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Mishandling and Misleading of cases by Police

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ABSTRACT

Law enforced and execution of policies, all are implemented to follow specified set of rules and regulation which has been embedded for the general public, includes various type of departments governed under States and Tiers of government. Public servants which are assigned duty for the protection of the general public enjoy all level of statutory as well as administrative powers which are vested in their hands but as per the guideline if this possession over power and authority crosses the limit which was specified by the state then it will be termed as misuse or misapplication of policies. This power crosses the given and prescribed limit then it becomes the barrier towards the treatment within the society, several judgments were inscribed by the Apex Court which restricts the misuse of power which was specified between the society and working of government as enforced criminal offense. The main motive is to highlight the assurance for the security by police without having any absolute possession over the population and the foremost purpose for disclosure of this subject matter is to investigate the cases without having any type of threat or coercion which ultimately cause misguiding of the formal examination of the case. Basic principles that should mandatorily be followed by the public servant i.e. police are – free & equal treatment towards everyone without cruelty and inhuman behaviour moreover all the objective will be elaborated under the misconduct of enhancement. Proper safeguard of the rights is essential to prevent the economy from collapse and malfunction of the communities, if the power will not be confined then it will be having an immense impact over the territory.

Keywords – Law enforcement, Public servants, and Malfunction

I. INTRODUCTION

“Ensuring the security of people and preparing for the defence does not require any sort of absolute authority over humankind but to shield the general public the need acceptance and support of people.”

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Protection and safeguarding the rights of the citizen is the most essential part of individual life as well as for the welfare of society. If any country cannot guarantee the preservation of the rights then it ultimately leads to a downfall in the economy. As mentioned in Article 21 of the Indian Constitution that the most cherished freedoms which a country can award is – “Right to Life and Right to Liberty”. The vulnerability of these two rights holds up the maximum authority over the government as well as the state of the defined territory. The trouble started when the power was assigned on to the shoulder of the specified unit who are responsible for safety. The Indian government and the accountability of the state are to provide a system that increases the facilities and encourages to stop the infringement of human rights. In recent years the greater apprehension for the protection of the environment and society was to regulate and reduce the level of criminalization which harm the organized set of the individual. The environmental crime which is mainly highlighted at a wider range and mostly for the profitable purpose, it usually had a larger amount of impact but not an immediate amount of consequences within the society.² The growth and upgradation of the environment can only be possible when the surrounding will be crime-free and for that, the state and court have engraved with certain rights to a particular section of the people i.e. Police. Mostly the unbridled and discretionary power is put up on the hand of police, which emerges for awareness, environmental crimes, legal proceedings, and prompt the general public to enforce positive responses towards the community. If a person holds up massive authority over the population of the country then with this accordance it sometimes leads to misuse of absolute power.³ The consideration of the defined problems is mostly ignored by the higher authoritative institute, it is necessary to have a proper investigation related to the given subject matter. Misuse of power which often used for extraneous consideration for instance extortion, achieving the gallantries awards, and various types of promotions with having intense malafide intention for the mishandling of the cases, this particular procedure should be stopped immediately. However, the report of the police sometimes accurately elaborates - the duty of specific investigation which consists of varnished evidence and false convictions among the people. Sometimes the leniency and relaxation of the rules lead to violation of all the defined policies and constitutional remedies which are been appraised for the welfare and it finally led to a withdrawal of all the treaties.⁴

² Pish Cosh, India’s police are overstretched, poorly trained and politicized, *The economist* (Jun. 10, 2020, 12:40 P.M.), <https://www.economist.com/asia/2020/02/06/indias-police-are-overstretched-poorly-trained-and-politicised>

³ The Police Act S. 5 (1861)

⁴ K.S. Subramanian, *The Sordid Story of Colonial Policing in Independent India*, *The wire*, (Jun. 14, 2020, 18:25 P.M.), <https://thewire.in/government/sordid-story-colonial-policing-independent-india>

II. CRIMINAL, SOCIETAL AND ENVIRONMENTAL ASPECTS: REGARDING THE ABUSIVE REACTION OF POLICE

The Constitution of India has done many frameworks regarding justiciable rights rather than not giving more preference to the non-justiciable or appropriateness directive principle of the defined state or territory. Crime and any illegal activities which happen in the surrounding have both negative as well as positive effect as an instance to get protection from the violative action - every individual approach the courts and finally for the further investigation Police are hired. The legislative system specified the guideline according to the power over all the defined departments of the government through which no sector or section mislead the authority over the people. To avoid the burden, many times the investigation, as well as legal proceedings, do not take a huge amount of effort and it closes down based on the least level of evidence.⁵ This particular type of flexibility causes unbalance and lack of rigidity in society, which ultimately causes a false story or conviction over the case. India is well known for the up-gradation and upcoming level of technologies which will be implemented for having the most important agenda i.e. to protest against the violent act and provide with shielding of the rights. False accusation and Abusive stories which were stated by the police lead to deprive the public order and resist to execute the department's negligence.⁶ Many times, the political pressure is put in such a manner that rivals and influential dependent both become thrives in the lives of society.⁷ Any type of absolute possession of authority can eve lead to ruling over the country which will diminish the importance of the democratic rule.

Environmental law and statutory provisions which are reframed for the restriction of all the unlawful and erroneous fabricating evidence leads to a dispute between the population. Here, the main action should be enacted by the sections which are hired by the government (Legislature) for removing the unconstitutional mob. Due to the pressure of economy, political, social, and financial, there are many mishandlings of the suspect and with this, the case vanishes. The cases which uphold the maximum weightage are either finished having lacking evidence or with the false and abusive stories which are been told by the police. This particular issue plays a huge downfall in the economy as well as the mindset of an individual as all the people who are expecting justice out of the uncertain event, ultimately, they are getting an untrue examination of the accused person. Police are frequently put up on the duty

⁵ Eileen Skinnider, *Victims of Environmental Crime- Mapping the Issue*, The international centre for the Criminal law reform and Criminal Justice Policy, 2011

⁶ The Indian Penal Code, S. 211, 1860

⁷ Sushil Kumar Jain, *Absolute power of Police Corrupts Absolutely*, India Legal, (May. 17, 2020, 10:40 A.M.), <https://www.indialegalive.com/analysis/absolute-power-of-police-corrupts-absolutely-77614>

to prevent any species from compulsion or maltreatment of the defined procured information which can cause huge harm to the community.⁸ For this particular instance, the population handles the situation in their hand and which sometimes leads to the criminal offense as they are not getting any type of equal treatment and justice which are been demanding for, according to the statistics there are more than 50% of cases are unfiled and unregistered due to that the data specify – distrust, pendency, lack of resources and weak legislative system of the country. If the society and the people living there are not able to trust as well as have any kind of dependence over the existing legislative system subsequently that will decay the roots of the population.⁹ Several judgments have given by High court as well as the Supreme court regarding the investigation criteria, which also stated in what manner a case should be pursued and to frame a guideline towards the security of people. Legal rigour and all the defined of correctness cannot be established by police, the basic initiative should be taken by the society for prosecuting the culprit.¹⁰ The societal aspect for the enhancement of the economy will comprise of all the defined amendments and execution which should be done within the framework of the legislative tier of government. For the safety of the society government always appoint the security team which can lie down the guideline of rules and regulations that can act as a shield for the basic safeguard the interest of an individual.¹¹

III. THE ATROCITY OF POLICE OVER THE GENERAL PUBLIC

Police brutality has the main propaganda of using the force over the community for the welfare of the general public but as per the enlisted crime, these principles are used for warning and abusive purposes.¹² To end the investigation or having any alternative strain of factors that affect the society at large and for corrupt mentality; the police either stop looking towards the actual accusation or disorientate the corroboration. In India, they are many types of crime and mishandling of the cases which is been done by the department of police such as – assault, custodial death, dehumanizing torture throughout the legal proceeding, and vanishing the life as well as appropriate evidence regarding the case. As per the current scenario, the subject matter of solving the case has a significant variation all across in-country. Every state and government made new policies according to the habitat of the people

⁸ The Indian Penal Code, S. 323, 1860

⁹ Pish Cosh, India's police are overstretched, poorly trained and politicized, *The economist* (Jun. 17, 2020, 12:40 P.M.), <https://www.economist.com/asia/2020/02/06/indias-police-are-overstretched-poorly-trained-and-politicised>

¹⁰ The Law Commission Report no. 277, *Wrongful Prosecution*, 2018

¹¹ The Code of Criminal Procedure, S. 156(3), 1973

¹² The Indian Penal Code, S. 308, 1860

but then also there was not so much increment under the solving of the case as well as diminishing of the fake story.¹³

In the rural community of the territory, many unsolved cases are left behind with lacking facilities and participation of the people, but contrary to that police do not take enough initiatives regarding the fact of the case. With context to this situation, they elaborate the guideline based on exacerbating the issues and the accountability is within the police, and ensure the public that there will be a fair examination and observation of the facts.¹⁴ To avoid uncertain events, they claim that they are suffering from understaffing (non-availability), which finally leads to a low level of accountability within the police. In every successive step of the implementations of these reforms, there is a vast amount of growing criminality under the political hindrance which mainly nexus the three elements – Criminals, no accountability, non- holder of justice, through which the society look upon towards police in such a manner.¹⁵ Concerning the literature and data regarding the impact of society, contrary to two different states of an individual which mainly includes – societal aspect within the environmental law and all the defined criminal & unlawful acts. The rights which Police should provide to a normal citizen whenever there is any type of investigation or detention happens- rights should be read aloud, the purpose should be clear as to why the suspect is been arrested and finally without evidence there should be no cruelty, inhuman torture or police abuse.¹⁶ For better and proper functioning of the territory, the government has categorized the work burden which is assigned to various sets of departments, groups, and other community for the execution but if all the department become dependent and create pressure over one another that will ultimately lead to mishandling as well as chaos among the people.

Investigations and malafide intentions are defined by the indulgence of the police prosecution in several manners, many innocent people are compelled for that crime or offenses which they never performed during their lifetime.¹⁷ The basic factors which include the malicious action towards the society by – Financial corruption, harass for the money, influenced by the powerful lobbies, praise for an unrecognized claim by media, assertion of all the defined power, to cover up all types of extortion, create a paranoia, and to have constant support from

¹³ Eileen Skinnider, *Victims of Environmental Crime- Mapping the Issue*, The international centre for the Criminal law reform and Criminal Justice Policy, 2011

¹⁴ The Code of Criminal Procedure, S. 157, 1973

¹⁵ The Code of Criminal Procedure, S. 482, 1973

¹⁶ Sushil Kumar Jain, *absolutely power of Police Corrupts Absolutely*, India Legal, (May. 18, 2020, 10:40 A.M.), <https://www.indialegallive.com/analysis/absolute-power-of-police-corrupts-absolutely-77614>

¹⁷ The Code of Criminal Procedure, S. 154, 1973

the superior-subordinate. Unwanted credit is always equal to the work which is merely done by the individual or with terrible and improper guidance.

IV. CONCLUSION

Values and principles are lie down for implementation as well as following up on the defined set of rules and regulations which are put on for the unwanted crime. The given according to the fact of the abusive stories which are been presented in front of the general public is often due to the uneducated and lack of training of police. Many times, the position of the department is chosen within the personal criteria of the state, and even in closing the cases, they use the absolute power over the legal proceedings. The conditions within the society should be taken as the most essential priority because they are dynamic and for that, regularly the incentives should be taken. For making society crime-free, enough efficient of resources, enhancement of facilities, and encouragement regarding the investigation purpose, there should be superior officers as well as the support of the community. As the government made different sections throughout the system which preserves human right and shields them from unwanted events. The impact in the society has both occurrences i.e. positive as well as negative in which the circumstance state that whichever police or any other government department pursue the case in a reckless and abusive way then that person is not in the position to hold up all the defined standard for the protection of the law. After the purpose of getting protected or safeguarding the civilization from the use or abusing sight of the department will be termed as subjective. If a person is abusing or holding up absolute power over the group, he/she would be benefited for some time but not for a longer period. As all citizen know that only one essential element which exists even when an individual is not born in the Human rights and for the further protection many sections are appointed but if the authority, as well as accountability, is massive in quantity then it will always end up in a downfall situation.
