

**RECOMMENDATION FOR SUITABLE AMENDMENT
IN THE GUJARAT PREVENTION OF GAMBLING
ACT, 1887**

Betting in sports is illegal in the country and it creates a wide scope for black money generation. As per one report, betting market in India is of approximately, Rs.3,00,000 crores (Rupees Three Lacs Crores), since cricket betting is widespread in the country. People resort to illegal channels such as bookies / bookmaker that facilitate gambling by setting odds, accepting and placing bets and paying out winnings on behalf of other people. Illegal betting leads to malpractices such as, match-fixing or spot-fixing wherein the bookie fixes the outcome of the event in his favor by having an illegal agreement with the sportsperson. This leads to bettors being cheated at the hands of bookmakers, thereby enabling them to earn huge sums of black money.

The Indian Premier League (IPL) has been marred by betting and spot fixing scandals and involvement of huge amount of black money. As per news reports, some of the players are paid more than the payment

slabs prescribed by the Board of Control for Cricket in India (BCCI), with certain amount paid through legitimate means and some in black. During the IPL 2013 season, in a spot fixing scam, several cricketers were arrested for accepting money from bookies to throw away matches.

In the aforesaid context, in the Judgment rendered in the case of **Board of Control for Cricket in India v/s. Cricket Association of Bihar & Ors. [JT 2015 (1) SC 526]**, the Hon'ble Supreme Court observed that,

“Allegations of sporting frauds like match fixing and betting have for the past few years cast a cloud over the working of the Board of Cricket Control in India (BCCI). Cricket being more than just a sport for millions in this part of the world, accusations of malpractices and conflict of interests against those who not only hold positions of influence in the BCCI but also own franchises and teams competing in the IPL format have left many a cricketing enthusiasts and followers of the game worried and deeply suspicious about what goes on in the name of the

game. There is no denying the fact that lowers the threshold of tolerance for any wrong doing higher is the expectation of the people, from the system. And cricket being not only a passion but a great unifying force in this country, a zero tolerance approach towards any wrong doing alone can satisfy the cry for cleansing.”

Further, the Court referred to “fundamental sporting imperatives” stated in the Anti Corruption Code, which is claimed to have been adopted by BCCI. One of the imperatives is:—

“1.1.3 Advancing technology and increasing popularity have led to a substantial increase in the amount, and the sophistication, of betting on cricket matches. The development of new betting products, including spread-betting and betting exchanges, as well as internet and phone accounts that allow people to place a bet at any time and from any place, even after a cricket match has started, have all increased the potential for the development of corrupt betting practices...”

Recommendation for suitable amendment in The Gujarat Prevention of Gambling Act, 1887

It is well-known fact that number of persons are watching cricket match with interest. It is also well-known fact that “cricket betting (gambling)” is taking place in various forms and the stake involved therein is very high. Taking advantage of this interest, large amount is kept on stake in gambling for the victory or defeat of one or other team. Even on occasion, whether a particular batsman would complete his century or not, or with regard to score of a team, or wickets by a bowler; betting takes place.

Recently, Enforcement Department (“ED”) has carried out raid at various places, under The Foreign Exchange Management Act, 1999 and, thereafter, under The Prevention of Money Laundering Act, 2002. At such places, it was found that there was betting of large amount involving number of persons within the country and/or outside the country. Despite the amount being large and the transactions having inter-State and inter-national involvement, the persons dealing with such betting are released by the Court under The Gujarat Prevention of Gambling Act, 1887 immediately, as the offence is bailable.

Recommendation for suitable amendment in The Gujarat Prevention of Gambling Act, 1887

In the aforesaid case, involvement of huge illegal, unaccounted money in cricket betting has been noticed by ED, where betting was being done over internet or using electronic gadgets. It is also stated that some websites (may be outside the country) are providing online betting facilities for various sport events, such as cricket, football, etc.

Earlier, many times, these racketeers were found to be arrested by Police under the said Act but were released immediately, as the offence is bailable. It is also known that the same persons or their associates are continuing this illegal activity. This reveals that since the law is not deterrent, they have no fear in continuing the said activity, as it is much more paying.

In this view of the matter, the punishment for those who operate cricket betting, should be made deterrent and for imposing higher punishment to those who are indulging in cricket betting. For this purpose, after Section 5, it is recommended to add Section 5(2), to provide for higher punishment and to

make the offence non-bailable for operators so as to control inter-State and cross border gambling / betting.

In addition, it is also known that online gambling is taking place without any hindrance. Therefore, if thought proper, it would be advisable to recommend to the Central Government for blocking such websites, under The Information Technology Act, 2000.

RECOMMENDATIONS

A. Section 5 of The Gujarat Prevention of Gambling Act, 1887 provides for “Gaming in common gaming houses” which reads as under:—

“5. Gaming in common gaming houses:—

Whoever is found in any common gaming-house gaming or present for the purpose of gaming, shall, on conviction, be punishable with imprisonment which may extend to six months and with fine:

Recommendation for suitable amendment in The Gujarat Prevention of Gambling Act, 1887

Provided that—

- (a) for a first offence, such imprisonment shall not be less than one month and fine shall not be less than two hundred rupees;*
- (b) for a second offence, such imprisonment shall not be less than three months and fine shall not be less than two hundred rupees; and*
- (c) for a third or subsequent offence, such imprisonment shall not be less than six months and fine shall not be less than two hundred rupees.*

Any person found in any common gaming-house during any gaming therein shall be presumed, until the contrary is proved, to have been there for the purposes.”

Recommendation for suitable amendment in The Gujarat Prevention of Gambling Act, 1887

After the afore-quoted Section 5, suggested Section 5(2) is required to be added which is as under:-

“5(2) Cricket Betting

(a) *Whosoever operating cricket betting shall be punishable with imprisonment which may extend to five years and shall also be liable to fine of one lac rupees.*

(b) *Whosoever is found in any common gaming house, gaming or present for the purpose of gaming or for gaming done over internet or by telephone, or using electronic gadgets, shall be punishable with imprisonment which may extend to one year and shall also be liable to fine upto twenty five thousand rupees.”*

B. Apart from the aforesaid amendment, it would be advisable to recommend to the Central Government for blocking online betting websites, under The Information Technology Act, 2000.

Date : April, 2015
Place : Ahmedabad

JUSTICE M. B. SHAH
Former Judge
Supreme Court of India
AND
Chairman
Gujarat State Law Commission