accountable and liable to criminal action in case they violate the law.

The Bill has been designed to achieve the aforesaid objectives.

SENATOR MOHAMMAD AZAM KHAN SWATI
Member-in-Charge