

A STUDY ON THE CRIMINAL JUSTICE REFORMS

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ABSTRACT

To control the situation of law and order, the criminal justice reformation was performed in Indian law. This system is very old as it is being followed from the British times. All the State's police and courts fall in this system. All the rules and regulations mentioned under these justice reforms are followed by the government administrations.

A number of laws are included in his justice system where some laws are old and some laws are new. The updation in the laws is a continuous process where some changes are made time to time. The acts such as Protection of Civil Rights Act, 1955, Dowry Prohibition Act, 1961 come in the category of criminal justice reforms. The provisions of penalties are also mentioned in this system where a systematic way of law procedure is mentioned and that procedure needs to follow in order to make justice. The current paper highlights the criminal justice reforms.

KEYWORDS:

Criminal, Justice, Reforms

INTRODUCTION

The fundamental potential pathway develops the possibility that peer affirmation thinks about positive cooperations with partners, which in this manner, fortifies the progression of social and passionate capacities. In like way, youngsters with low partner affirmation (e.g., social dismissal) and also the individuals who are effectively restricted by their friends (e.g., social reject), may make social-enthusiastic needs which would then have the capacity to incite later maladjustment. In the second proposed pathway, it is prescribed that peer expulsion prompts higher elements of internal inconvenience (slants of misery or lack), which may energize maladaptive practices (Kupersmidt et al., 2000).

Support for this causal model has been displayed through revelations which show that peer affirmation is connected with positive social capacities and flexible energetic working while peer expulsion and dismissal are connected with inside torment and conduct issues.

In outline, there is an abundance of composing developing an association between low social help and confidence with youth reactions of psychopathology, all things considered. Moreover, there has every one of the reserves of being assention among researchers that low confidence, and what's more a nonappearance of positive social help, places kids at explicit danger for later making reactions of despair and pressure. In any case, a couple of request stay as for the correct thought of these

connections. For instance, the reality of the situation may prove that confidence and social help intercede connections between ancestor factors and masking symptomology.

Of course, confidence and social help may go about as coordinating variables. In particular, these two factors in blend with trailblazer conditions may serve to either enhance or reduce the likelihood of making anxious and troublesome symptomology, more so than the ancestors acting alone. In perspective of these request, it gives off an impression of being likewise suitable to look into the forerunner conditions which may be connected with confidence and social help. One potential antecedent that has starting late gotten thought is peer exploitation, similarly by and large insinuated as pestering or pushing.

The strong association between buddy exploitation and debilitation was found in all of the twelve examinations that investigated this relationship in Hawker and Boulton's (2000) meta-consistent review. Research exhibits that kids and youngsters who are bothered are well while in transit to respond with either inconvenience or shock.

As demonstrated by Rigby (2006), wretchedness is in reality progressively horrendous for the unfortunate casualty in light of the fact that these individuals are less prepared to make sense of how to adjust to the condition than individuals who respond with resentment and may search for ways to deal with stop the harassing. The strong association among

exploitation and melancholy features the potential malevolent effects that harassing can have on youth.

In this way, it gives that for casualties of both very close (i.e., standard or normal harassing) and social hostility, an a lot of research suggests that exploitation may provoke masking wretchedness, for instance, sadness, demoralization, anxiety, and low certainty or to the headway of externalizing practices, for instance, issues with carefulness and other oppositional practices. Disregarding the way that results are mixed similarly as the kinds of maladjustment that are most routinely found in folks and females, it has been settled that the two sexual introductions are in risk when misled by tormenting.

Extra proof of the more genuine risk of psychosocial maladjustment among hazard/unfortunate casualties was appeared by reports of poorer relationship with partners, extended wretchedness, and an extended threat of smoking and alcohol use for some age get-togethers.

Research shows that the most genuinely maladjusted youngsters were the general population who were deceived by partners through different sorts of enmity, including physical, verbal, and social. Almost certainly, experiencing computerized tormenting close by no less than one of these distinctive structures would in like manner put unfortunate casualties at higher peril for psychosocial maladjustment.

No is considered the psychosocial risks of incorporation in this kind of enmity on threats or unfortunate casualties. The couple of examinations that have been driven suggest that, as very close tormenting, there is a strong association between advanced harassing and psychosocial maladjustment for the two harassers and exploited people.

CRIMINAL JUSTICE REFORMS

By the flowchart herein below, an attempt is being made to make the reader briefly understand the process of criminal investigation and trial in India, as a lot of foreign companies and Ex-pats are coming to India, and due to unfortunate circumstances, they may, at times find themselves embroiled in unnecessary criminal cases.

To appreciate the process of Indian criminal law, it is necessary that to understand following important terminology:

1. **Bailable Offence**, means an offence, which has been categorized as bailable, and in case of such offence, bail can be claimed, subject to fulfillment of certain conditions, as a matter of right under Section 436 of the Cr. P.C. In case of bailable offences, the Police is authorized to give bail to the accused at the time of arrest or detention.
2. **Non-bailable Offence**, means an offence in which the bail cannot be granted as a matter of right, except on the orders of a competent

court. In such cases, the accused can apply for grant of bail under Section 437 and 439 of the Cr.P.C. It is important to note that the grant of bail in a non-bailable offence is subject to judicial discretion of the Court, and it has been mandated by the Supreme Court of India that "Bail, not Jail" should be the governing and guiding principle.

3. **Anticipatory Bail**, under Section 438 of the Cr. P.C., means that a person who apprehends arrest on a wrong accusation of committing a non-bailable offence, can apply before a competent court for a direction to police to immediately release such a person on bail in the event of arrest. However, the grant of anticipatory bail is discretionary and dependant on the nature and gravity of accusations, the antecedents of the applicant and the possibility of the applicant fleeing from justice.

4. **Cognizable Offence/case**, has been defined under Section 2 (c) of Cr. P.C., as an offence/case in which a Police Officer can arrest without a warrant.

5. **Non-cognizable Offence/case**, has been defined under Section 2 (l) of Cr. P.C., as an offence/case in which a Police Officer has no authority to arrest without a warrant.

6. Whether an offence/case is **bailable or not bailable**, and **cognizable or non-cognizable**, has been qualified under the

1st Table of the 1st Schedule of Cr. P.C., which relate to the offences under IPC.

7. **F.I.R (first information report)**, is formal recordable of a complaint, by police in case of commission of a cognizable offence, and can be considered as a first step in the process of the investigation of a cognizable offence by Police.

8. The Table II of the 1st Schedule of Cr. P.C., gives a general guideline to determine whether an offence is bailable, non-bailable, cognizable or non-cognizable. The criteria in the table below, is applicable in those cases which are silent on this aspect. For easy understanding, the following criteria may be understood:

Offence	Cognizable or Non-Cognizable	Bailable or Non-bailable
Punishable With Imprisonment For • Less Than 3 Years or with fine only	Non-cognizable	Bailable
Punishable With Imprisonment For • 3 Years or more	Cognizable	Non-Bailable

9. The criminal investigation process and prosecution mechanism in India, can be started in any of the following manner:

a. On complaint /reporting /knowledge of the commission of a cognizable offence, any police officer, even without the orders of a Magistrate, can investigate the cognizable case.

In case of failure or inaction of a police officer to investigate a cognizable offence, a criminal complaint can be filed before a Magistrate under Section 190 of Cr. P.C., for taking cognizance of such offence, and on such complaint, the Magistrate himself can take cognizance of the case and do the enquiry, or in the alternative under Section 156 (3) of the Cr. P.C., order Police to register an F.I.R and investigate the offence.

b. In case of non-cognizable offence, Police is not obliged to investigate, and the judicial process can be started by filing a criminal complaint before the competent court.

DISCUSSION

Barring the statutorily exempted category, hearsay evidence is not acceptable as legal evidence in view of the implied prohibition under Section 60 of the Evidence Act, 1872. Very often non-occurrence witnesses may testify before court that other persons told them that the accused had stabbed the deceased and so on. Such statements as such, need not be recorded unless they constitute res gestae evidence, extra judicial confession or any other exempted category. Where during the course of the trial if one or more accused are found

absconding then their bail should be cancelled immediately and his surety shall be summoned to produced such absconding accused or pay-up amount of surety. There are then two options available to the court. One is to merely issue arrest warrant against them and continue with the trial with the accused present by segregating trail of absconding accused with the present accused. The other alternative is to stop the trial and issue arrest warrant and initiate steps under Sections 82 and 83 of the Code. By following the second course, trial of the case gets disrupted. Use your discretion after evaluating the situation. Supposing an accused who is lunatic is committed to the court of Session, without there being any inquiry, such committal is illegal because it is for the committal Magistrate himself to conduct an inquiry under Section 328 of the Code. But when accused person who is of unsound mind is committed to the court of Session, Sessions Judge has to follow procedure as provided u/s 329 of the Code. Section 10 of Evidence Act,1872 renders anything said, done or written by anyone of the conspirators in reference to their common intention as a relevant fact, not only as against each of the conspirators but for proving the existence of the conspiracy itself. Further, the said fact can be used for showing that a particular person was a party to the conspiracy. The only condition for application of the rule in S. 10 is that there must be

"reasonable ground to believe that two or more persons have conspired together to commit an offence.

The basic principle which underlies in S.10 of the Evidence Act, 1872 is the theory of agency and hence every conspirator is an agent of his associate in carrying out the object of the conspiracy. There can be no doubt, relying on the confession by one of the accused that, there are reasonable grounds to believe that all the four accused have conspired together to commit the offence. So what these accused have spoken to each other in reference to their common intention as could be gathered from said confession can be regarded as relevant facts falling within the purview of the S.10 of the Evidence Act, 1872.

It is not necessary that a witness should have deposed to the fact so transpired between the conspirators. A dialogue between them could be proved through any other legally permitted mode. When confession is legally proved and found admissible in evidence, the same can be used to ascertain what was said, done or written between the conspirators.

Statements made by the conspirators after they are arrested cannot be brought within the ambit of S.10 of the Evidence Act, because by that time the conspiracy would have ended. If so, the statement forming part of the confessional statement made to the police officer cannot be pressed into service by the prosecution against the other co-accused. Thus, the endeavor to bring the confessional statement of co-accused

into the gamut of evidence through the route of S.10 of the Evidence Act is frustrated by a series of decisions of Apex Court.

The ordinary presumption about a witness is that every witness testifying on oath before a court of law is a truthful witness unless he is shown to be unreliable or untruthful on any particular aspect. Witnesses solemnly deposing on oath in the witness box during a trial upon a grave charge of murder must be presumed to act with a full sense of responsibility of the consequence of what they state.

Complex sentences should not be put to the accused. Questions co-relating the material objects and the result of their chemical examination, if incriminating, are to be put to the accused. Sometimes incriminating circumstances are elicited during the cross examination of witnesses. If those circumstances are sought to be relied on, the court can do so.

But if a conviction is being based on such circumstances then they should be put to the accused. It is also worthy to note that If an accused admits any incriminating circumstances appearing in evidence against him there is no warrant that those admissions should altogether be ignored merely on the ground that such admissions were advanced as a defence strategy.

Very often the material objects and the result of chemical examination are not properly co-related. Make sure that the investigating officer is

asked to identify each item in the F.S.L report with reference to the material objects produced before court.

The court cannot insist that the accused shall keep on standing during the trial particularly when the trial is long and arduous. Please refer to ratio laid down by Hon'ble Apex Court in the case of Avatar Singh v. M.P. - reported in 1982 SC 1260. Hon'ble Supreme Court directed all High Courts to make provision in this regard in their criminal manuals. Please refer to para No.141 of the Criminal Manual.

CONCLUSION

Depending on the gravity of the offences and the punishment prescribed therefore, criminal trial under the Code of Criminal Procedure, 1973 (hereinafter referred as 'the Code') has been classified into two parts viz., Magisterial trial and Sessions trial. The first schedule to the Code is divided into two parts namely, Part I and Part II. Column I of the first part of the first schedule enumerates the list of offences punishable under the Indian Penal Code and Column 6 thereof indicates the court by which those offences are triable.

Those courts are either the Magistrate's courts or the courts of Session. The second part of the first schedule deals with offences punishable under other laws. In the absence of any specific provision under such other laws regarding investigation, inquiry or trial, the procedure

prescribed under the Code for the same shall be applicable by virtue of Section 4(2) of the Code.

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