Criminal Laws (Rajasthan Amendment) Ordinance, 2017

Why in news?

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The Rajasthan government has recently brought an ordinance to shield judges and bureaucrats facing allegations of corruption from probe.

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What are the provisions?

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- The Rajasthan government recently passed Criminal Laws (Rajasthan Amendment) Ordinance, 2017.
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- It is now sought to be made into a law.
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- It protects serving and former judges, magistrates and public servants from being investigated for on-duty action, without government's prior sanction.
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- It provides 180 days immunity to the officers.
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- If there is no decision on the sanction request after this stipulated time period, it will automatically mean that sanction has been granted.
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- In addition, it prevents the media from reporting on accusations on such persons till the sanction for probe is obtained.
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- Violating this clause would call for two years imprisonment.
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What is the concern?

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- **Corruption** - These changes seem to be increasingly shielding the public officials from corruption cases.

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- Insulating honest officials from frivolous or motivated charges of wrong-doing is justifiable.
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- However, prosecution for disclosing the identity of the public servants concerned offers an unjustifiable protection to erring officials.
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- Also this special protection to those in power, in instances of corruption, seems to go against Article 14 of the Constitution, conferring equal rights in front of the law.
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- **Media freedom** - This is the first time a section prescribing punishment for disclosure is being introduced in India.
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- It is a grave threat to media freedom and the public's right to know.
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- **Investigation** - Provisions in CrPC and Prevention of Corruption Act already make prior sanction mandatory, before a court can take cognizance of a public servant corruption case.
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- Iin addition to this, the ordinance, also restraints judicial magistrates from ordering an investigation without prior sanction.
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- This could hamper a possible probe, as no investigating agency can approach a sanctioning authority without gathering any material.
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What should be done?

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- Noticeably, the Supreme Court had earlier struck down a statutory provision for prior government clearance for a CBI probe against officials of the rank of joint secretary and above.
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- This verdict is a touchstone to test the constitutionality of the pre-investigation sanction requirement.
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- So centre should speed up amendments that redefine criminal misconduct among public servants at the same time protecting legitimate decisions.
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- In all, the anti-corruption legislations should aim at punishing the corrupt, protecting the honest, and ensuring whistle-blower safety.

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Source: The Hindu, Business Standard

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