

CODE OF CRIMINAL PROCEDURE

■ Dr. M.N. Buch

In Chapter X, after section 132 add the following sections:-

Section 132-A : Power to declare areas as disturbed.

- (1) If in the opinion of the Central Government, the State Government or the Administrator of an Union Territory the law and order situation in an area or areas of the State or Union Territory is such as to require the prolonged deployment of armed forces in the aid of civil power, the Central or State Government or the Administrator of an Union Territory may, by notification in the Official Gazette, declare such area or areas as disturbed.

Provided that such notification will, unless renewed, lapse at the end of one year from the date of notification.

Provided further that the Central or State Government or the Administrator of an Union Territory may withdraw such notification at any time if the situation so warrants.

- (2) In case of difference of opinion between the Central or State Government or the Administrator of an Union Territory about whether or not the notification shall continue to be in force or be renewed, the opinion of the Central Government will prevail.

Section 132 –B: Powers of the Armed Forces in an area notified as disturbed under Section 132- A (1)

Commissioned, Gazetted, Junior Commissioned, Non-Gazetted and Non-Commissioned Officers of the Armed Forces and other members of the Armed Forces acting under orders of the above named officers will, when acting in aid of civil power in an area notified as disturbed, enjoy the following powers:-

- (a) All the powers of a police officer under sections 41,42, 47, 48, 51 and 52 in the matter of arrest of a person suspected of having committed a cognisable offence, search of premises for the above purpose and search of arrested persons and seizure of offensive weapons.
- (b) To command an unlawful assembly or an assembly otherwise considered to be inimical to the public peace, to disperse and to use necessary force, if need be, to cause the assembly to disperse. This will be in addition to the powers already enjoyed under section 131 Cr.P.C.
- (c) All the powers of a Police Officer under sections 149, 150, 151 and 152 Cr.P.C. to prevent the commission of a cognizable offence to arrest the person or persons likely to commit such offence and to intervene in order to prevent injury to any public property.

Section 132-C:

- (1) Arrested persons to be made over to the police: Any person arrested and taken into custody by the Armed Forces acting in aid of civil power shall be made over to the officer incharge of the nearest police station with the least possible delay and in any case not later than 24 hours after arrest, together with a report of the circumstances of the arrest.
- (2) The police officer to whom the arrested person is handed over will treat the arrest as one made by the police and proceed to act as per law against the arrested person or persons.
- (3) Every arrest made by a member of the Armed Forces will be reported by the police officer to whom an arrested person is handed over, to the District Magistrate and if so directed by the

District Magistrate to a Sub Divisional Magistrate, as if it is an arrest made by the police without a warrant, as required by section 58 Cr.P.C.

Section 132-D: Powers of superior officers.

For the purpose of this Act powers of superior police officers as per section 36 Cr.P.C will be exercised by superior officers of the Armed Forces over their subordinates when they act in aid of civil power and acting in pursuance of the power vested by section 132-B Cr.P.C and no police officer will have any jurisdiction in this behalf.

Section 132 –E:

1. Protection to Armed Forces personnel acting under the Act. No prosecution, suit or other legal proceedings shall be instituted, except with the previous sanction of the Central Government, against any personnel of the Armed Forces acting in aid of civil power.
2. The above protection will be in addition to the protection available under section 132 Cr.P.C. and section 197 Cr.P.C.

Section 132- F: Civil Power in an area notified to be disturbed.

For the purpose of this Act the civil power in an area notified to be disturbed will mean the District Magistrate of the District, Collector /Deputy Commissioner of the District in a metropolitan area where there is a Commissioner of Police, or any other officer notified by the Central Government, State Government or the Administrator of a Union Territory as the case may be.
