

Abstract

With the coming into effect of the 13th amendment to the constitution of Sri Lanka, a body other than Parliament was given legislative powers for the first time and thereby Provincial councils were vested with limited legislative powers. The 13th amendment enables the Provincial Council to make Statutes over the subjects in Provincial Council List and Concurrent under the limitations and restrictions prescribed by the Constitution. Therefore the Provincial Councils enact Statutes for their provinces. Promulgating offences is a devolved item under the the13th amendment. Therefore the most of the Statutes of Provincial Councils contain penal provisions and such penal provisions confer powers on Magistrate to adjudicate the matters arising therein. But the Conferring power on courts is not a devolved item under the 13th amendment. Parliament laws and Provincial Council Statues are having different statuses. Judicature Act, the Penal Code, and the Criminal Procedure Code are the main sources that confer powers on Magistrate Court. But these Acts have been enacted before the operation of the Thirteenth Amendment. Parliament has retained the power as to justice in so far as it relates to the judiciary, the court structure, and powers of the Courts under the reserved list. Then it arises an issue whether provisions of the present legal regime are sufficient to recognize provincial council statutes as a source, conferring powers on Magistrate courts. This study aims to identify the legality of Penal provisions of Provincial Council Statutes which confer the powers of Magistrate Courts under the existing legal regime. To fulfill this task the researcher adopts both the doctrinal/black letter approach and empirical approach in the gathering of data. Both primary and secondary data quantitatively and qualitatively are gathered using primary and secondary sources. Therefore a mixed method has been followed in this thesis.

Keywords- Amendment /Provincial Council Statutes / Penal Provisions / Magistrate Courts