

# **THE FREEDOM OF MARRIAGE AND ASSOCIATION AND PROHIBITION OF CRIMES IN THE NAME OF HONOUR BILL 2022**

*A Bill,*

to provide for, in the interests of protecting individual liberty and preventing victimization, prohibition of crimes in the name of honour, unlawful assemblies and other conduct interfering with the freedom of marriage and association.

To provide justice, compensation and rehabilitation in in crimes committed in the name of honour vis a vis caste, faith, age, gender, sexual orientation, language, class, race, status and tradition and for the matters connected therewith or incidental thereto.

## **Chapter I**

### **1. Short title, extent and commencement.**

- (1) This Act may be called The Freedom of Marriage and Association and Prohibition of Crimes in the Name of Honour Act 2022.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

### **2. Definitions.-** In this Act, unless the context otherwise requires,-

- i.) “assemble”, “congregate” or “gather”: means any kind of meeting, between 2 or more persons, including physical meeting or through the use of any technological means or medium;
- ii.) Person: A person who has completed 18 years of age.
- iii.) ‘Accused<sup>1</sup> is any person or persons, whether they are members of the victim’s family, member of the victims’ community, caste, clan, or tribe, member of any religious council, or caste panchayat (by whatever name called) or katta panchayat, or participates, abets, finances or incites or is hired to commit such an act as is prohibited under this Act
- iv.) “social and economic boycott” includes all such acts as are calculated to lead to the boycott or enforcement of social or economic sanctions and includes the following acts, namely:-

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<sup>1</sup> Term taken from Protection of Women from Domestic Violence Act, 2005, definition from the Rajasthan Prohibition Of Interference With the Freedom of Matrimonial Alliances In the Name of Honour And Tradition Bill, 2019 and The Prevention of Crimes in the Name of ‘Honour’ & Tradition Bill, 2010 by NCW

- a. Bringing pressure, coercion, threats on the couple, married or associated persons, dependents, relatives, families or their communities to leave the settlement, household, village or area of residence concerned;
  - b. A refusal to permit a person to render to other person or receive from him any customary service or to abstain from social relations that one would maintain with other person or to isolate him from others,<sup>2</sup>
  - c. Indulging in any conduct which will impede or is likely to impede, access to markets, community facilities, places of worship or any other necessities of life;
  - d. attempting/threatening to divest or dispossess the couple or their families of any rights to any land or property and / or imposition of fine or penalty of any kind;
  - e. a refusal to deal with, work for hire or do business,<sup>3</sup>
  - f. to deny opportunities including access to services or contractual opportunities for rendering service for consideration; or to refuse to do anything on the terms on which things would be commonly done in the ordinary course of business; or
  - g. to abstain from any professional or business relations
- v.) “marriage” includes a marriage that has been solemnized under any law and a marriage that is proposed or intended;
- vi.) Association: means any association of a person with another person of any sex or gender, including as a partner, friend, companion, or having a relationship with another person, and includes meetings with another person;
- vii.) Caste / Community panchayats: means any caste or religious community groups of persons of the same lineage, religion or caste, which may be called by another name including Khap panchayats, which pass orders without any legal authority against persons for acts of inter-caste or inter-faith marriages and associations or against the wishes of their elders or community members;<sup>4</sup>
- viii.) *Katta panchayats*: means local groups that are not necessarily based on caste hierarchies, which assemble and issue unlawful punishments against persons;<sup>5</sup>
- ix.) “practices In the name of ‘Honour’”: a collection of practices used predominantly to control the behaviour of victims, especially but not limited to women and girls within families or castes, in order to protect supposed cultural, religious and traditional beliefs, values and social norms in the name of ‘honour’.
- x.) “Victim”\*: means any individual, including a minor, who has suffered any physical, mental, psychological, emotional, or monetary harm as a result of the commission of any of the offences or acts under this Act and includes the victim’s family members, guardians, or any one supporting the victim.

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<sup>2</sup> SC/ST Prevention of Atrocities Act

<sup>3</sup> SC/ST Prevention of Atrocities Act

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<sup>5</sup> *K. Gopal v. The State Of Tamil Nadu*

- xi.)** The words and expressions used but not defined in this Act and defined in the Indian Penal Code (45 of 1860), as the case may be, shall be deemed to have the meanings respectively assigned to them in that enactment.

## **Chapter II Freedom to Marry and of Association**

### **3. Freedom to Marry and of Association**

- (1) All persons have the right to control their own lives, a right to liberty and freedom of expression, and a right of association, movement and bodily integrity. They have a right to choose their own partners, the right to marry or to associate with any person of their choice.
- (2) The consent of a person's family, religious community, caste or clan is not necessary once the two adult individuals agree to enter into a marriage or a relationship.<sup>6</sup>
- (3) Any person shall have the right to marry another person who is not from the same caste, religion, tribe or community, and there shall be no interference in a person's right to marry.
- (4) Any action to prevent the exercise of the rights referred to in sub-section (1) by any person or a group of persons shall amount to an offence under the provisions of this Act.<sup>7</sup>
- (5) **Declaration by a Couple of intention to be together:** Any two persons desirous of marrying each other or being in a relationship with each other or associating with each other shall be entitled to declare their age and willingness to be together, in oral or in writing to any District Magistrate or any Nodal officer as designated for this purpose by the District Magistrate, who shall send the said information to the nearest police station and no action shall be taken by the Police and / or any other authority or at the instance of any their party, including the family members or relatives or community members of either party or any third party, against the said couple.<sup>8</sup>

## **Chapter III Prohibition of Crimes in the Name of 'Honour'**

### **4. Prohibition of Crimes in the name of Honour:**

No person or persons shall commit any acts in the name of caste, culture, custom, religion, tradition or so-called "honour" against any person or persons on the ground that the person has transgressed cultural, religious, social or traditional norms or customs.<sup>9</sup> Acts which would amount to crimes in the name of honour would include but are not limited to:

- (i) Forcibly declaring the couple who have got married as a brother and sister,

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<sup>6</sup> *Shakti Vahini v. Union of India and Ors.*

<sup>7</sup> 2015 Bill

<sup>8</sup> NCW Bill 2010

<sup>9</sup> The Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence

- (ii) Excommunicating, ostracization or forcible removal or displacement / eviction of the couple or their family or relatives from the village, town or area they live in,
- (iii) Abducting/kidnapping the victim and / or anyone associated with them<sup>10</sup>
- (iv) Asking the couple or anyone associated with them or harbouring them to pay a fine,
- (v) Imposing social and economic boycott on the couple or their family or anyone associated with them,
- (vi) Harassing the couple or either of them not to meet or associate with or live with each other, either physically or through any means of communication,
- (vii) Threatening the couple or either of them or their family or anyone associated with them of retributive action of any kind whatsoever,
- (viii) Causing physical harm or injury to the couple or either of them or anyone connected/related with them.
- (ix) Individually or collectively exhorting or bringing pressure or psychological trauma directly or indirectly upon any person or persons to prevent or disapprove of the marriage or association which is objected to, or to generate an environment of hostility towards such couple or either of them or their supporters,<sup>11</sup>
- (x) Any other act or acts of harassment or intimidation, whether physical or mental or psychological against the person, or any persons supporting them.
- (xi) Confining any person illegally, or placing them under house arrest;
- (xii) Confiscation of a person's phone, laptop and any means of communication, certificates, documents, IDs, other important personal effects;
- (xiii) Freezing the bank accounts of the couple or either of them;
- (xiv) Causing the termination of the job of the couple or either of them by their employer
- (xv) Committing act of sexual violence or sexual harassment against any person;
- (xvi) Forcing or causing an abortion or miscarriage on any person;
- (xvii) Forced marriage of either or both persons against their consent;
- (xviii) Forced dissolution of marriage of the couple against their consent;
- (xix) Abuse, with an intent to humiliate, using caste names in public;
- (xx) Raising funds for promoting/attempting to/committing crimes under this Act
- (xxi) Spreading or inciting hate through oral/technological/written speech
- (xxii) Parading the victim naked or semi-naked or making them wear a garland with slippers/sandals through the village, or disrobing them, tying up and hitting them, including their family members or anyone supporting them or connected to them;

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<sup>10</sup> *Ravi Kumar and Ors. v. State of Haryana and Ors.* (31.08.2021 - PHHC) : MANU/PH/0688/2021

<sup>11</sup> Rajasthan Bill

- (xxiii) Forcibly making them drink urine and feces;
- (xxiv) Burning the house/crops/properties of the victim(s), breaking or damaging properties belonging to them, and encroaching or forceful occupation of their properties
- (xxv) Prohibiting entry of the victim into temples, and other public places
- (xxvi) Causing disturbance or disruption in places of employment, and educational of the victim
- (xxvii) Publicly humiliating and degrading the couple or persons associated with them;
- (xxviii) Preventing the exercise of the right to marry as provided in sub-section (1) of section 3 under this Act;
- (xxix) Committing any atrocity as defined under the SC and ST (Prevention of Atrocities) Act 1989;
- (xxx) Committing any other act or acts of harassment or intimidation, whether physical or mental or psychological against any victim, the couple, or persons supporting them.

#### **5. Prohibition of Unlawful Assembly:-**

No group of two or more persons shall gather, assemble or congregate at any time with the view or intention to deliberate on, or condemn or prevent or punish any marriage or association of any person or persons on the ground that such marriage or association has dishonoured the caste, tribe, community, religion, tradition or is against the wishes of the family or community and this would also include marriage or association of persons when their sexual orientation or gender identity is not accepted by their family or community.

#### **6. Power of court to issue injunctions**

- (1) Notwithstanding anything to the contrary contained in this Act, if, on an application or complaint from any person or persons, a Judicial Magistrate of the first class or a Metropolitan Magistrate/Special Fast Track Court is satisfied that a crime in the name of honour has been committed or is about to be committed, the Magistrate shall issue an injunction against any person or persons including a Caste Panchayat to restrain them from committing such act and providing protection to the persons against whom such acts were or are intended to be committed.
- (2) A complaint under sub-section (1) may be made by any person or organisation having knowledge or information or reason to believe relating to the likelihood of a crime in the name of honour taking place.
- (3) The Court of the Judicial Magistrate of the first class or the Metropolitan Magistrate or the Special Fast Track Court may also take suo motu cognizance on the basis of any reliable report or information received.
- (4) Provided that in the case of any urgency, the Court shall have the power to issue an ad-interim and ex-parte injunction or order or direction, without giving any notice under this section.
- (5) An injunction, order or direction issued under sub-section (1) may be confirmed or vacated after giving notice and hearing the party against whom the injunction was issued.
- (6) Whoever knowing that an injunction has been issued under sub-section (1) against him disobeys such injunction shall be punishable with imprisonment of either description for a term which may extend to two years or with fine which

may extend to one lakh rupees or with both: Provided that no woman shall be punishable with imprisonment.

- (7) The state government may confer such powers and impose such duties on the District Magistrate or any other authorities, as may be necessary to ensure that the provisions of the Act are properly carried out.

## **Chapter IV Offences and Penalties**

### **7. Crimes in the name of Honour**

Whoever causes any crimes in the name of honour as defined in Section 4, not amounting to honour killing or grievous hurt and injury as provided in sections 8 and 9 below, shall be punishable with imprisonment of a term not less than five years and shall also be liable to fine, which may extend to five lakh rupees.

- 8. Killing in the name of 'Honour':** Whoever causes death through any means or commits any such act that results in death of a couple or either of them or any person in the name of 'honour' shall be punished with rigorous imprisonment for life and with fine of a minimum of Rs. 10 Lakhs or confiscation of property of similar value.

### **9. Grievous Hurt and Injury:**

- (1) Whoever causes grievous hurt, including loss of limb and causing disability, to a couple or either of them in the name of honour shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life and with fine which may extend to five lakh rupees.
- (2) Whoever causes simple hurt to a couple or either of them in the name of 'honour' shall be punished with rigorous imprisonment for a term which shall not be less than three years, but which may extend to five years and with fine which may extend to three lakh rupees.

Explanation.- The expressions 'grievous hurt' and 'simple hurt' shall have the same meaning as is given to it in sections 319 and 320 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860).

### **10. Unlawful assembly:**

Any person or persons participating in any unlawful assembly as described in Section 5 including every member participating therein directly or indirectly, shall be punishable with imprisonment for a term not less than six months but which may extend to five years and shall also be liable to fine which may extend to one lakh rupees.

- 11. Criminal Intimidation.-** Any person or persons including any member of an unlawful assembly indulges in criminal intimidation of any person or persons or their family members or supporters, for their marriage or association, shall be punishable with imprisonment for a term not less than three years but which may extend to five years and shall also be liable to fine which may extend to five lakh rupees:

Provided that if the threat be to cause harm or injury of the description referred to in second part of section 506 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860), the maximum imprisonment shall extend to seven years.

Explanation.- The expression 'criminal intimidation' shall have the same meaning as is given to it in section 503 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860).

**12. Offence under the Indian Penal Code:** Whoever commits any offence under this Act being a crime in the name of honour, which is offence under the Indian Penal Code 1860 (Central Act 45 of 1860) and is punishable with imprisonment of ten years or more, shall be punishable with imprisonment for life.

**13. Application of certain provisions of the Indian Penal Code:** Subject to the other provisions of this Act, the provisions of Section 340, Section 351, Section 354, Section 355, Section 357, Section 359, Section 326A, and Section 312 of the Indian Penal Code (45 of 1860), shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Indian Penal Code<sup>12</sup>.

**14.** When the Court imposes a sentence of fine or a sentence of which fine forms a part, the Court shall when passing judgment, order the whole or any part of the fine recovered to be paid in the payment to any person of compensation for any loss or injury caused by the offence.

**15.** Whoever knowingly or having reason to believe that an offence has been committed under this Chapter, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, shall be punishable with the punishment provided for that offence;

**16. Abetment of an offence:**

A person abets an offence, who--

*First.*-- Instigates any person to do that offence; or

*Secondly.*-- Engages with one or more other person or persons in any conspiracy for the doing of that offence, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that offence; or

*Thirdly.*-- Intentionally aids, by any act or illegal omission, the doing of that offence.

*Explanation I.*--A person who, by willful misrepresentation, or by willful concealment of a material fact, which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure a thing to be done, is said to instigate the doing of that offence.

*Explanation II.*--Whoever, either prior to or at the time of commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

*Explanation III.*--Whoever employ, harbours, receives or transports a victim, by means of threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or of a position, vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of any offence under this Act, is said to aid the doing of that act.

**17. Punishment for Abetment:**

Whoever abets any offence under this Act, if the act abetted is committed in consequence of the abetment, shall be punished with punishment provided for that offence.

*Explanation.*-- An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy or with the aid, which constitutes the abetment.

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<sup>12</sup> The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989

### **18. Punishment for Attempt to commit offence**

Whoever attempts to commit any offence punishable under this Act or to cause such an offence to be committed, and in such attempt, does any act towards the commission of the offence, shall be punished with imprisonment of any description provided for the offence, for a term which may extend to one half of the imprisonment for life or, as the case may be, one-half of the longest term of imprisonment provided for that offence or with fine or with both.

### **19. Presumption as to offences:**

- (1) Every person committing any of the offences under this chapter shall be presumed to have also intended to commit or abet the commission of offences under this Act.
- (2) In a prosecution for an offence under this Chapter, if it is proved that—
  - (a) the accused rendered <sup>1</sup> [any financial assistance in relation to the offences committed by a person accused of], or reasonably suspected of, committing, an offence under this Chapter, the Court shall presume, unless the contrary is proved, that such person had abetted the offence;
  - (b) a group of persons committed an offence under this Chapter and if it is proved that the offence committed was a sequel to any existing dispute regarding marriage or association of any person, it shall be presumed that the offence was committed in furtherance of the common intention or in prosecution of the common object;
  - (c) If any person or persons intending to marry or associate or having solemnized the marriage, is or are murdered, are forcibly separated or face violence or any crimes under this Act, it will be presumed that the family members of the victim has committed the offence, unless explicitly stated otherwise in front of the Judicial Magistrate of First Class by the victim themselves.

### **20. Burden of Proof:**

Where any person(s) is prosecuted for offences under this Act, the burden of proving that he or they have not committed the offence or offences under the said sections shall be on him or them.

### **21. Offences to be cognizable, non-bailable and non- compoundable.-**

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974), all offences under this Act shall be cognizable, non- bailable and non- compoundable.

## **Chapter V Rights of Victims and Witnesses**

### **22. Rights of Victims and Witnesses<sup>13</sup>**

- (1) It shall be the duty and responsibility of the State to make arrangements for the protection of victims, their dependents, and witnesses against any kind of intimidation or coercion or inducement or violence or threats of violence.
- (2) A victim or their dependent shall have the right to reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding and the Public Prosecutor or the State Government shall inform the victim about any proceedings under this Act.

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<sup>13</sup> SC/ST Prevention of Atrocities Act

- (3) A victim or his dependent shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing.
- (4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Court trying a case under this Act shall provide to a victim, her dependent, informant or witnesses--
  - a. Complete protection to secure the ends of justice;
  - b. Travelling and maintenance expenses during investigation, inquiry and trial;
  - c. Social-economic rehabilitation during investigation, inquiry and trial including relocation where necessary.
- (5) The Court shall periodically review the protection being offered to victims and witnesses and pass appropriate orders to modify any protection measures if necessary.
- (6) The Court may, on an application made by a victim, informant or witness in any proceedings before it or by the Public Prosecutor in relation to such victim, informant or witness or on its own motion, take such measures including but not limited to:
  - (i) concealing the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to the public,
  - (ii) issuing directions for non-disclosure of the identity and addresses of the witnesses or
  - (iii) providing relocation to the victim and / or witnesses;
  - (iv) take immediate action in respect of any complaint relating to harassment of a victim, informant or witness and on the same day, if necessary, pass appropriate orders for protection and
  - (v) any other measures it deems appropriate
- (7) It shall be the duty of the Investigating Officer and the Station House Officer to record the complaint of victim, informant or witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence, whether given orally or in writing, and a photocopy of the First Information Report shall be immediately given to them free of cost.
- (8) It shall be the duty of the State Government to frame a scheme for protection and rehabilitation of victims and witnesses under this Act and such scheme may include provision of immediate relief in cash or kind to victims, to provide relief in respect of death or injury or damage to property; to arrange food or water or clothing or shelter or medical aid or transport facilities or daily allowances to victims; to ensure that these shelters and transport facilities are accessible to persons with disability; to ensure that these resources are provided to the victims and witnesses without discrimination on the basis of caste, gender, disability, religion, sexual orientation, gender identity or age; to provide the maintenance expenses to victims; to provide protection to victims or their dependents and witnesses from intimidation and harassment and any other measures.
- (9) It shall be the right of the victims or their dependents, to take assistance from the Non-Government Organizations, social workers or advocates.
- (10) **Victim Compensation Fund**<sup>14</sup>: Every State Government in co-ordination with the Central Government shall include in its existing Victim Compensation Scheme, the funds for the purpose of compensation to the victim or their dependents who have suffered loss or injury as a result of crimes committed in the name of honour under this Act and all provisions of Section 357A of the Cr.P.C. would be applicable in this regard.

## Chapter VI

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<sup>14</sup> Section 357A, Indian Penal Code

## Positive Obligations and Duties

### 23. Power to prohibit certain acts and taking preventive measures.-

- (1) Any person / persons can make complaints, file representations or letters to the Sub Divisional Magistrate or the jurisdictional police seeking protection from any unlawful assembly or from any other person who are likely to or who have been objecting to any marriage or association.
- (2) Upon receiving such complaint or representation, the Sub-Divisional Magistrate or District Magistrate shall immediately and not later than 6 hours take appropriate steps to provide protection to the said person, including giving appropriate directions for the same to the police. The police, if they receive such a complaint, or request for protection, shall immediately and not later than 6 hours, provide protection and safety measures to the said persons, in such manner as they deem fit, but not limited to finding a shelter home or by any other means.
- (3) The Sub-Divisional Magistrate or the District Magistrate shall be in direct supervision of the protection and safety of the persons concerned and shall supervise the same.
- (4) If information about any proposed unlawful assembly or gathering of a Caste Panchayat in respect of crimes to be committed against any particular couple or persons in the name of honour, comes to the knowledge of any police officer or any officer of the District Administration, they shall:
  - (i) forthwith intimate the jurisdictional Deputy Superintendent of Police and Superintendent of Police.
  - (ii) On receiving such information, the Deputy Superintendent of Police (or such senior police officer as identified by the State Governments with respect to the area/district) shall immediately interact with the members of the Caste Panchayat and impress upon them that convening of such meeting/gathering is not permissible in law and prohibit from going ahead with such a meeting. Additionally, the said officer shall issue appropriate directions to the Officer In-charge of the jurisdictional Police Station to be vigilant and, if necessary, to deploy adequate police force for prevention of assembly of the proposed gathering.
  - (iii) The Sub-Divisional Magistrate or District Magistrate shall immediately issue an order prohibit the convening of such unlawful assembly and the doing of any act towards the commission of an y offence under this Act by any person in any area specified thereunder and such order shall be immediately published in a local newspaper and delivered to such persons of the said unlawful assembly;
  - (iv) The Sub-Divisional Magistrate or District Magistrate may take such steps as may be necessary to give effect to such order including by giving appropriate directions to the police authorities concerned.
  - (v) The District Magistrate shall also take such steps as may be necessary to ensure the safety of the persons targeted pursuant to the illegal decisions taken by the unlawful assembly.<sup>15</sup>
  - (vi) Whoever contravenes any such order made under sub-section (4) shall be punishable with imprisonment for a term which shall not be less than six months but may extend t two years and with fine.<sup>16</sup>
  - (vii) If the Deputy Superintendent of Police has reason to believe that the gathering cannot be prevented and/or is likely to cause harm to the couple

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<sup>15</sup> Law Commission Bill, 2011

<sup>16</sup> NCW Bill 2010

or members of their family, he or she shall forthwith submit a proposal to the District Magistrate/Sub-Divisional Magistrate of the District/Competent Authority of the concerned area for issuing orders to take preventive steps under the Cr.P.C. including by invoking prohibitory orders under Section 144 CrPC and also by causing arrest of the participants in the assembly under Section 151 CrPC.

- (viii) Despite the preventive measures taken by the State Police, if it comes to the notice of the local police that the Khap Panchayat has taken place and it has passed any diktat to take action against a couple/family of an inter-caste or inter-religious marriage (or any other marriage which does not meet their acceptance), the jurisdictional police official shall cause to immediately lodge an F.I.R. under the appropriate provisions of the Indian Penal Code including Sections 141, 143, 503 and 506 of the IPC.
  - (ix) Upon registration of F.I.R., intimation shall be simultaneously given to the Superintendent of Police/ Deputy Superintendent of Police who, in turn, shall ensure that effective investigation of the crime is done and taken to its logical end with promptitude.
  - (x) The District Magistrate/Superintendent of Police must deal with the complaint regarding threat administered to such couple/family with utmost sensitivity. If necessary, they may be provided logistical support for solemnizing their marriage and/or for being duly registered under police protection, if they so desire. After the marriage, if the couple so desire, they can be provided accommodation on payment of nominal charges in the safe house initially for a period of one month to be extended on monthly basis but not exceeding one year in aggregate, depending on their threat assessment on a case-to-case basis.
  - (xi) The initial inquiry regarding the complaint received from the couple or upon receiving information from any other source that the relationship/marriage of such couple is opposed by their family members/local community/Khaps shall be entrusted by the District Magistrate/ Superintendent of Police to an officer of the rank of Additional Superintendent of Police. He shall conduct a preliminary inquiry and ascertain the authenticity, nature and gravity of threat perception. On being satisfied as to the authenticity of such threats, he shall immediately submit a report to the Superintendent of Police in not later than one week.
  - (xii) The Superintendent of Police, upon receipt of such report, shall direct the Deputy Superintendent of Police in-charge of the concerned sub-division to cause to register an F.I.R. against the persons threatening the couple(s) and, if necessary, invoke Section 151 of the CrPC. Additionally, the Deputy Superintendent of Police shall personally supervise the progress of investigation and ensure that the same is completed and charge sheet is filed within 30 days.
- (5) Every official called upon to act in terms of the above provisions shall be accountable for their lapses, omissions or failures and the concerned State Governments shall provide for and take such action against them as may be deemed fit for their lapses, omissions or failure to act.

#### **24. Protection Measures and Safe Houses:**

- (i) In addition to the steps taken in sub-sections (2) and (4) under this section, immediate steps should be taken to provide security to the couple/family

and, if necessary, to remove them to a safe house within the same district or elsewhere keeping in mind their safety.

- (ii) The State Government shall establishing a safe house at each District Headquarter for persons seeking protection against crimes in the name of honour. Such safe houses may be placed under the supervision of the jurisdictional District Magistrate and Superintendent of Police.
- (iii) In the safe houses, the couple shall have access and the facilities to meet with their lawyers or members from any NGO providing them support and assistance.

**25. Accountability measures:**

- (1) Any failure by either the police or district officer/officials to comply with the aforesaid directions, including Section 3(4) and Section 18(1), shall be considered as an act of deliberate negligence and/or misconduct for which departmental action must be taken under the service rules which will be completed within 6 months.
- (2) In addition to imprisonment for a term which shall not be less than six months but which may extend to one year<sup>17</sup>, disciplinary action shall be taken against the concerned officials if it is found that (i) such official(s) did not prevent the incident, despite having prior knowledge of it, or (ii) where the incident had already occurred, such official(s) did not promptly apprehend and institute criminal proceedings against the culprits.

**26. Mandatory Reporting:** Obligation of persons to report about commission of offences under this Bill –

- (1) All State and central government officers are required and empowered to assist the police in the execution of the provisions of this Bill or any rule or order made hereunder.
- (2) All village officers and such other officers as may be specified by the District Magistrate in relation to any area and the inhabitants of such area shall, if they have reason to believe or have the knowledge that any of the offences mentioned under this Act are about to be, or have been committed in the area shall mandatorily report such fact to the nearest police station forthwith.
- (3) Whoever contravenes the provisions of sub-section (1) or sub- section (2) shall be punishable with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

**27. Appointment of State Nodal Officer.-**

The State Government shall nominate a nodal officer of the level of a Secretary to the State Government for coordinating the functioning of the District Magistrates and Superintendent of Police or the officers authorized by them responsible for implementing the provisions of the Act. By the end of the every quarter, the nodal officer shall review the position of cases registered under the Act, various kinds of measures adopted for providing immediate relief in cash or kind or both to the victims or his or her dependent; adequacy of immediate facilities like rationing, clothing, shelter, legal aid, travelling allowance, daily allowance, and transport facilities provided to the victims or his/her dependents; performance of non-Governmental organizations, the Special Cell, various committees and the public servants responsible for implementing the provisions of the Act.

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<sup>17</sup> Sec 4 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989

**28. Duties of the State and Central Government to ensure effective Implementation of the Act<sup>18</sup>.-**

- (1) The State Governments should forthwith identify Districts, Sub-Divisions and/or villages where instances of crimes in the name of honour or assembly of Caste Panchayats have been reported in the last five years.
- (2) The Secretary, Home Department of the concerned States shall issue directives/advisories to the Superintendent of Police of the concerned Districts for ensuring that the Officers In charge of the Police Stations of the identified areas are extra cautious if any instance of inter-caste or inter- religious marriage within their jurisdiction comes to their notice.
- (3) The Home Department of the central government shall work in coordination with the State Governments and take measures to create awareness and sensitize law enforcement agencies, government departments and the police by involving all the stake holders to identify the measures for prevention of crimes in the name of honour and to implement this legislation;
- (4) The State Governments shall create a Special Cell for prevention of crimes in the name of 'honour' in every District comprising of the Superintendent of Police, the District Social Welfare Officer and District Adi-Dravidar Welfare Officer to receive petitions/complaints of harassment of and threat to couples of inter-caste marriages.
- (5) These Special Cells shall establish a dedicated 24-hour telephone and email helpline to receive and register such complaints and to provide necessary assistance/advice and protection to the couple.
- (6) **Constitution of State Vigilance and Monitoring committees: -**
  - (i) In each State, the Chief Minister shall set up a monitoring committee to review the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the Act, role of different officers/agencies responsible for implementing the provisions of the Act and various reports received by the State government.
  - (ii) The State-Level Monitoring Committee shall consist of:
    - a. The Chief Minister/Administrator - Chairman in case of a State under President's Rule, Governor - Chairman),
    - b. The Home Minister, and Women and Child Department Minister,
    - c. 5 elected Members of Parliament from the State and Members of the State Legislative Assembly and Legislative Council;
    - d. The Commissioner of Police;
    - e. Chief Secretary, Department of Women and Child Department
    - f. 3 members of non-governmental organisations working on crimes in the name of honour;
  - (vi) The State-level committee shall meet at least once in six months.
  - (vii) The State Government shall, every year before the 1st July, forward the report to the Central Government about the measures taken for implementing the provisions of the Act and various schemes/plans framed by it during the previous calendar year.

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<sup>18</sup> *Shakti Vahini vs. Union of India (UOI) and Ors.* (27.03.2018 - SC) 7 SCC 192

**(7) Constitution of District Vigilance and Monitoring committees: -**

- (i) In each district within the State, the District Magistrate Revenue Division Officer shall set up a monitoring committee to review the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the Act, role of different officers/agencies responsible for implementing the provisions of the Act and various reports received by the regional administration.
  - (ii) The local-level monitoring committee shall consist of the District Magistrate, Deputy Superintendent of Police, the Director of the District Legal services Authority and 3 members having association with non-government organizations.
  - (iii) The District Level committee shall meet at least once every 3 months.
- (8) Annual Report: The State Government shall every, before the 31st March, forward a report to the Central Government about the measures taken for implementing provisions of the Act and various schemes and plans framed by it during the previous calendar year.
- (9) Subject to such rules as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for the effective implementation of this Act. Such measures may include,--
- i. The provision for adequate facilities, including legal aid, to the persons subjected to honour crimes to enable them to avail themselves of justice;
  - ii. The provision for travelling and maintenance expenses to victims and witnesses in honour crimes during investigation and trial of offences under this Act;
  - iii. provision for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provision of this Act;
- (10) The Central Government shall, every year, place on the table of each House of Parliament a report on the measures taken by itself and by the State Governments in pursuance of the provisions of this section.
- (11) The Central Government shall direct the National Crime Records Bureau to collect data on the crimes committed in the name of 'honour' in its annual reports;

## **Chapter VII Special Fast Track Courts<sup>19</sup>**

### **29. Establishment of Special Fast Track Courts. –**

- (1) The State Government, may after consultation with the concerned High Court, by notification, designate a District Courts as Special Fast Track Court for the

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<sup>19</sup> *Shakti Vahini vs. Union of India (UOI) and Ors.* (2018) 7 SCC 192

purpose of trying the cases pertaining to crimes in the name of honour and offences under this Act.

- (2) Such Special Fast Track Court shall exercise all jurisdiction exercisable by the District Court under any law for the time being in force in respect of any proceedings under this Act.
- (3) The State Government shall, after consultation with the High Court, by notification, extend, reduce or alter the local limits of the area to which the jurisdiction of the Fast Track Court extends.
- (4) The concerned District judge presiding over a designated Special Fast Track Court shall receive prior training on this Act, in the manner as may be prescribed under the Rules.
- (5) For every Special Fast Track Court, the State Government shall, by notification in the Official Gazette, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that court<sup>20</sup>.

### **30. Procedure**

- (1) The Special Fast Track Court may take cognizance of any offence without the accused being committed to it for trial upon receiving a complaint of facts which constitutes such offence, or upon a police report of such facts.
- (2) The trial must proceed on a day-to-day basis to be concluded, preferably within three months from the date of filing of chargesheet/final report.
- (3) When trying any offence under this Act, the notified Fast Track Court may also try any other offence with which the accused may, under the provisions of the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974), be charged at the same trial if the offence is connected with such other offence.
- (4) If, in the course of any trial of any offence under this Act, it is found that the accused person has committed any other offence under this Act or any other law, the notified Court may convict such person also of such other offence and pass appropriate sentence authorized by that law.
- (5) A victim or their dependent shall have the right to apply to the Special Fast Track Court to summon parties for production of any documents or material, witnesses or examine the persons present.
- (6) A victim or their dependent shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing

### **31. Appeals**

- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, or in any other law an appeal shall lie from every judgment or order under this Act to the High Court.
- (2) Every appeal under this Section shall be preferred within a period of thirty from the date of the judgment or order under this Act.
- (3) Except as aforesaid, no appeal or revision shall lie to any Court from any judgment, order or decree under this Act.
- (4) An appeal preferred under sub-section (1) shall be heard by a Bench consisting of two or more judges.

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<sup>20</sup> Sec. 15 of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989

## **Chapter VIII Miscellaneous**

- 32. Application of Code of Criminal Procedure, 1973.**- Save as otherwise provided in this Act, the provisions of the Code of Criminal procedure, 1973 (Central Act No. 2 of 1974) shall apply to the proceedings under this Act.
- 33.** 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, if any, in force in that area.
- 34. Act to override other laws.—**  
Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law.
- 35. Power to make rules –**
- (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.
  - (2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.