

Criminal Justice System in India: Need for Systematic Changesⁱ

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Abstract

The main importance of the criminal law is to protect the society from the law breakers and punish the accused. In our country the criminal justice system is not restricted to one field of law. It ranges from media, Human rights, Information technology, Right to information, Intellectual property etc. The researchers tries to emphasis on the problem along with the probable solution which the PR actioner and the judiciary is facing in the criminal justice system. The role and the responsibilities of the prosecutor and defence council considers as a role and the responsibility of the prosecution agencies in Indian criminal justice which carry the herculean task of the criminal prosecution and help the court to deliver speedy justice. It shows various roles of the prosecutor in the investigation during the trial and the national criminal justice policy. This article also focuses on the problem faced by the prosecutor in helping the prosecution as well as judicial system in exercising the delivery of the justice. The researchers have tried to find out the reasons of the delay in the justice and what is the solution for that and have also given certain suggestions to make the judicial system more effective one. ⁱⁱ

Key Words: Crime, justice, Indian legal system, systematic changes

Introduction:

In our country the judicial system started as long back during the british period and in the year 1937 to hear the appeal from the Federal courts i.e. High Court were established. In 18th century the expeditious disposal of the cases were focused for how much time it took to dispose and in the 19th century there is monitoring of the disposal of the cases and the researchers tries to deliver the public justice system and what problems are faced by the judicial system and how to eradicate the problems.

In our country the two main statues are the Indian penal code and criminal procedure code in which IPC is being substantive law

and the Cr.P.C being the procedural law. Now the women police officer also play an important role in delivering justice and they have shown that they are well capable of the taking the information from the women criminal and the juvenile delinquencies. In society every person is being liable to be attacked by the opponent. A person who was attacked would try to sum his opponent, enhancing strength of policewomen. A vision for the better policing and advancement of criminal justice system put forth certain suggestion with regard to appropriate management of police-women so as to enhance their work efficiently and make better criminal justice system ⁱⁱⁱ

Criminal Justice in India need unprecedented challenges of Information Technology: Technology has always a threat to the future because of unpredicted disadvantage of the technology as it is difficult to curb the misuse of the technology with law. The present article describes various crimes related to technology. When the judges are deciding the case and they should be sure that the punishment which they impose is appropriate for the offence and the offender. And the judges should act due diligently and use its discretion in judicious manner. When the evidences is checked by the courts the judiciary have the important role for appreciating the fact of the case pertaining to Information Technology.

Analysis of the current judicial sentencing:

The current judicial sentencing policy of India through the legal provision along with the decided case laws. The researchers provides brief regarding the calculation of quantum of punishment in USA and England and wales. The resercher has provided suggestion regarding judicial sentencing including the constitution of a committee to frame the proper judicial policy.

Media, Crime and criminal justice In India:

The researchers discuss about the interface and effect between the media and law. The media has a huge impact on every organ of the society and that effect is manifold, especially in an era when people do not interact to each other to an extent that they once did which lead to greater social alienation. The researchers tries to emphasis that the media is one of the pillars of democracy in India and its role and effect in the criminal justice system.

Digital textual evidences in Indian criminal justice system:

A novel type of evidence known as Electronic record have come up with the advancement in the field of IT. The electronic method is being used as a convenient method in the current era and its scope is very wide in criminal justice system. The researchers tries to emphasis the admissibility of the electronic evidences. The researchers tries to provide an analytical framework for the authenticity or admissibility of E-evidences. India is riled by the case backlog and now conviction rates. Therefore, plea bargaining was introduced due to its potential to reduce the workload of the court.

Comparison of plea bargaining from the other countries:

A comparison between the US and India regarding the procedure of the plea bargaining and the researchers try to emphasis on the role of the prosecutor and lawyers regarding the plea bargaining. The article provides an insight in the fact that to implement any mechanism that is popular in the other countries because of its informal structure is heavily reliant of the informal nature and wide discretion which is provided in other jurisdiction.

International Fugitive and Extradition treaty in context of India:

The researchers tries to resolve the problem of extradition which can be resolved with uniformity and unity at the global level. It is one of the important facets of the criminal justice system is that the criminal should be punished for the offence he has committed anywhere in the world other wise world would become a chaotic place.

Intellectual property crimes as an emerging area of criminal justice system:

In the current innovative ideas of intellectual property is considered as fundamental factor.

But along with increasing scope of intellectual property, there has been significant increase in crime related to it. The researchers try to discuss about the issue and the challenges raised due to intellectual property. The researchers try to provide some suggestion regarding the curbing the intellectual property crime cells.

Human Right and police interrogation: The researchers try to understand in the same perspective as it is being today. Respect for human rights at the heart of good governance which depend upon the police system. The researchers try to discuss about the human rights regarding custodial death. The researchers try to describe how the police misconduct can be explained for violation of police procedure and criminal law and illegal use of force.

Component of criminal justice system in India:

Police: Police is the first line of the criminal justice system in India which participate in the important part in India. And in our Indian constitution Article 246 takes about the police court, reformation and public orders.

The power of the police is referred in the DK Basu V/S State of West Bengal^{iv} and the court emphasize on the arbitrary arrest of the person violates Article 21 and Article 21(1) of the constitution to enforce strictly. ^v

Judicial system plays an important role in the law. In India the role of the courts to dispose the matter expeditiously and give the relief to the victim either by way of the compensation or by any other means and to protect the rights of every individuals.

Role of the courts during the criminal proceeding: As per the Article 372(2)(3) the president has the power to alter or to do the

modification in the amendment done by the legislature he has a veto power to return the bill but he can pass the bill after the modification by the legislature. So the researchers try to emphasize that the legislative system also plays an important role in the fastest disposal of the case if the law is made stringent the judiciary has a role to play according to the law made by them.

Limitation of the power of the arrest: The procedure of the arrest is given in the Article 21 and Article 22 of the Indian constitution. Criminal procedure code of Cr.P.C confers the extensive power of the arrest by the police which is given in the section 41, 42 and 151 of the code. And as per the section 436 A of the Cr. P.C states that the maximum period of the trial prisoners can be detained. It is the judiciary to decide the right.

Drawbacks of the Arrest: In India the arrest has been defined in section 41 of the Cr.P.C. and in the provision of Cr.P.C the accused has the right to release on the bail if there is illegal detention by the police the remedy is available to file the writ in the courts like Habeas corpus.

Judges should be sensitized: There is a need of the judge who is active in the disposal of the case. There are the judges whose minds are set and sometime the Advocates cannot explain the proper case to the judges. Now there should be change in activeness of the judges by imparting training to them by the senior judges.

Limitation of the adjournment of the cases: There should be limitation on the adjournment of the cases as we see in the courts the council will take the adjournment in the courts which is making more pendency of the case. It is the duty of the Hon'ble

Courts to not to pass the adjournment when the evidence is not showing the correct reason, it has been seen in the courts.

Power to grant remand: It is the duty of the court that the remand application of the accused should not be granted for more than 15 days at a time. It is a duty of the magistrate to examine the evidence pertaining to the case dairy and other incriminating material of the case. The Hon'ble Court should look after Section Section 167 of the Cr. P.C and further more it is the duty of the police to inform the accused family about the arrest.

Due care and causation in the case of the bail application: Before granting the bail, the Hon'ble Court has to consider the Antecedent of the case that the incriminating material produced before the court and the Hon'ble court has to take proper care of granting the bail. The Judges should take the proper ground and proper care of the case and it was held in the Sanjay Chandra V/S CBI^{vi} Wherein Ramjethmalni has contended that Bai is a right and jail is an exception.

Prison: There should be reformation of the prison so that their Article 21 that is right to life should not be violated. State has to look the proper administration of the system pertaining to the prosion reforms.

Right against in human treatment of the Prisoners: Police has to make the proper checklist while arresting a person and they should interrogate properly so that when the matter will be referred to the Hon'ble Court it will be easy to complete the trial at the right time so that the burden of the court will be reduced. The person arrested must be aware of the right of the arrest and the arrested person have a right of medical examination by the doctor of the specialized field and the

doctor must be the government employee who can have examination. The researchers try to emphasize that doctor should have proper examination so that there should not be any conflict when the matters are referred to the trial.

Modern criminal justice system in India: ^{vii}

The criminal justice system has been accepted in entire world. The interest of victim has been taken in the 19th century wherein compensation is provided to the victim and as per the Lord Denning it has been stated that in entire world there should be a common law pertaining to the compensation scheme. Victims will not be given unnecessary punishment if their charge is not proved before the Hon'ble Courts. There victim should not be penalized for any punishment which he has not done. The state has to take care for the rehabilitation of the victims and in the criminal procedure code Sec 357-A was inserted for the compensation provided to he victims. United nation has also made a scheme for the rehabilitation of the victim. It is pertinent to say that there should be such laws which will concentrate or enforce the judges to provide the compensation to victim. And furthermore, the victims have to be provided the amount so that they can recover the loss made to them.

Structure of the judicial system change and the reforms:

Lok Adalat: It is a forum under the Legal series authority Act 1987. And it is best way to dispose the matter and around total 6,98,000 lok Adalat has been held in entire country and lots of matter was disposed of. In India Lok Adalat is one of the alternative disputes resolution in which the cases on pre litigation stage or the pending panchayat

cases are settled in the court of law. The statutory status has been given in Legal Service Authorities Act, 1987. The first Lok Adalat was held in Gujarat in 1982.

National Judicial Academy: It is a government funded training institute for judicial officers. It was registered in 1993 under societies registration act, 1860. It has been decided by the government of India to provide service and the training to the judicial system under the legal service authority.

Legal Aid: As per the Article 39 A of the constitution of India says that there is legal aid to the poor and the weaker section of the society ensures justice to all. In 1987 legal services authority act was enacted by the parliament.^{viii}

Alternative dispute resolution: The fastest way of the disposal of the case is done by the mediation and the conciliation so that the matters can be settled by the both the party and it can be disposed outside the courts. Through which the burdens of the courts should not be increased.

Right to the Information Act. This Act is useful for the disposal of the cases and there is transparency of the process.

Mediation: It is one of the alternative Dispute resolution method under Civil Procedure Code enacted by parliament. The third person known as mediator uses his skill of communication for mediation process. The main objective of the mediation is to reduce the cost of the both party's as well as decide the matter voluntarily with the consent of both parties.

National Tax Tribunal: A tribunal was set under this act for speeding up the decisions relating to tax disputed. The objective of the National tax tribunal to hear the appeals

against the order passed by the income tax appellate tribunal. The tribunal was came into force by the notification of the government. In 2005 this tribunal was struck down and all cases which were pending there were transferred to Supreme Court for final disposal.

To dispose the matter in a systematic manner the role of the courts plays an important role and the idea is that the innocent person should be released immediately and the culprit person shall be convicted at any cost and heavy fine is imposed on them. The objective of the Article 21 of the constitution is to dispose the case immediately and there should be speedy trial. And to have speedy trial the role of the administrative of the justice is essential. In Dharmendra Kirthal V/s State of UP^{ix} the constitutional validity of section 12 of the UP Gangster and anti-social Activities (Prevention) Act 1988 was involved under which the trial of the other offence. The Supreme Court held that the legislature though it is appropriate to provide that the trial of such offence. The special court has also been conferred jurisdiction under section (8) of the Act to try any offence with which the accused may under any other law for the time being in force have been challenged and proceeded at the same trial. The trial is not hampered by the abeyance of trial in other courts by the legislative command. There is no question of the procrastination of trial as when the trial is in the progress the accused would have the fullest opportunity to defend himself and there cannot be denial of fair trial. The provision does not frustrate concept of the fair and speedy trial.

Conclusion: Criminal justice system in India require much reformation considering the

nature of increasing crimes. Now the social media and the digital world are becoming an easy platform to manipulate rules and regulation. Any person can easily manipulate the information he receives from the digital world against any person. The valuable thoughts and digital document are easily traceable for the hackers. Moreover, it need for removal of the gender biasness and respect for human rights are some of the essential reforms in the police system as police force is one of the integral parts of the criminal justice system and it is being considered as a protector of the law.

The researchers by way of this article tries to share that by different method reformation of

crimes can be done in our country as well as every individual right were protected and there should not be any biasness with the judicial system and each one in our country would treated at equal level. Secondly the speedy justice system is to be taken in consideration and each of the judicial member has to taken care of the reformation of the accused and speedy adjudication of the case

To sum up this research paper provide a great study for the practioner as well as law student who appraise the knowledge of the criminal law. Any system must need hard work and enthusiasm in order to bring any change.

ⁱ Legalserviceindia.com/legal/article-224-criminal-judiciary-reforms-in-india.html(Last visited 25th Nov2019)

ⁱⁱ (2018)5 GNLU. Rev.

^{iv} (2009) SCCONLINE MAD 609

^v Legal service india.com/legal/article-224-criminal-judiciary-reforms-in-india.html (Last visited 2November 2019)

^{vi} (2012) 1 SCC 40

^{vii} <https://lawcorner.in/criminal-justice-system-india/far>

^{viii} [Legalserviceindia.com/legal/article -224-criminal-judiciary-rforms-in-india.html](http://Legalserviceindia.com/legal/article-224-criminal-judiciary-rforms-in-india.html) (last visited 25th November 2019)

^{ix} AIR 2013SC2569