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# Travesty of Justice: Consequences of Wrongful Prosecution and Incarceration

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## ABSTRACT

*Constitutional protections for life and individual liberties are included in Article 21. When a fundamental right is violated as a result of police and perhaps even prosecutorial negligence, the State is considered accountable. The Constitution, which protects fundamental rights, says nothing concerning the state having to compensate those who have their rights violated. Although additional alternatives exist under the current framework, the compensation method for malicious prosecution causing miscarriages of justice is still difficult and complicated but also unclear. Despite having ratified ICCPR, India has not yet managed to pass any legislation in its own country that would allow victims of unfair or malicious prosecution but also detention with the opportunity for rehabilitation and compensation. The existing legal structure only provides the victims with a limited number of potential avenues for seeking redress, thus they are left with no other choice. In the particular instance of Babloo Chauhan @ Dabloo v. State Government of NCT of Delhi, the Delhi High Court articulated deep disappointment regarding the wrongful prosecution as well as detainment of innocent persons, emphasising the necessity for a relevant legislation for delivering remedy to these kinds of individuals. Consequence of directions in the aforesaid case, Law Commission of India in its 277th Report highlighted the issue of malicious prosecutions and conviction. The article shall analyse the present scenario of malicious prosecutions as well as convictions from the application of judicial mind in various cases as well as the 277th Report of the Law Commission of India.*

**Keywords** – Malicious Prosecution, Conviction, Wrongful Prosecution, ICCPR, Compensation, Law Commission of India, Constitution.

## I. INTRODUCTION

*Let justice triumph even if the heavens fall;*

This is the guiding philosophy that guides the operation of the Indian judicial system. Despite this, there are many cases of malicious prosecution or conviction, as well as the erroneous

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prosecution of innocent people. In most of these sorts of scenarios, the persons who are erroneously tried, convicted, even detained over many significant periods of their lifetimes stand to recover very little, even if they are ultimately found not guilty or rather given an honourable discharge. In addition to this being made to endure beneath societal shame, these victims' anguish is compounded by the absence of statutory provisions or governmental procedures that provide for rehabilitative, restorative, as well as compensating initiatives to these kind of victims as well as related family members.

Constitutional protections for life and individual liberties are included in Article 21. When a fundamental right is violated as a result of police and perhaps even prosecutorial negligence, the State is considered accountable. The Constitution, which protects fundamental rights, says nothing concerning the state having to compensate those who have their rights violated. Although additional alternatives exist under the current framework, the compensation method for malicious prosecution causing miscarriages of justice is still difficult and complicated but also unclear.

In spite of its notoriety, the case of *Nambi Narayanan*<sup>34</sup> is still considered to be one of the many notable examples of an individual in India who successfully fought and also was awarded compensation for malicious prosecution. After he had been placed under arrest in 1994 in what has been referred as the ISRO espionage case, the erstwhile scientist was completely exonerated by the Central bureau of investigation (CBI) of all accusations.

In 2018, the Hon'ble Supreme Court gave him a compensation of Rs 50 lakh to be reimbursed by the Kerala government. The Government of Kerala subsequently compensated him an additional amount Rs 1.3 crores<sup>5</sup> in additional compensation. Both awards were made by the Supreme Court. Since the hon'ble Supreme Court acknowledged that Narayanan had been subjected to an excessive amount of inappropriate behaviour but also unfathomable amounts of pain and grief as a result of the actions of the police officers who were involved in the investigation, it had also ordered that a thorough investigation<sup>6</sup> into those officers' roles be carried out.

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<sup>3</sup> 2018 SCC OnLine SC 1500

<sup>4</sup> Shivani Kumar, *The 1994 espionage case that led to Isro scientist Nambi Narayanan's arrest*, HINDUSTAN TIMES (2021), <https://www.hindustantimes.com/india-news/the-1994-espionage-case-that-led-to-isro-scientist-nambi-narayanan-s-arrest-101618555565896.html> (last visited Jun 8, 2022).

<sup>5</sup> PTI, *Ex-ISRO Scientist Nambi Narayanan, Falsely Implicated in Spy Case, to Get ₹1.3 Crore From Kerala Govt*, NEWS18 (2019), <https://www.news18.com/news/india/ex-isro-scientist-nambi-narayanan-falsely-implicated-in-spy-case-to-get-crore-from-kerala-govt-2437483.html> (last visited Jun 8, 2022).

<sup>6</sup> Aneasha Mathur, *CBI registers FIR against Kerala officials in Nambi Narayanan Isro spy case*, INDIA TODAY (2021), <https://www.indiatoday.in/law/story/cbi-fir-kerala-officials-nambi-narayanan-isro-spy-case-1832672-2021-07-26> (last visited Jun 8, 2022).

In India, there is no efficient legislative or judicial framework for the malicious prosecutions that have occurred as a consequence of malfeasance on the part of police but also prosecutors, that has led to an infestation of malicious accusations. There has been an extraordinary spike in the bringing of fraudulent charges as a result of the absence of danger of being penalised by justice system as well as the rising desire to fabricate innocent people for mostly malicious motivations.

The courts in India have frequently voiced their apprehensions concerning the undignified conditions of offenders who are currently awaiting trial, but also in relevant case scenarios, they have compensated victims of malicious prosecution, detention, as well as conviction, at least to some degree, for the wrongs that have been committed against them. Nevertheless, there seems to be no standardised system that guarantees a remedy in situations when there has been a failure in the administration of justice.

According to the International Covenant on Civil and Political Rights (ICCPR), anyone who have been wrongfully convicted and whose sentences have since been modified or pardoned because of new evidence proving that the justice carried out was flawed are entitled to compensation<sup>7</sup>. In addition, anybody who's been the victim of illegal detention and perhaps even imprisonment is guaranteed the right to receive compensation<sup>8</sup> under ICCPR.

Despite having ratified ICCPR, India has not yet managed to pass any legislation in its own country that would allow victims of unfair or malicious prosecution but also detention with the opportunity for rehabilitation and compensation. The existing legal structure only provides the victims with a limited number of potential avenues for seeking redress, thus they are left with no other choice. As a result, redress may be sought by either bringing a civil claim for compensation founded on the tort of malicious prosecution or even by utilising the relevant provisions of the criminal law. Recognizing the sacredness of a person's rights under Article 21, Indian Courts have frequently used its Writ as well as Inherent Jurisdiction via giving reparations to certain victims under suitable circumstances. This has been done in order to protect the rights of individuals. Unfortunately, past examples have showcased those similar approaches have managed to remain occasional and very often indicated that they are severely insufficient to satisfy the expectations of each and all contexts.

## **II. MALICIOUS PROSECUTION**

Defending a person's good name is upheld by the principle of malicious prosecution. A

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<sup>7</sup> Article 14(6), ICCPR

<sup>8</sup> Article 9(5), ICCPR

person's reputation is one of the most essential aspects of his or her life, and it's regrettable that the system of justice hasn't done more to safeguard it. When it comes to civil and criminal proceedings, this approach is designed to keep everyone safe against irrational and malicious lawsuits. It recognises not just the significance of a person's reputation, but also the psychological toll litigation and the resulting losses have on everyone.

To define, malicious prosecution -

*“a judicial proceeding instituted by one person against another, from wrongful or improper motive and without probable cause to sustain it.”<sup>9</sup>*

The above definition was given in the case of *West Bengal State Electricity Board v. Dilip Kumar Ray*<sup>10</sup> by the Hon'ble Supreme Court. Moreover, the Apex Court further elaborated -

*“a prosecution on some charge of crime which is wilful, wanton, or reckless or against the prosecutor's sense of duty and right, or for ends he knows or is bound to know are wrong and against the dictates of public policy.”<sup>11</sup>*

The 277<sup>th</sup> Report<sup>12</sup> of Law Commission of India titled, “*Wrongful Prosecution (Miscarriage of Justice)*”, had explained the ingredients of wrongful or malicious prosecution. The commission explains it as –

*“Instances of false conviction and acquittal attributable from police and perhaps even prosecutorial procedural malpractice, whether deliberate or unintentional, with a court making a finding and sometimes even recording a conclusion that this constituted the case. The said individual should never have been exposed to these processes in the first place is the fundamental notion.”<sup>13</sup>*

The foregoing are the elements of proof that the plaintiff is required to provide in an action for malicious prosecution:

1. The defendant brought proceedings against him.<sup>14</sup>
2. The outcome of the prosecution was favourable to defendant.<sup>15</sup>
3. There was not a reasonable nor a legal justification for the prosecution's actions.<sup>16</sup>
4. The defendant's actions were motivated by ill will.<sup>17</sup>

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<sup>9</sup> R.K BANGIA'S LAW OF TORTS, (22 ed. 2010).

<sup>10</sup> AIR 2007 SC 976.

<sup>11</sup> *Id.*

<sup>12</sup> LAW COMMISSION OF INDIA, *Wrongful Prosecution (Miscarriage of Justice): Legal Remedies*, (2018), <https://lawcommissionofindia.nic.in/reports/Report277.pdf> (last visited Jun 8, 2022).

<sup>13</sup> *Id.*

<sup>14</sup> R.K BANGIA'S LAW OF TORTS, *supra* note 7.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

5. The plaintiff sustained loss to his reputation, the health and wellbeing of his body, or perhaps the protection of his property; all three were compromised under English Law. However, in India, this only relates to situations of particularly significant legal injuries.<sup>18</sup>

The Hon'ble Supreme Court in the abovementioned case, further elaborated that –

*“In order to qualify as a malicious prosecution, the prosecution or action had to be initiated without probable cause; and it had to result in a favourable outcome for the defendant in question.”*<sup>19</sup>

The landscape of malicious prosecution has been an issue to secure the ends of justice for the ones who have been wrongfully incarcerated owing to different circumstances that have influenced their cause. The ones who get the exoneration post due process or in several cases without the due process, don't receive the actual reparation that could restore them back to their livelihoods before such occurrence. The need for legislation is imminent to secure the DPSP's so highlighted in the Part IV of the Constitution of India.

### III. STATISTICS

In the 277<sup>th</sup> Report by Law Commission of India, under the chairmanship of Hon'ble Justice Dr BS Chauhan has stated the statistics that surround the tort of malicious prosecution in India in different states.

The National Crime Records Bureau (NCRB) publishes a yearly statistics report titled "Prison Statistics India" (PSI), which includes statistics pertaining to Indian prisons, inmates, and the infrastructure of prisons. Undertrials make up 67 percent of the total jail population in the nation, which is much larger than the convict population of 1,34,168<sup>20</sup> (32.0 percent) as per 2015 Report<sup>21</sup> on PSI.

It is necessary, with regard to the matter of a travesty of justice that is being discussed in this context, to take into mind the length of time that the undertrials were held in custody. There were 70,616<sup>22</sup> total undertrials, with 25,1% (70,616)<sup>23</sup> of them serving time exceeding one

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<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Supra*, note 7

<sup>20</sup> PRISON STATISTICS INDIA 2015 | National Crime Records Bureau, <https://ncrb.gov.in/en/prison-statistics-india-2015-0> (last visited Jun 8, 2022).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

year in jail, 17,8 per cent (50,176)<sup>24</sup> serving time between three and six months in prison, and 35,2 per cent (99,398)<sup>25</sup> serving time of three months or less.

The following is a comprehensive breakdown, in terms of percentages, of the "time of custody" of the undertrials:

In spite of the fact that the data does not explicitly show how many undertrials have been convicted or exonerated due to wrongful prosecution or conviction, such statistics underscore the complexity of the situation and also the immediacy for a statutory restorative structure for purpose of providing relief to these systemic victims of the criminal justice process.

Article 21 of the Constitution of India provides right to life and personal liberty, and so any accused who is deprived a speedy trial may move the Supreme Court under Article 32 to enforce this guarantee. And in order to fulfil its constitutional mandate, supreme Court has the authority to issue necessary directives to the central and state governments as well as any other agencies involved in system to achieve that the accused person is afforded this privilege. It was decided in the case of *Hussainara Khatoon v. State of Bihar*<sup>26</sup>, that served as the foundation for the fundamental idea of the Speedy Trial, that where under trial prisoners are still in prison for a long time for time more than outlined, if found guilty, their time spent in jail is completely unwarranted as well as in direct contravention to fundamental rights under article 21. This case helped lay the groundwork for the fundamental idea of the Speedy Trial.

An accused person is given the legal right to request bail if the trial is delayed for no good reason. The major objective of a speedy trial is always to protect innocent people from receiving disproportionate punishments; unfortunately, owing to the enormous number of cases now waiting in the courts, the proceedings are sometimes needlessly prolonged, which places psychological and financial strain upon participants. The purpose of fundamental rights is not to be a tempting mirage, but also for the them to be rigorously implemented. Therefore, in many situations, the court has resolved to now quash the proceedings in order to accomplish justice, and not only individual justice and yet also communal justice. This is so that justice may be achieved.

Defending one's right to life and liberty is intertwined with the right to speedy trial, which was upheld in *Katar Singh v. State of Punjab*.<sup>27</sup>

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<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> 1980 SCC (1) 98

<sup>27</sup> 1961 AIR 1787

#### IV. JUDICIAL PRECEDENTS & NEED FOR COMPENSATING VICTIMS OF MALICIOUS PROSECUTION

The protection of people's fundamental civil and political liberties has been the overarching goal of both domestic and international legal systems. The responsibility of ensuring that all individuals' human rights are upheld falls squarely within the purview of the judicial system. Both the Supreme Court and the High Court have the authority to take action in order to ensure that these rights are respected. Both Article 32 as well as Article 226 of the Constitution provide provisions for the implementation of mechanisms for seeking compensation. An individual who feels aggrieved has the ability to take their case all the way up to the Supreme Court but also High Court of the state in which they reside in order to seek protection for their fundamental rights, restitution for their wrongs, as well as unfettered exercise of their basic privileges.

The courts have the authority to create novel laws and actions, as well as to fix gaps in the coverage of pre-existing laws, all on their own.

Since the law is a living organism, it is impossible for it to stay the same; rather, it is required to go through a stage of transformation whenever a system demands it to.

An apparent lack of measures for a lawsuit brought vindictively under civil laws seems to be of least problem here though; however, the laws regulating the instances of criminal prosecutions are also woefully inadequate. Malicious lawsuits in India are almost always filed as criminal proceedings. In India, civil lawsuits that are filed maliciously are of a civil nature.

In the particular instance of *Babloo Chauhan @ Dabloo v. State Government of NCT of Delhi*<sup>28</sup>, the Delhi High Court articulated deep disappointment regarding the wrongful prosecution as well as detainment of innocent persons, emphasising the necessity for a relevant legislation for delivering remedy to these kinds of individuals.

The majority opinion of the bench, which consisted of Justice S. Muralidhar and Justice I.S. Mehta, emphasised the "increasingly pressing requirement"<sup>29</sup> for a system, pointing out that-

*"There is an urgent need, therefore, for a legal (ideally at least legislative) framework for providing relief and rehabilitation to victims of wrongful prosecution and incarceration. Whether this should be an omnibus legislation or scheme that caters to both the needs of the victim of the crime as well as those wrongfully*

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<sup>28</sup> Babloo Chauhan @ Dabloo v. State Government of NCT of Delhi, 247 DLT 31 (2018).

<sup>29</sup> *Id.*

*incarcerated, including the family and dependents of the prisoner, or whether these have to be dealt with in separate legislation or schemes is a matter that needs to be discussed, deliberated on, and consulted with a wide variety of interest groups in order to determine the best course of action to take. Concerning the issue of compensating those who were wrongfully incarcerated, there are a number of questions that need to be addressed, including the circumstances and conditions under which such relief would be available, as well as the question of what form it would take and when it would take effect. This is a responsibility that is best left in the first place to the organisation that is entrusted with making recommendations on the legislative steps that are required to fill the evident gap.*"<sup>30</sup>

The Hon'ble Court further stated that while emphasising on the immediate requirement of need of a framework to address this demand,

*"At this time in our nation's history, there is neither a legislative nor a legal mechanism in place to provide restitution to anyone who have been wrongly detained. After serving a lengthy sentence in jail, it is not unheard of for a person to be exonerated by the High Court or the Supreme Court. These kinds of cases are not uncommon. They are left to their own devices without any hope of reintegration into society or rehabilitation because the best years of their life have been spent behind bars, where they are invisible behind the high prison walls. They are left to their own devices without any hope of reintegration into society or rehabilitation. There is no way, not even by a stretch of the imagination, that the prospect of invoking legal remedies can be deemed effective, inexpensive, or timely. In addition to this, this must always wait until the ultimate decision of the lawsuit, which may take an inexcusably lengthy period"*<sup>31</sup>

In the case of *Rudul Shah v. State of Bihar*<sup>32</sup>, the SC acknowledged that fundamental rights under Article 21 had been violated and directed the state government of Bihar to compensate 30,000 in compensation for confining the petitioner in detention for 14 years after he had been found not guilty. Court ordered that the state of Jammu and Kashmir pay 50,000 rupees to an MLA who had been unjustly held and had not been brought before a magistrate within 24 hours of his detention in *Bhim Singh v State of Jammu and Kashmir*<sup>33</sup>. These instances, in addition to serving as rare examples of oversight, give a glimpse into the challenges that are

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<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> 1983 AIR 1086

<sup>33</sup> AIR 1986 SC 494

presented by a case-to-case compensation arrangement, which is one that operates according to the inclinations of the judicial system.

*Rudul Shah*<sup>34</sup> received a paltry payment of 30,000 rupees, but *Bhim Singh*<sup>35</sup> was awarded an extra 20,000 rupees for his six-day incarceration, a minuscule part of fourteen years. This disparity in interpretation is both irrational but also unfair; nonetheless, until there is a unified set of guidelines, it will not be possible to eliminate this problem.<sup>36</sup>

Over time, the legal system has been unable to deal with legitimate instances, and this can only be remedied by judges abandoning their conservative approach and creating new rules that they have complete freedom to implement. It is time for the courts to quit rehashing old decisions that don't make sense and start working on writing new laws that reflect the needs of the modern day.<sup>37</sup> One example of this would be dispensing with the doctrine that specifies what qualifies as a prosecution because the answer to that question always varies from case to case.

When it comes to cases of malicious prosecution where justice has not yet been served, the SC has made comments on numerous occasions.<sup>38</sup> However, lawmakers have consistently fallen short of seizing upon these observations, failing to pass legislation or, in the case of changes, even proposals that would help the cause in the short term while also being used to border relevant laws through additional research.<sup>39</sup> Despite the fact that the Supreme Court has made a number of remarks on the matter. A common belief is that when such tragedies occur, the courts should be held responsible; however, if one analyses the situation carefully, it's actually an agency that is responsible for winding up such investigations, which has been negligent, and has actually helped to facilitate more such travesties<sup>40</sup>.

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<sup>34</sup> *Supra*, note 31

<sup>35</sup> *Supra*, note 32

<sup>36</sup> NC Asthana, *Malicious Prosecution: A Deep Dive Into Abuse of Power by Police*, THE WIRE, <https://thewire.in/government/malicious-prosecution-abuse-police-power> (last visited Jun 12, 2022).

<sup>37</sup> Committee Reports, PRS LEGISLATIVE RESEARCH, <https://prsindia.org/policy/report-summaries/wrongful-prosecution-miscarriage-justice-legal-remedies> (last visited Jun 12, 2022).

<sup>38</sup> Ambica Kundu, *Malicious Prosecution: A Comparative Analysis of the position in England and India*, AISHWARYA SANDEEP (2021), <https://aishwaryasandeep.com/2021/09/24/malicious-prosecution-a-comparative-analysis-of-the-position-in-england-and-india/> (last visited Jun 12, 2022).

<sup>39</sup> Anshika Gubrele, *Malicious Prosecution: A comparative analysis of England and India*, IPLEADERS (2019), <https://blog.ipleaders.in/malicious-prosecution-a-comparative-analysis-of-the-position-in-england-and-india/> (last visited Jun 12, 2022).

<sup>40</sup> Sanjeev Kumar & Abhishek Goyal, *Wrongful Prosecution-Victim's Rights And State's Obligations - Trials & Appeals & Compensation - India*, MONDAQ.COM (2019), <https://www.mondaq.com/india/trials-appeals-compensation/777794/wrongful-prosecution-victim39s-rights-and-state39s-obligations> (last visited Jun 12, 2022).

## V. LAW COMMISSION RECOMMENDATIONS

In the particular instance of *Babloo Chauhan @ Dabloo v. State Government of NCT of Delhi*<sup>41</sup>, the Delhi High Court articulated deep disappointment regarding the wrongful prosecution as well as detainment of innocent persons, emphasising the necessity for a relevant legislation for delivering remedy to these kinds of individuals.<sup>42</sup>

In consequence, the court directed the Law Commission of India to formulate a report on the said issue and devise a framework to rehabilitate as well as duly compensate the victims of wrongful prosecution.<sup>43</sup>

Rather than using terms like "wrongful conviction" or "wrongful imprisonment," this report<sup>44</sup> looks over this challenge from inside the foundation of the Indian Criminal Law. In the context of criminal law, the term "wrongful prosecution" refers to situations in which the person who is being prosecuted is found not guilty of the crime in question, and the investigation into the person's case is carried out by law enforcement or prosecutors who engage in some form of ethically questionable behaviour.<sup>45</sup> This included occurrences in which the individual was sentenced to time spent in prison as well as cases in which he was not; it would also include cases in which the accused was ruled out to be innocent in appellate stages.<sup>46</sup>

The Law Commission made the recommendation that there should be a stringent and transparent mechanism that provides reparation as a right to the victim rather than a donation of goodwill by the state. In addition, it emphasised how important it was to provide this compensation in a timely manner and, as a result, it suggested the establishment of special courts in each district for the exclusive purpose of handling cases relating to this issue.<sup>47</sup> In addition, it suggested that the basis of the claim be "wrongful prosecution," a term that does not yet exist in India and encompasses both malicious prosecutions as well as actions taken in bad faith. Damages to one's health, mind, reputation, or property that were brought on by a

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<sup>41</sup> BABLOO CHAUHAN @ DABLOO V. STATE GOVERNMENT OF NCT OF DELHI, *supra* note 28.

<sup>42</sup> Shivangi Gangwar & Manan Parekh, *Victim Compensation For Wrongful Prosecution/Conviction-Indian Judiciary Yet To Evolve*, (2020), <https://www.livelaw.in/columns/victim-compensation-for-wrongful-prosecutionconviction-indian-judiciary-yet-to-evolve-161374> (last visited Jun 12, 2022).

<sup>43</sup> BABLOO CHAUHAN @ DABLOO V. STATE GOVERNMENT OF NCT OF DELHI, *supra* note 28.

<sup>44</sup> LAW COMMISSION OF INDIA, *supra* note 10.

<sup>45</sup> Chirayu Sharma, *Wrongful Prosecution (Miscarriage of Justice): Legal Remedies:Law Commission Report no. 277 - Indian Law Watch*, (2022), <https://indianlawwatch.com/wrongful-prosecution-miscarriage-of-justice-legal-remedieslaw-commission-report-no-277/> (last visited Jun 12, 2022).

<sup>46</sup> LAW COMMISSION OF INDIA, *supra* note 10.

<sup>47</sup> Auroshree, *Wrongful Prosecution (Miscarriage of Justice): Legal Remedies (Law Commission of India — Report No. 277)*, SCC BLOG (2018), <https://www.sconline.com/blog/post/2018/09/08/wrongful-prosecution-miscarriage-of-justice-legal-remedies-law-commission-of-india-report-no-277/> (last visited Jun 12, 2022).

"wrongful prosecution" would be covered by the compensation.

The Law Commission suggests<sup>48</sup> that these hearings be streamlined into summary proceedings, with perhaps the claimant bearing the burden of evidence in demonstrating that they have been unfairly punished based on a preponderance of probabilities.<sup>49</sup> There must to be time constraints placed on the special court in order for these to decide the case and even for reparations to be paid out. The last recommendation made by the Law Commission was that the Act should contain a clause for provisional reparation<sup>50</sup> in addition to the considerations which could be used to determine the final amount of compensation. In order to ensure that these suggestions are carried out, the LCI appended a draft legislation that would change the CrPC. However, the CrPC still hasn't been amended.

## VI. CONCLUSION

In India, there is no efficient legislative or judicial framework for the malicious prosecutions that have occurred as a consequence of malfeasance on the part of police but also prosecutors, that has led to an infestation of malicious accusations. There has been an extraordinary spike in the bringing of fraudulent charges as a result of the absence of danger of being penalised by justice system as well as the rising desire to fabricate innocent people for mostly malicious motivations.

The violation of fundamental rights, which are protected by Articles 14 and 21 of the Constitution, occurs when there is no adequate legislative and otherwise legal system for administering obligatory compensation strategy to victims of unjust wrongful prosecutions and perhaps the detention of innocents.

In a plea filed before the SC seeking directions to Union Government, it was contended that –

*"False cases led to the suicides of innocent people who were victims of police and prosecutorial misconduct, who lost hope and had the lives of their families destroyed after years of delayed trials due to the non-effective machinery, which only gets aggravated by the denial or reluctance of taking penal actions in a routine manner by the Courts against the misconduct of investigating officers and vexatious complainants, mostly under the guise of absence of malice and defence of mistake done."*<sup>51</sup>

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<sup>48</sup> LAW COMMISSION OF INDIA, *supra* note 10.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> Srishti Ojha, "Compensate Victims Of Wrongful Prosecution": Plea Before Supreme Court Seeks Directions To The Centre, (2021), <https://www.livelaw.in/top-stories/supreme-court-wrongful-prosecution-law->

Because the traditional legislative countermeasures are convoluted, arbitrary, sporadic, and uncertain, but also because there are no efficacious legislated or legal pathways, there is an urgent imperative to establish certain guidelines which could help in ruling out such instances.

Even though a complete reform of the system, as suggested by the LCI, seems like an impractical goal, government can set up task forces at district level to monitor such instances with complaints redressal mechanism<sup>52</sup>. This will ensure a stricter scrutiny of the actions taken by the police force. The courts, and particularly the courts of first instance, have a significant obligation to fulfil the heavy responsibility of ensuring that an accused person's age and criminal history are given the consideration they deserve, and that the legal counsel provided by the state is both effective and not merely a formality. It is abundantly clear that the project has a lot of room for improvement to go before the proposals of the 277th report become a reality and the state takes on the culpability of consciously compensating people for the irreversible damage or harm sustained to them or even their livelihoods. This is a path that will be fraught with difficulty.

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commission-report-no-277-miscarriage-of-justice-171041 (last visited Jun 12, 2022).

<sup>52</sup> CCLSNLUJ, *Neither bail nor a remedy to avail- the ignorance of the government towards the 277th report of the Law Commission of India*, THE CRIMINAL LAW BLOG (2020), <https://criminallawstudiesnluj.wordpress.com/2020/07/22/neither-bail-nor-a-remedy-to-avail-the-ignorance-of-the-government-towards-the-277th-report-of-the-law-commission-of-india/> (last visited Jun 12, 2022).