

Bill No. 318 of 2016

**THE SPECIAL COURTS FOR TRIAL OF OFFENCES
AGAINST WOMEN BILL, 2016**

By

SHRIMATI SUPRIYA SULE, M.P.

A

BILL

*to provide for constitution of special courts for trial of cases of offences
of sexual violence against women in order to ensure speedy
disposal of such cases and for matters connected therewith.*

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Special Courts for Trial of Offences Against Women Act, 2016.

Short title,
extent and
commencement.

5 (2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.	<p>2. In this Act, unless the context otherwise requires,—</p> <p>(a) "appropriate Government" means in the case of a State, the State Government and in all other cases, the Central Government;</p> <p>(b) "prescribed" means prescribed by rules made under this Act;</p> <p>(c) "sexual violence" refers to offences referred to in sections 292, 354, 354A, 354B, 354C, 354D, 375, 376, 376A, 376B, 376C, 376D, 376E and 509 of Indian Penal Code, 1860; and</p> <p>(d) "special court" means a Court constituted under section 3 to exclusively try cases of offences of sexual violence against women.</p>	5 45 of 1860.
Constitution of special courts.	<p>3. The appropriate Government shall, within six months of the coming into force of this Act, constitute in every district a special court to exclusively try cases of sexual violence.</p>	10
Selection criteria for appointment of Judges.	<p>4. The selection criteria for appointment of Judges in the special courts and the term of office and other conditions of service of such Judges shall be such as the appropriate Government may, in consultation with High Court, specify.</p>	15
Number of Judges in special courts.	<p>5. The number of Judges to be appointed in any special court shall be such as the High Court may, in consultation with State Government, specify, after taking into consideration the backlog of cases of sexual violence in that special court.</p>	
Transfer of pending cases.	<p>6. Every case or other proceeding relating to offences of sexual violence pending before any court or other authority immediately before the date of constitution of a special court under this Act shall stand transferred on that date to the special court of appropriate jurisdiction:</p> <p style="padding-left: 40px;">Provided that nothing in this section shall apply to any appeal pending as aforesaid before a High Court.</p>	20
Law students to assist special courts.	<p>7. (1) The appropriate Government shall coordinate with the National Law Universities and other Law colleges in the State in order to allow final year law students to intern at the special courts.</p> <p>(2) The law students, as intern, shall assist in disposal of cases, other than cases under sections 375, 376, 376A, 376B, 376C, 376D and 376E of the Indian Penal code, 1860, being tried in special courts, in such manner, as may be prescribed.</p>	25 30 45 of 1860.
Time limits for filing of charge sheet.	<p>8. (1) The charge sheet of offence of sexual violence shall be filed within such period, not exceeding thirty days, as the appropriate Government may specify:</p> <p style="padding-left: 40px;">Provided that in case of delay in filing the charge sheet, the Investigating Officer shall submit before the special court the reasons of such delay.</p> <p>(2) Where the delay in filing charge sheet is caused due to negligence on the part of the Investigating Officer or some other person, such Investigating Officer or that person shall be punished with simple imprisonment which may extend upto six months or with fine or with both.</p>	35
Time limit for deciding cases by special court.	<p>9. The special court shall decide the case of sexual violence within such period, not exceeding one hundred and twenty days from the date of filing of charge sheet, as the appropriate Government may specify.</p>	40
Appeal in High Court.	<p>10. Any person aggrieved by the order of the special court may file an appeal to the High Court within sixty days from the date of order:</p> <p style="padding-left: 40px;">Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing an appeal within the said period, allow it to be filed within a further period not exceeding sixty days.</p>	45

- 11. The appropriate Government shall take such measures, as may be prescribed, to increase awareness amongst women about the legal safeguards against, and the legal provisions relating to, eve-teasing and sexual violence.** Increasing awareness.
- 12. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds for the implementation of the provisions of the Act.** Central Government to provide adequate funds.
- 13.** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act. Overriding effect of the Act.
- 14.** The provisions of this Act shall be in addition to and not in derogation of any other law, for the time being in force, regulating any of the matters dealt with in this Act. Act not to be in derogation of other Laws.
- 15. (1)** The Central Government may by notification in the Official Gazette make rules for carrying out the provisions of this Act. Power to make rules.
- (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 the 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.

STATEMENT OF OBJECTS AND REASONS

In *Madheshwardhari Singh and Anr., vs State of Bihar 1986*, the Supreme Court upheld the right to speedy trial as a fundamental right. But not much progress has been achieved by the courts in disposing civil and criminal cases. The total number of pending cases in High Courts and subordinate courts, by the end of 2014, was more than three crore. Of these pending cases, 9.2% are pending for more than ten years.

The main reasons for pendency of cases are vacancies, inadequate judge strength, lack of physical infrastructure and large influx of new cases into Courts. According to the data collected by the National Crime Records Bureau, as many as 3,37,922 cases of crimes against women were registered in 2014. This is an increase of 9.2% from the registered crimes against women in 2013. Crimes committed under the Indian Penal Code (IPC) against women, as proportion of total crimes, have increased to 11.4% in 2014.

The voluminous nature of pending cases and the resultant delay in the delivery of justice to the victims encourage criminals to commit crimes. Criminal justice system as a mechanism to check the crime rate has been rendered ineffective due to time lags in disposal of cases.

One way to tackle the problem is to have special courts dealing with cases of crimes against women. After the Delhi gang rape case of 2012, the Union Law ministry directed the States to set up fast track Courts to deal with such crimes against women. Despite such efforts, backlog of cases continues to persist.

This Bill aims to define the role and responsibilities of these Fast Track Courts to augment them in their functioning. Its objective is enable women victims to realise their right to speedy delivery of justice.

Hence this Bill.

NEW DELHI;
October 10, 2016.

SUPRIYA SULE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for establishment of special courts at the district level. Clause 5 provides for appointment of judges in special courts. Clause 7 provides that law students, as intern, shall assist in disposal of certain type of cases in special courts. Clause 11 provides that the appropriate Government shall take measures to create awareness amongst women about the legal safeguards and provisions relating to eve-teasing and sexual violence. Clause 12 provides that the Central Government shall provide adequate funds to the State Government for effective implementation of this Act. The expenditure in respect of special courts in Union territories shall be met out of the Consolidated Fund of India and the expenditure in respect of special courts in States will be met out of the Consolidated Fund of the respective States. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees two thousand crore would be involved as recurring expenditure per annum.

A non-recurring expenditure of about rupees five hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

LOKSABHA

A

BILL

to provide for constitution of special courts for trial of cases of offences of sexual violence against women in order to ensure speedy disposal of such cases and for matters connected therewith.

(Shrimati Supriya Sule, M.P.)