

The Chhattisgarh Tonahi Pratadna Nivaran Act, 2005

Act 17 of 2005

Keyword(s):

Tonahi, Identifier, Ojha, Damage



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रायपुर, दिनांक 30 सितम्बर 2005

क्रमांक 7758/21-अ/प्रारूपण/04.—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में छत्तीसगढ़ टोनाही प्रताड़ना निवारण अधिनियम, 2005 (क्र. 17 सन् 2005) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्वारा प्रकाशित किया जाता है.

छत्तीसगढ़ के राज्यपाल के नाम से तथा आदेशानुसार,
विमला सिंह कपूर, उप-सचिव.

THE CHHATTISGARH TONAHÍ PRATADNA NIVARAN ACT, 2005
(No. 17 of 2005)

Be it enacted by the Chhattisgarh Legislature in the Fifty-sixth year of the Republic of India as follows :—

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| Short title, extent and commencement. | 1. | (1) | This Act may be called the Chhattisgarh Tonahi Pratadna Nivaran Adhiniyam, 2005. |
| | | (2) | It extends to the whole State of Chhattisgarh. |
| Definitions. | | (3) | It shall come into force from the date of its publication in the Official Gazette. |
| | 2. | In this Act, unless the context otherwise requires,— | |
| | | (1) | "Tonahi" means person indicated by any person or persons that he will harm or possesses power to harm or thereby he intends to harm any other person or persons or society or animal or living things by black magic, evil eye or by any other means, whether known as Dayan, Tonaha or by any other names. |
| | | (2) | "Identifier" means person who indicates any person as Tonahi or induces other person to indicate or by his deed, words, gesture or behaviour helps to indicate or knowingly does anything so, thereby on the basis of such indication that person may be harmed or apprehended to be harmed or his security and honour may be adversely affected. |
| | | (3) | "Ojha" may be known by any other name what so ever, means person who claims to possess power to control, cure, treat Tonahi or any person or animal or living things alleged to be affected by Tonahi and make him powerless, by jharphook, totka, tantra-mantra or by any means. |
| | | (4) | "Damage" includes physical, mental and economic harm and harm to reputation. |
| Act not in derogation of any other law. | | (5) | "Code" means the Code of Criminal Procedure, 1973 (No. 2 of 1974). |
| Punishment for identifying Tonahi. | 3. | The Provision of this Act shall be in addition to and not in derogation of any other law for the time being in force. | |
| Punishment for harassment. | 4. | Whoever identifies any person as tonahi by any means shall be punished with rigorous imprisonment for a term which may extend to 3 years and also with fine. | |
| | 5. | Whoever causes physical or mental harassment or damage to any person identified by him or any person as tonahi shall be punished with rigorous imprisonment for a term which may extend to 5 years and also with fine. | |

6. Whoever does any act of jhar-phook, totka, use of tantra-mantra or anything as Ojha upon any person indicated as a tonahi or any other person or animal or living thing alleged to be affected by such tonahi, under any claim of treatment or control shall be punished with rigorous imprisonment for a term which may extend to 5 years and also with fine. Punishment for alleged curing.
7. Whoever claims to have power to harm any person or animal or living things by black magic, evil eye or by any other means and publicizes it and tries to disturb the public tranquility or peace or causes annoyance or harms others shall be punished with rigorous imprisonment for a term which may extend to one year and also with fine. Punishment for claiming to be tonahi.
8. Whoever attempts to commit any offence punishable under this Act or to cause such offence to be committed and in such attempt does any Act towards the commission of the offence shall be punished with the punishment provided for the offence. Punishment for attempt to commit offence.
9. Every offence under this Act shall be triable by the Judicial Magistrate First Class: Trial of offences under the Act.
10. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (No. 2 of 1974),— Offences to be cognizable and nonbailable.
- (a) every offence punishable under this Act shall be cognizable and nonbailable.
- (b) no person accused of an offence punishable under this Act shall be released on bail or on his own bond unless, the public prosecutor has been given an opportunity to oppose the application for such release.
11. Nothing contained in section 360 of the Code of Criminal Procedure, 1973 (No. 2 of 1974) or in the Probation of Offenders Act, 1958 (No. 20 of 1958) shall apply to a person convicted of an offence under this Act unless such person is under eighteen years of age. Application of Section 360 of the Code of Criminal Procedure, 1973 and of the Probation of Offenders Act, 1958.
12. Where a sentence of fine is imposed under Sections 4, 5 and 6, the court in fixing the amount of the fine shall take into consideration the physical and mental damage caused to victim including any cost of treatment. Matters to be taken into consideration for fixing fine.
13. When a court imposes sentence of fine, the court shall when passing judgment, order the whole or part of the fine recovered to be awarded as compensation to the victim. Order for Compensation.
14. No Civil court shall entertain any suit or proceeding against any decision made or order passed by any officer or authority under this Act or any rule made thereunder. Bar of Jurisdiction.
15. No suit, prosecution or other legal proceeding shall lie against the State Government or any officer of the State Government or any other person exercising any power or discharging any function or performing any duty under this Act, for anything done in good faith or intended to be done under this Act or any rule made thereunder. Protection of Actio taken in good faith.
16. The State Government may, by notification make the rules to carry out the provisions of this Act. Power to make Rule.

Every rule made under this Act by the state government shall be laid, as soon as may be after it is made, before the state-legislature.