

Fifteenth Kerala Legislative Assembly

Bill No. 166

**THE CODE OF CRIMINAL PROCEDURE
(KERALA AMENDMENT) BILL, 2023**

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further to amend the Code of Criminal Procedure, 1973, in its application to the State of Kerala.

Preamble.—WHEREAS, it is expedient further to amend the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), in its application to the State of Kerala, for the purposes hereinafter appearing;

BE it enacted in the Seventy-third year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Code of Criminal Procedure (Kerala Amendment) Act, 2023.

(2) It shall come into force at once.

2. *Amendment of section 62.*—In the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) (hereinafter referred to as the said Code), in its application to the State of Kerala, after sub-section (3) of section 62, the following sub-section shall be inserted, namely:—

“(4) In addition to other modes of service, the summons shall, if practicable, be served electronically as well.” ;

3. *Amendment of section 91.*—After sub-section (3) of section 91 of the said Code, the following sub-section shall be inserted, namely:—

“(4) In addition to other modes of service, the summons shall, if practicable, be served electronically as well on whom the summons is to be served under sub-section (1).”.

STATEMENT OF OBJECTS AND REASONS

The Hon'ble High Court had proposed to amend sections 62 and 91 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), consequent to the direction of the Hon'ble Supreme Court. During the outbreak of the Covid 19 pandemic, the State Police Chief has reported that there are serious health hazards in following the conventional mode of service of summons. The electronic methods used to effect the service are much convenient and effective in locating the persons who are deliberately trying to avoid the service.

The service of summons is also a very important function of the Police, but the same cannot be discharged by the Police to the extent desired all over the State. Hence, the service of summons could be made possible through e-mail, in order to avoid delay that can be occasioned under the present circumstance.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure out of the Consolidated Fund of the State.

PINARAYI VIJAYAN.

EXTRACT FROM THE CODE OF CRIMINAL PROCEDURE, 1973

(Central Act 2 of 1974)

62. *Summons how served.*— (1) Every summons shall be served by a police officer, or subject to such rules as the State Government may make in this behalf, by officer of the Court issuing it or other public servant.

(2) The summons shall, if practicable, be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons.

(3) Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

91. *Summons to produce document or other thing.*—(1) Whenever any Court or any officer in charge of a police station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(2) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be deemed-

(a) to affect, sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), or the Bankers' Books Evidence Act, 1891 (13 of 1891), or

(b) to apply to letter, postcard, telegram or other document or any parcel or thing in the custody of the postal or telegraph authority.
