Amendment in Column 7 of Second Schedule of the Code of Criminal Procedure, 1898 against Section 337A (v) of the Pakistan Penal Code

Report No. 97

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Amendment in Column 7 of Schedule II of the Code of Criminal Procedure 1898 against Section 337A (v) of the Pakistan Penal Code.

The punishment of hurt of Shajjah-i-Ammah provided in Clause (v) of Section 337A of the Pakistan Penal Code, along with others, was prescribed as imprisonment of either description for a term which may extend to 10 years as Tazir by the Criminal Law (Second Amendment) Ordinance 1990 commonly known Qasis and Diyat Ordinance and the same was mentioned in Column 7 of Schedule II of the Cr.P.C against the said Section. On re-promulgation of the Ordinance as Ordinance No. XVII of 1992 the punishment of ten years imprisonment provided in Section 337-A (V) of the PPC was mentioned as fourteen years in Column 7 of Schedule II of the Cr.P.C against the entry of the said section. The Ordinance was re-promulgated a number of times later on till it became an Act (Act No. II of 1997) of the Parliament but the disparity amongst two provisions of the Codes is not removed and it still exists even after passing of a long period till it has been made an Act of the Parliament. The Clause (v) of section 337A of the PPC and entry in Column 7 of Schedule II of Cr.P.C against it read as follows:-

Section 337A. "Punishment of Shajjah. – Whoever, by doing any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, causes-

  (iv) ……………..
  (v) Shajjah-i-ammah to any person, shall be liable to arsh which shall be one-half of Diyat and may also be punished with imprisonment of either description for a term which may extend to ten years as Tazir; and
  (vi) …………….

Schedule II Cr.P.C 1898

1	2	3	4	5	6	7	8
337A	(v) Shajjah-i-ammah					Arsh, and imprisonment of either description for fourteen years.	Court of Session or Magistrate of the 1st Class.

Clause (v) of Section 337A PPC provides punishment of imprisonment of ten years on causing Shajjah-i-ammah to any person and Clause (vi) of section 337A PPC provides punishment of imprisonment for fourteen years for causing Shajjah-i-damighah. It seems there has been occurred some typographical mistake while mentioning punishment of Clause (v) of the said section in Column 7, of Schedule II of the Cr.P.C in Ordinance No. XVII of 1992 which could not be corrected in the Ordinance issued later on and even in the Act passed in 1997. It is therefore, proposed that in Column 7 of Schedule II of the Cr.P.C the punishment of fourteen years mentioned against section 337A of the PPC may be substituted by ten years. A bill to amend the Schedule II of the Cr.P.C follows.

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Bill

further to amend the Code of Criminal Procedure, 1898.

WHEREAS it is expedient to amend the Code of Criminal Procedure, for the purpose

hereinafter appearing;

It is herby enacted as follows:-

1.   **Short title and commencement. –** (1) This Act may be called the Code of

Criminal Procedure (Amendment) Act, 2007.

(2)   It shall come into force at once.

2.   **Amendment of Schedule II, Act V of 1898.-** In the Code of Criminal Procedure,

1898 (Act V of 1898), in Schedule II, against entries relating to section 337A, clause (v)

in Column 7, for the word "fourteen" the word "ten" shall be substituted.

Commission's deliberations

The working paper was considered by the Commission in its meeting held on 27.7.2007 and the following are the deliberations:-

The Commission took note of the punishment of imprisonment of ten years provided in Section 337A (v) of the Pakistan Penal Code 1860 which is reflected incorrectly in column 7 of Schedule II of the Criminal Procedure Code 1898 as 14 years. The Commission is of the view that the discrepancy in the Criminal Procedure Code seems to be a clerical/typographical mistake. It therefore approved that reference to punishment in Column 7 of Schedule II of the Cr.P.C may be corrected in accordance with the punishment provided in Section 337A (v) of the Pakistan Penal Code by substituting the words 'ten years' for the words "fourteen years".