

All about Maintenance of Public Order and Tranquility under Code of Criminal Procedure

By: Ekta Kumari

INTRODUCTION-

In order to maintain the public order and tranquility among the people of the society the lawmakers of our country have taken commendable steps. The legal provisions pertaining to public order and tranquility have been primarily enshrined in the Code of Criminal Procedure 1973. Though, various laws in regards to this matter have been also formulated subsequently. Chapter X of the Code of Criminal Procedure gives the legal provisions for maintenance of public order and tranquility and lays down the duties, powers and functions of the Executive Magistracy and the Police in this behalf.

This chapter is divided into four parts:- Part A-- Unlawful Assemblies, Part B – Public Nuisances, Part C – Urgent Cases of Nuisance or Apprehended Danger and Part D –Disputes as to Immovable Property. This chapter encompasses a total of 21 sections which deal with the procedure step taken in the maintenance of public order and tranquility. These provisions represent the mechanism of the procedure.

Q1- Why criminal procedure code included the provision of maintenance of public order and tranquility?

Ans- It is the fundamental duty of the State to maintain public order. As a civilized society everybody accept it that peace and tranquility is very necessary for the development and to live a good and healthy life. The maintenance of law and order is primary function of the Magistrate. According to the Criminal Procedure Code and others Act, the Magistrate is responsible for maintaining law and order in the society. Maintenance of public order and tranquility in the public discourse is the primary objective of any government for a country to grow, develop and reach new heights of good governance, because of these provisions government should be able to give its citizens a peaceful environment. The duty of the Executive Magistracy and the Police to maintain public order is thus clearly laid down by law.

Q2- What is the public order and tranquility?

Ans- The Order means maintaining that peace and tranquility which is needed by an ordinary citizen for obeying the law of the land. It is great concern and responsibility of all government and all states. The Oxford dictionary defines the term order as "The state that exists when people obey laws, rules or authority". The tranquility means "a state of peace and quiet".

The general definition of public order means that order will be maintained public places, obstruction will not be caused by assemblies and processions and which make it an offence for any person to cause obstruction, inconvenience, annoyance, risk, danger or damage. It is clear that public order really means that the actions of a group of individuals should not impinge on the rights and convenience of any other group.

Q3- What are the provisions related to Unlawful Assemblies in Chapter 10 of the Criminal Procedure Code?

Ans- An assembly of the kind described in sec.129 may be commanded to disperse either by any Executive Magistrate or officer in charge of a police station or, in the absence of such officer in charge, any police officer, not below the rank of a sub-inspector; and if it is in effectual the executive magistrate of the highest rank present there may cause it to be dispersed by the armed forces.

The member of the armed forces to whom requisition is made under sec.130, must use minimum force and cause of emergency, when no magistrate is present, a commissioned or gazetted officer of the armed forces can act on his own initiative, but he should communicate with the nearest magistrate at the earliest opportunity; No person acting under the chapter is liable to be criminally prosecuted except with the sanction of the central or the state government as the case may be.

Q4- What are the provisions related to Public Nuisances in chapter 10 of the Criminal Procedure Code?

Ans- The provisions related to public nuisances described under section Section 133 to 143 of Criminal Procedure Code envisages a range of situations and circumstances in which a person may be directed to behave as ordered. The orders could be for removal of obstructions or nuisance in public places; repair/removal of unsafe buildings, trees or structures; control of any dangerous animal; regulation of trade or any trade or occupation or the keeping of any

goods or merchandise etc. The purport of Section 133 Criminal Procedure Code is clearly that the actions of an individual or individuals that cause harm, discomfort or pose any danger to society at large can be regulated or prohibited. Similarly, Section 143 Criminal Procedure Code empowers a magistrate to prohibit repetition or continuance of a public nuisance.

Q5- What are the provisions related to Urgent Cases of Nuisance or Apprehended Danger in chapter 10 of Criminal Procedure Code?

Ans- The provisions related to Urgent Cases of Nuisance or Apprehended Danger described under Section 144 of Criminal Procedure Code is arguably the best known section of the Criminal Procedure Code. This section empowers a magistrate to act for the immediate prevention of any of the situations envisaged in Section 133 Criminal Procedure Code and a magistrate may “direct any person to abstain from a certain act or to take certain order with respect to certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquility, or a riot, or an affray.” The prohibitory order under Section 144 Criminal Procedure Code can remain in effect for two months; or up to six months if so directed by the state government. Section 144 Criminal Procedure Code in fact empowers the Executive Magistrates to impose several kinds of prohibitory orders. It is a very effective tool in the hands of the administration to prevent outbreak of violence.

Q6- What are the Powers of Magistrate under Maintenance Of Public Order And Tranquility?

Ans- As the Magistrate exercises functions and powers under various provisions of the criminal procedure code he is the Officer in overall charge of Law and Order and internal security in the society.

- a) Power of Magistrate to direct local investigation and examination of an expert.
- b) Power of Magistrate to furnish written instructions, etc.
- c) Magistrate may prohibit repetition or continuance of public nuisance.
- d) Power to prohibit carrying arms in procession or mass drill or mass training with arms.
- e) Power to attach subject of dispute and to appoint receiver .

Q7 What are the Powers of police under Maintenance Of Public Order And Tranquility ?

Ans- The Police force in the country is entrusted with the responsibility of maintenance of public order and prevention and detection of crimes. The Powers of the Administration in the maintenance of the public order and tranquility have been specifically mentioned in both Criminal Procedure Code and the Police Act, 1861. the maintenance of public order, other sections of the Criminal Procedure Code empower officers to direct individuals to take such actions or behave in a particular manner as might be conducive to the maintenance of public order. The police to maintain the public peace and prevent the commission of offence and of public nuisance, or any other danger to public.

Q8- What can be concluded by the Maintenance of Public Order And Tranquility?

Ans- It is the fundamental duty of the State to maintain public order. Thus, in the end, the author would like to conclude the paper by the saying that this chapter was incorporated in the Criminal Procedure Code with a noble cause of ensuring good governance among the States and maintaining the peace of India. However, it was often misused by the Centre in order to gain control over the States ruled by other parties.

We need to build in this county an environment in which laws and lawful orders are respected. Instead we are moving more and more towards a state of anarchy in which the strong dominate the weak, mobs rather than the Police rule the streets and the normal life of the people is disrupted from time to time because someone decides to organize a protest or an agitation. Such protests, such agitations, without necessarily promoting their own cause, result in disruption of normal life and must be put down with a heavy hand. People accuse the Police of being an instrument for terrorizing of the citizens.

My allegation, however, is that we have rendered the Police to a state of impotence, so that it now finds it difficult to maintain public order even under normal circumstances. This is a very dangerous portent.