

KARNATAKA ACT NO. 46 OF 2017

**THE KARNATAKA PREVENTION AND ERADICATION OF INHUMAN EVIL PRACTICES AND
BLACK MAGIC ACT, 2017**

Arrangement of Sections

Sections:

1. Short title and commencement.
2. Definitions.
3. Prevention and eradication of inhuman evil practices and black magic
4. Offences by companies.
5. Jurisdiction to try offences
6. Vigilance Officer
7. Powers of entry, search etc
8. Application of provisions of section 169 and 170 of the Karnataka Police Act.
9. Application of provision of the code
10. Act to be in addition to and not in derogation of any other law
11. Publication of fact of conviction
12. Awareness programme
13. Power to make rules
14. Power to amend the Schedule
15. Savings
16. Power to remove difficulties
17. Schedule

STATEMENT OF OBJECTS AND REASONS

Amending Act 46 of 2017.- Considering the large public perception to bring an Act to protect the common people in the society against evil and sinister practices and to combat and eradicate other inhuman, evil sinister practices propagated and performed in the name of so called supernatural or magical power or evil spirit commonly known as black magic by conmen with sinister motive of exploiting the common people in the society and thereby destroying the very social fibre of the society, it is considered necessary to create healthy and safe social environment. And it became necessary for the Government to take appropriate legal and social measures to prevent such evil effects and harmful practices, usages etc., and such other inhuman, evil and sinister practices and to save common people falling prey to the sinister design of the black magicians and conmen who claims possessing magical or miraculous remedies or powers and anti social harmful activities to damage the very social fibre and beliefs of the common people in scientific medical remedies and cures.

Hence the Bill.

[L.A. Bill No.37 of 2017, File No. Samvyashae 49 Shasana 2017]
[under clauses (1) and (3) of Article 207 of the Constitution of India]

KARNATAKA ACT NO. 46 OF 2017

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THE KARNATAKA PREVENTION AND ERADICATION OF INHUMAN EVIL PRACTICES AND BLACK MAGIC ACT, 2017

(Received the assent of Governor on the 6th day of December, 2017)

An Act to protect the common people in the society against evil and sinister practices and to combat and eradicate inhuman, evil, sinister and practices propagated and performed in the name of so called supernatural or magical power or evil spirit commonly known as black magic by conmen with sinister motive of exploiting the common people in the society. Further to bring social awakening and awareness in the society and to create healthy and safe social environment; and for matters connected there with or incidental there to;

Whereas number of incidents of exploitation of the common people in the society because of inhuman, evil, sinister practices, and black magic and evil spirit, at the hands of conmen, had come to light and also to meet vide public perception to prevent and eradicate practice of Inhuman, Evil and Sinister Practices and Black Magic in the State;

And whereas for the reasons stated above it became necessary for the Government to take appropriate legal and social measures to prevent such evil effects and harmful practices, usages, black magic and such other inhuman, evil, sinister practices and to save common people from falling prey to the sinister design of the black magicians and conmen whose false claims of possessing magical or miraculous remedies or powers and anti social harmful activities to damage the very social fibre and beliefs of the common people in scientific medical remedies and cures.

Be it enacted by the Karnataka Legislature in the Sixty-eighth year of Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka prevention and eradication of inhuman evil Practices and Black Magic Act, 2017.

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

2. Definitions.- (1) In this Act, unless the context otherwise requires,-

- (a) "**Code**" means the code of criminal procedure 1973 (Central Act 2 of 1974);
- (b) "**Government**" means Government of Karnataka;
- (c) "**Inhuman, evil practices and black magic**" means the commission of any act, specified in the schedule, by any person by himself or caused to be committed through or by instigating any other person;
- (d) "**Offender**" means any person who has contravened any of the provision of this Act or has committed any act constituting an offence specified in the Schedule;
- (e) "**Person**" means and includes an Individual male, female or a transgender or a company or association or body of individual whether incorporated or not.
- (f) "**Propagate**" means issuance or publication of advertisement, literature, articles or book relating to inhuman, evil practices and black magic and includes any form of direct or indirect help, abetment, participation or co-operation with regard to inhuman, evil practices and black magic;
- (g) "**Schedule**" means the Schedule appended to this Act;
- (h) "**Victim**" means a person who is gravely harmed or injured physically or mentally, exploited financially or sexually or whose dignity is offended by the commission of an offence under this Act;

(2) Words and expressions used but not defined herein, shall have respective meanings as assigned to them in the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 (Central Act 21 of 1954) and the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) or in any other law for the time being in force.

3. Prevention and eradication of inhuman evil practices and black magic.- (1) No person shall himself or through any other person commit, promote, propagate or practice or cause to promote, propagate or practice inhuman, evil practices and black magic specified in the schedule.

(2) From the date of commencement of this Act, Commission of any act of inhuman, evil practices and black magic and any advertisement, practice, propagation or promotion of

inhuman, evil practices and black magic in violation of provision of this Act by any person by himself or through any other person shall constitute an offence under the provisions of this Act and the person guilty of such offence shall on conviction be punished with imprisonment for a term which shall not be less than one year but which may extend to seven years and with fine which shall not be less than Five thousand rupees but which may extend to fifty thousand rupees:

Provided that, as a consequence of offence under this Act if death of the victim occurs, the offender, shall be deemed to have committed an offence of murder as defined in Section 300 of Indian penal code, 1860 (Central Act 45 of 1860) and shall be punishable under section 302 of the said code or if such act has endangered life of the victim or has resulting in injury to any person, the offender shall be deemed to be guilty of having committed an offence of attempt to murder as defined under Section 307 of the Indian penal code, 1860 (Central Act 45 of 1860) and shall be punishable accordingly or if consequence of such offence, the victim commits suicide, then the offender shall be deemed to have abetted commission of suicide, as defined and punishable under Section 306 of Indian penal code, 1860 (Central Act 45 of 1860) and shall be punishable accordingly.

(3) Whoever abets the commission or attempt the commission of any act or offence punishable under sub-section (2), shall be deemed to have committed that offence and shall on conviction be punished with the same punishment for such offences in sub-section (2).

(4) Consent of the victim shall not be a defense under this section.

(5) The offence punishable under sub-section (2), shall be cognizable and non-bailable.

4. Offences by companies.- (1) If the person committing an offence under this Act is a company whether incorporated or not, the company as well as every person in charge of, and responsible to the company for the conduct of its business at the time of commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or that the commission of offence is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation:- For the purpose of this section,-

(a) "Company" means any body corporate and includes a firm or other Association of individuals; and

(b) "Director", in relation to a firm means a partner in the firm.

5. Jurisdiction to try offences.- No court inferior to that of a Metropolitan Magistrate or judicial Magistrate of a First Class shall try any offence punishable under sub-section (2) of section 3 but the offences punishable under this Act referred to in the proviso to sub-section (2) of section 3 shall be triable only by the court of session and the procedure under the code for trial of such cases shall mutatis mutandis apply.

6. Vigilance Officer.- (1) The State Government may by notification in the official Gazette and subject to such terms and conditions as may be specified in the notification, appoint for any one or more police stations as may be specified in the notification, one or more police officers to be known as the vigilance officer;

Provided that, such officer shall not be below the rank of the police inspector.

(2) It shall be the duty of the vigilance officer,-

(i) to detect and prevent the contravention or violation of the provision of this Act and the rules made there under, in the area of his jurisdiction and report such cases to the nearest police station within the area of jurisdiction and upon filing of complaint to the police station by any victim or member of his family to ensure due and speedy action thereon and to give necessary advice, guidance and help to concerned police station;

(ii) to collect evidence for the effective prosecution of persons contravening the provisions of this Act and to report the same to the police station of the area in which such contravention has been or is being committed; and

(iii) to discharge such other functions as may be assigned to him from time to time by the State Government by general or special order issued in this behalf.

(3) Any person who obstructs the discharge of official duties or the work of the vigilance officer, appointed under sub-section (1), shall on conviction be punished with imprisonment for a term which may be extended to three months or with fine which may be extended to five thousand rupees or with both.

(4) The vigilance officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

7. Powers of entry, search etc.- (1) Subject to general or special orders issued in this behalf by the State Government from time to time the vigilance officer may within the local limits of area of his jurisdiction with the assistance of the police officer of his area,-

- (i) enter and search at all reasonable times with such assistance, if any, as he consider necessary, any place in which he has reason to believe that an offence under this Act has been or is being committed;
- (ii) seize any material, instrument or advertisement which he has believed that same has been or is being used for any act or thing which is in contravention of the provisions of this Act; and
- (iii) examine any record document or material object found in any place mentioned in clause (1), and seize the same, if, he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.

(2) The provisions of the code shall, so far as may be, apply to any search or seizure made under this Act as they apply to such search or seizure made under the authority of warrant issued under section 94 of the code.

(3) Where any person seizes anything under clause (ii) or (iii) of sub-section (1), he shall as soon as may be inform to Magistrate and take his orders as to the custody thereof.

8. Application of provisions of section 169 and 170 of the Karnataka Police Act.- The provisions of section 169 and 170 of the Karnataka Police Act, 1963 (Karnataka Act 4 of 1964) shall apply to acts done in good faith by the vigilance officers under this Act as if the vigilance officer is a police officer within the meaning of that Act.

9. Application of provision of the code.- The provisions of the code shall apply to the investigation and trial of offences under this Act.

10. Act to be in addition to and not in derogation of any other law.- The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

11. Publication of fact of conviction.- (1) Where any person is convicted of any offence punishable under this Act, it shall be competent for the court convicting such offender to cause the name and place of residence of such person to be published by the police in the local news papers where such offence is taken place together with the fact that such offender had been convicted under this Act and such other particulars as court deem fit and appropriate to be allowed to be published.

(2) No such publication under sub-section (1), shall be made until the appeal, if any, filed against such order of conviction is finally disposed of.

12. Awareness programme.- The Government may undertake the awareness programme to bring awareness in the society about the ill-effects of inhuman, evil practices and black magic and to provide proper medical relief to the injured victims in Government hospitals through appropriate ways and authorities as may be prescribed.

13. Power to make rules.- (1) The State Government may, by notification and after previous publication, in the official Gazette make rules to carry out the purposes 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 the State Legislature 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 in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made; and notify their decision to the effect in the official Gazette, the rule shall from date of publication of such decision in official Gazette 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 or omitted to be done under that rule.

14. Power to amend the Schedule.- (1) The State Government may by notification published in the Official Gazette add, amend or alter the schedule.

(2) Every such notification issued under sub-section (1), shall be laid before each house of the State Legislature.

15. Savings.- (1) For the removal of the doubt it is hereby declared that nothing in this Act shall apply in respect of the following, namely:-

- (i) The form of the worship such as pradakshina, Yatra, parikrama, performed at any religious spiritual places.
- (ii) Harikatha, Keerthana, Pravachana, Bhajana, teaching of ancient and traditional learnings and arts, practice, propagation and circulation thereof.
- (iii) to state about the miracles of the deceased saints propagation, publicity and circulation of the same and the propagation, publicity and distribution of the literature about the miracles of the religious preachers which do not cause physical injury.
- (iv) the performance of prayers, upasana and all religious rituals at the places such as home, temple, dargha, gurudwara, pagoda, church and other religious places which do not cause physical injury.
- (v) All religious celebrations, festivals, prayers, procession and any other act relating thereto and all other rituals.
- (vi) Piercing of ears, nose of children and heated branding in accordance with rituals and performance of religious ritual such as Keshlochan by the Jains.
- (vii) The advice in regard to vashthushashtra, advice by jyothishya and other astrologers.
- (viii) Any traditional religious rites and acts except those mentioned above which State Government may notify by notification in Official Gazette.

(2) Every notification issued in pursuance of clause (viii) of sub-section (1), shall be laid as soon as may be before each house of the State Legislature.

16. Power to remove difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature.

SCHEDULE

SEE SECTION 2(1)(g)

- (1) Performing any inhuman, evil act and black magic in search of precious things, bounty and hidden treasure for similar reasons in the name of such as banamathi, Mata-Mantra, assaulting any person, parading naked or put a ban on his daily activities or instigate advice or encourage committing of such inhuman acts.
- (2) To create an impression by declaring that a power inapprehensible by senses has influenced one's body or that a person has possessed such power thereby create fear in the minds of others or to threaten others of evil consequences for not following the advice of such person or deceive defraud and deter him.
- (3) Under the pretext of expelling the ghost, assaulting by tying the person with rope or chain, beating by stick or whip to make the person drink foot wear soaked water, giving chilli smoke hanging a person to roof fixing with rope or by a hair or pluck his hair, causing pain by way of touching heated object to organs or body of a person, forcing a person to perform sexual act in the open, practice inhuman acts, putting urine or human excreta forcibly in the mouth of a person or practice any such acts.
- (4) By making the persons believe that a particular person practices banamathi, Mata-Mantra black magic or brings under the influence of ghost or diminishes the milking capacity of a cattle by mantra-tantra or similarly accusing a particular person that, he brings misfortune to others or is a cause for spread of diseases and thereby making the living of such person miserable, troublesome or difficult, to declare a person as saithan or incarnation of saithan.
- (5) To create a panic in the minds of public in general by way of invoking ghost or mantras or threaten to invoke ghost creating an impression that there is ghostly or warth of power inapprehensible by senses causing physical injuries and preventing a person taking medical treatment, instead diverting him to practice inhuman evil and aghory acts or treatment threatening a person with a death or causing physical pains or causing

- financial loss by practicing or tend to practice black magic or inhuman act.
- (6) Claiming to perform surgery by fingers or claiming to change the sex of a foetus in womb of a woman.
 - (7) To create an impression that special supernatural powers are present in himself, incarnation of another person or holy spirit or that the devotee was his wife, husband or paramour in the past birth thereby indulging into sexual activity with such person.
 - (8) Persuading, propagating or facilitating rituals that involve self-inflicted injuries such as hanging from a hook: inserted into the body (sidi) or pulling a chariot by a hook inserted into the body;
 - (9) Persuading, propagating or facilitating rituals involving harm inflicted on children in the name of curing them, such as throwing them on thorns or from heights;
 - (10) Practicing evil practices against women by forcing isolation, prohibiting re-entry into the village or facilitating segregation of menstruating or postpartum women; and subjecting women to inhuman and humiliating practices such as parading them naked in the name of worship or otherwise, such as "betthale seve";
 - (11) Forcing any person to carry on evil practices such as killing of an animal by biting its neck (gaavu), that cause harm to public health nuisance.
 - (12) Facilitating any person or persons to roll over (urulu seve) on the leaves of left over food by other persons in any public or/and religious places, or similar practices that violate human dignity.
 - (13) Coersing any person or persons to perform fire-walk at the time of jatras and Religious festivals, causing physical injury.
 - (14) The practice of piercing from rods from one side of, jaw to another side of the jaw including the tounge i.e., "baibiga" practice.
 - (15) Pelting of stones in the name of Banamathi, Mata-Mantra and mantra-tantra on the residential houses during night or day.
 - (16) Prohibiting and preventing a person from taking medical treatment in case of dog, snake or scorpion bite and instead of giving him treatment like mantra-tantra, ganda-dora or such other things.

The above translation of ಕರ್ನಾಟಕ ಅಮಾನವೀಯ ದುಷ್ಠ ಪದ್ಧತಿಗಳು ಹಾಗೂ ವಾಮಾಚಾರ ಇವುಗಳ ಪ್ರತಿಬಂಧ ಮತ್ತು ನಿರ್ಮೂಲನೆ ಅಧಿನಿಯಮ, 2017 (2017ರ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ : 46) be published in the official Gazette under clause (3) of Article 348 of the Constitution of India.

VAJUBHAI VALA
GOVERNOR OF KARNATAKA

By Order and in the name of the Governor of Karnataka

K. DWARAKANATH BABU
Secretary to Government
Department of Parliamentary Affairs