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Act No. 42 of 1992

An Act made to amend the Code of Criminal Procedure, 1898

Whereas it is expedient to amend the Code of Criminal Procedure, 1898 (Act V of 1898) for the purposes stated below;

Now, therefore, it is enacted as follows:-

1. Short title.-

This Act may be called The Code of Criminal Procedure (Second Amendment) Act, 1992.

2. Amendment of section 167 of Act V of 1898.-

In section 167 of the Code of Civil Procedure, heretofore referred to as the said Code, -

a) sub-section (5) shall be substituted by the following sub-section (5), namely: -

"(5) If the investigation is not concluded within hundred and twenty days from the date of receipt of the information relating to the commission of the offence or the order of the Magistrate for such investigation, -

a) the Magistrate empowered to take cognizance of such offence or making the order for investigation may, if the offence to which the investigation relates is not punishable with death, imprisonment for life or imprisonment exceeding ten years, release the accused on bail to the satisfaction of such magistrate; and

b) the Court of Session may, if the offence to which the investigation relates is punishable with death, imprisonment for life or imprisonment exceeding ten years, release the accused on bail to the satisfaction of such Court:

Provided that if an accused is not released on bail under this sub-section, the Magistrate or, as the case may be, the Court of Sessions shall record the reason for it:

Provided further that in cases in which sanction of appropriate authority is required to be obtained under the provisions of the

relevant law for prosecution of the accused, the time taken for obtaining such sanctions shall be excluded from the period specified in this sub-section.

Explanation.— The time taken for obtaining sanction shall commence from the day the case, with all necessary documents, is submitted for consideration of the appropriate authority and be deemed to end on the day of the receipt of the sanction order of the authority."

b) sub-section (6), sub-section (7) and sub-section (7A) shall be omitted.

3. Amendment of section 339C of Act V of 1898.—

In section 339C of the said Code,—

a) sub-section (1), the expression "one hundred and twenty days" shall be substituted by the expression "one hundred and eighty days";

b) sub-section (2), the expression "two hundred and forty days" shall be substituted by the expression "three hundred and sixty days";

c) sub-section (3) shall be omitted;

d) sub-section (4) shall be substituted by the following sub-section (4), namely:—

"(4) If a trial cannot be concluded within the specified time, the accused in the case, if he is accused of a non-bailable offence, may be released on bail to the satisfaction of the court, unless for reasons to be recorded in writing, the court otherwise directs."

e) the word "and" at the end of clause a) of sub-section (6) shall be cancelled.

5. The previous sub-section (5), the abolished sub-sections (6) and (7A) of section 167 of Act V of 1898 to apply in certain cases.— (1) Notwithstanding the substitution of sub-section (5), and the abolition of the sub-sections (6) and (7A) of the said Code by this Act—

a) if an application for the extension of the period of any investigation under the previous sub-section (5) submitted by the officer conducting the investigation is pending with any Magistrate immediately before the commencement of this Act, the said applications shall be decided upon as if the previous sub-section (5) were in force, but in such case a period can be extended only once, and the provisions of the sub-section (5) substituted by this Act shall in that case be applicable after the extension of a period;

b) if there has been submitted an application for a further investigation in connection with any investigation closed in

accordance with the provisions of the previous sub-section (5) or, as the case may be, for its reopening, the necessary procedure shall be taken and settled as if the sub-sections (6) and (7A) had not been abolished; but once an order to conduct a further investigation has been passed or, as the case may be, an investigation has been reopened, the provisions of the two abolished sub-sections shall cease to be applicable, but the provisions of the sub-section (5) substituted by this Act shall be applicable.

(2) If any investigation the period of which has been extended under the previous sub-section (5) of section 167 or any further investigation ordered under the abolished sub-section (6) or any investigation reopened under the abolished sub-section (7A) is pending immediately before the commencement of this Act, in such case the provisions of the sub-section (5) substituted by this Act shall be applicable.

6. The abolished section 339D of Act V of 1898 to apply in certain cases.— Notwithstanding the abolition of section 339D of the said Code, if there has been submitted before the commencement of this Act an application for the reopening of any trial concluded in accordance with the provisions of the amended sub-section (4) of section 339D, the necessary procedure shall be taken and settled as if section 339D had not been omitted.

7. The amended section 339C of Act V of 1898 to apply in the case of the reopening of trials.— If any trial reopened under the omitted section 339D of the said Code has been pending immediately before the commencement of this Act, the provisions of section 339C amended by this Act shall be applicable in the case of deciding such trial and in the case of deciding trials reopened in accordance with the provisions of section 6 of this Act.

