

THE IDENTIFICATION OF PRISONERS ACT, 1920

An Act to authorize the taking of measurements and photographs of convicts and others

Whereas it is expedient to authorise the taking of measurements and photographs of convicts and others; it is hereby enacted as follows:

1. Short title and extent. — (1) This Act may be called the Identification of Prisoners Act, 1920; and

(2) It extends to the whole of India except the territories which, immediately before the 1st November, 1956, were comprised in Part B States.

2. Definitions. — In this Act, unless there is anything repugnant in the subject or context, —

(a) “*measurements*“ include finger-impressions and foot-print impressions;

(b) “*police officer*“ means an officer in charge of a police station, a police officer making an investigation under **[11]**[Chapter XIV of the Code of Criminal Procedure, 1898] or any other police officer not below the rank of Sub-Inspector; and

(c) “*prescribed*“ means prescribed by rules made under this Act.

STATE AMENDMENTS

Madhya Pradesh

In its application to the State of Madhya Pradesh in Section 2, clause (a), for the words “finger impressions”, substitute the words “finger impressions, palm-impressions”.

[M.P. Act 40 1961].

Tamil Nadu

In its application to the State of Tamil Nadu in Section 2, Clause (b), after the words “Sub-Inspector” the words “and includes Finger Print Experts of the Finger Print Bureau, Madras and of the Single Digit Finger Print Section in the State of Tamil Nadu” inserted.

[T.N. Act 44 of 1981].

3. Taking of measurements, etc., of convicted persons. — Every person who has been, —

(a) convicted of any offence punishable with rigorous imprisonment for a term of one year or upwards, or of any offence which would render him liable to enhanced punishment on a subsequent conviction; or

(b) ordered to give security for his good behaviour under Section 118 of the Code of Criminal Procedure, 1898 (5 of 1898) [2].

shall, if so required, allow his measurements and photograph to be taken by a Police Officer in the prescribed manner.

STATE AMENDMENTS

Gujarat

In clause (b) of Section 3, add the following at the end:

“or under Section 93 of the Bombay Prohibition Act, 1949”.

[Bombay Act 58 of 1953].

Maharashtra:

For Section 3, substitute the following namely, —

“3. Taking of measurements, etc., of convicted persons. — Every person who has been —

(a) convicted of any offence punishable with rigorous imprisonment for a term of one year or upwards or of any offence punishable under Section 19 of the Dangerous Drugs Act, 1930, or of any offence which would render him liable to enhanced punishment on a subsequent conviction, or

(b) ordered to give security for his good behaviour under Section 118 of the Code of Criminal Procedure, 1898, or under Section 93 of the Bombay Prohibition Act, 1949, or to give security for abstaining from commission of certain offences under Section 18 of the Dangerous Drugs Act, 1930.

shall if so required allow his measurements and photographs to be taken by a police officer in the prescribed manner.”

[Maharashtra Act 35 of 1970].

4. Taking of measurement, etc., of non-convicted persons. — Any person who has been arrested in connection with an offence punishable with rigorous imprisonment for a term of one year or upwards shall, if so required by a police officer, allow his measurements to be taken in the prescribed manner.

STATE AMENDMENTS

Gujarat:

(i) In its application to the State of Gujarat for Section 4, the following substituted, namely:

“4. Taking of measurements of photographs of non-convicted persons. — An person —

(a) who has been arrested —

(i) under Section 55 of the Code of Criminal Procedure, 1898, or under Section 4 of the Bombay Beggars Act, 1945;

(ii) in connection with an offence punishable under Section 122 of the Bombay Police Act, 1951, or under Section 6 or 9 of the Bombay Beggars Act, 1945, or in connection with an offence punishable with rigorous imprisonment for a term of one year or upwards, or

(b) in respect of whom a direction or order under Section 55 or 56 of the Bombay Police Act, 1951, or under sub-section (1) or (2) of Section 23 of the Bombay Beggars Act, 1945, or under Section 2 of the Bombay Public Security Measures Act, 1947, has been made,

shall, if so required by a police officer, allow his measurements or photograph to be taken in the prescribed manner.”

(ii) After Sec. 4 insert Section 4A as in Maharashtra.

[Act 11 of 1960].

Karnataka

In its application to the State of Karnataka, for Section 4 substitute the following:

“4. Taking of measurements or photographs of unconvicted persons. — Any person —

(a) who has been arrested in connection with an offence punishable under Section 96 of the Karnataka Police Act, 1963, or in connection with an offence punishable of the Karnataka Police Act, 1963, or in connection with an offence punishable with rigorous imprisonment for a term of one year or upward or in connection with an offence for the commission of which on a second or subsequent occasion enhanced penalties have been provided for under any law for the time being in force; or

(b) in respect of whom direction or order under Section 54 or 55 of the Karnataka Police Act, 1963, has been made,

shall if so required by a police officer, allow his measurements or photographs to be taken in the prescribed manner.

(i) After Section 4, insert the following:

“4-A. Taking of measurements, etc. of habitual offenders against whom restriction order is made. — Any person against whom an order of restriction has been made under the provisions of the Karnataka Habitual Offenders Act, 1961, shall if so required by a Police Officer, allow his measurements of photograph to the taken in be prescribed manner”.

[Karnataka Act 29 of 1975].

(ii) After Section 4-A as inserted in Karnataka insert the following the following:

“4-B. Taking of measurement, etc., of beggars under the Karnataka Prohibition of Beggary Act, 1975. — Any person who has been arrested and not released under sub-section (2) of Section 11 of the Karnataka Prohibition of Beggary Act, 1975 (Karnataka Act 27 of 1975) or against whom an order of detention has been made under sub-section (1) of Section 12 of the said Act, shall, if so required by an officer-in-charge of a receiving centre or relief centre allow his measurements and photographs to be taken in the prescribed manner.”

[Karnataka Act 1 of 1987].

Maharashtra

For Section 4, substitute the following:

“4. Any person arrested —

(a) who has been convicted —

(i) in connection with an offence punishable under Section 19 of the Dangerous Drugs Act, 1930, or Section 66, 69 or 85 of the Bombay Prohibition

Act, 1949, or Section 122 of the Bombay Police Act, 1951, or Section 7 of the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, or Section 8 of the Suppression of the Immoral Traffic in Women and Girls Act, 1958, or Section 6 or 11 of the Bombay Prevention of Begging Act, 1959, or any other offence punishable with rigorous imprisonment for a term of one year or upwards, or

(ii) under Section 54, 55 or 151 of the Code of Criminal Procedure, 1898 or Section 4 of the Passport (Entry into India) Act, 1920, or

(b) in respect of whom a direction or order under Section 5 of the Passport (Entry into India) Act, 1920, or under Section 55, 56 or 57 of the Bombay Police Act, 1951, has been made, or

(c) to whom a pardon has been tendered under Section 337 or 338 or who has been acquitted under Section 339-A of the Code of Criminal Procedure, 1898.

shall, if so required by a Police Officer, allow his measurements or photograph to be taken in the prescribed manner.”

[Maharashtra Act 35 of 1970].

In its application to the State of Bombay, after Section 4, insert the following:

“4-A. Taking of measurements, etc., of habitual offenders against whom restriction under is made. — Any person against whom an order of restriction has been made under the provisions of the Bombay Habitual Offenders Act, 1959, shall, if so required, allow his measurements and photographs to be taken by a police officer in the prescribed manner”.

[Bombay Act 58 of 1953, and Maharashtra Act 35 of 1970].

5. Power of Magistrate to order a person to be measured or photographed.

— If a Magistrate is satisfied that, for the purposes of any investigation or proceeding under the Code of Criminal Procedure, 1898, it is expedient to direct any person to allow his measurements or photograph to be taken, he may make an order to the effect, and in that case the person to whom the order relates shall be produced or shall attend at the time and place specified in the order and shall allow his measurements or photograph to be taken, as the case may be, by a police officer:

Provided that no order shall be made directing any person to be photographed except by a Magistrate of the first class:

Provided further, that no order shall be made under this section unless the person has at some time been arrested in connection with such investigation or proceeding.

STATE AMENDMENTS

Gujarat, Maharashtra

In Section 5 —

(a) in the first proviso, for the words “except by a Magistrate of the first class” substitute the words “except by the District Magistrate, Sub-Divisional Magistrate, a Magistrate of the first class”.

[Bombay Act 8 of 1954, and Maharashtra Act 35 of 1970; Act 11 of 1960].

(b) to the first proviso, add the words “or a Presidency magistrate”. Now it has been replaced by the words “Metropolitan Magistrate”. Besides Bombay, Calcutta and Madras, Ahmedabad have such Magistrates, See Criminal Procedure Code, 1973, Sections 8 and 16. Bombay Act 11 of 1922, Bombay Act 17 of 1945,

Maharashtra Act 35 of 1970, Act 11 of 1960].

Karnataka

In its application to the State of Karnataka, in Section 5, substitute the following for first proviso:

“Provided that no order shall be made directing any person to be photographed except by a District Magistrate, a Sub-Divisional Magistrate or a Magistrate of the First Class.”

[Karnataka Act 29 of 1975].

Comments

Merely because a person was earlier prosecuted for an offence, the same not a ground to connect the said person to an habitual offender or addicted to crime. *M.S. Syed Anwar and etc. v. Commissioner of Police, Bangalore City and another.* 1992 Cri.L.J 1606 (Kant)

6. Resistance to the taking of measurements, etc. — (1) If any person who under this Act is required to allow his measurements or photograph to be taken resists or refuses to allow the taking of the same, it shall be lawful to use all means necessary to secure the taking thereof.

(2) Resistance to or refusal to allow taking of measurements or photograph under this Act shall be deemed to be an offence under Section 186 of the Indian Penal Code, 1860.

7. Destruction of photographs and records of measurements on acquittal.

— Where any person who, not having been previously convicted of an offence punishable with rigorous imprisonment for a term of one year or upwards, has had his measurements taken or has been photographed in accordance with the provisions of this Act is released without trial or discharged or acquitted by any court, all measurements and all photographs (both negatives and copies) so taken shall, unless the court or (in a case where such person is released without trial) the District Magistrate or Sub-divisional Officer for reasons to be recorded in writing otherwise directs, be destroyed or made over to him.

STATE AMENDMENTS

Gujarat: Maharashtra

In Section 7, after the words `officer' insert the words “or in any area for which a Commissioner of Police has been appointed the Commissioner of Police.”

[Bombay Act 11 of 1922, Bombay Acts 17 of 1945, 21 of 1954, and 56 of 1959 :
Maharashtra Act 35 of 1979, and Act 11 of 1960].

Karnataka:

For Section 7, substitute the following:

“7. Destruction of photographs and records of measurements, etc. on acquittal. — Where any person who not having been previously convicted of an offence punishable with rigorous imprisonment for a term of one year or upwards, has had his measurements taken or has been photographed in accordance with the provisions of this Act, is released without trial or discharged or acquitted by any court, all measurement and all photographs (both negative and copies) so taken shall, unless the court or in a case where a person is released without trial, the District Magistrate or the Sub-Divisional Magistrate or in any area where a Commissioner of Police, has been appointed, the Commissioner of Police for reasons to be recorded in writing otherwise directs be destroyed or made over to him.”

[Karnataka Act 29 of 1975].

8. Power to make rules. — (1) The State Government may [3] [by notification in official Gazette] make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for, —

- (a) restriction on the taking of photographs of persons under Section 5;
- (b) the places at which measurements and photographs may be taken;
- (c) The nature of the measurements that may be taken;
- (d) the method in which any class or classes or measurements shall be classed or taken;
- (e) the dress to be worn by a person when being photographed under Section 3; and
- (f) the preservation, safe custody, destruction and disposal of records of measurements and photographs

[4] [Every rule made under this section shall be laid, as soon as may be, after it is made before State Legislature].

STATE AMENDMENTS

Gujarat, Maharashtra

In clause (e) of sub-section (2), for the words “under Section 3” substitute the words “in accordance with the provisions of this Act”.

[Bombay act 58 of 1953, Mah. Act 35 of 1970, and Act 11 of 1960].

Karnataka

In its application to the State of Karnataka in Clause (e) of sub-section (2) of Section 8, for the words “under Section 3” substitute the words “in accordance with the provisions of this Act”.

[Karnataka Act 29 of 1975].

9. Bar of suits. — No suit or other proceedings shall lie against any person for anything done, or intended to be done in good faith under this Act or under any rule made thereunder.