

FALSE PROSECUTION IN INDIA

Srishti Tomar¹

Abhiranjan Dixit²

¹ Student, B.A.L.L.B. (Hons.), Law College Dehradun, Uttarakhand University, Dehradun,

² Assistant Professor, Law College Dehradun, Uttarakhand University, Dehradun.

ABSTRACT

In India thousands of cases are instituted in courts seeking judicial remedy or justice for the wrong occurred to them. But other aspect of the coin says another story, there can be seen rapid growth in institution of false criminal proceedings or litigation against innocent person, to defame, harass, or to injure him. The whole article is dedicated about how, some people misuses law and their functionaries to teach other person a lesson by filing false case subsequently followed by punishment given by court. Innocent person pay price for such an offence which he never committed, he was framed up with false facts and allegations which are enough to destroy his reputation. But mere fact is that they are just victim of the wrongful institution of criminal proceedings and they are also entitle to get justice for the injustice done to them

KEY WORDS

Wrongful, Malicious, Prosecution, Ill-will, Intent, False, allegation, Revenge, Harass, Injure

INTRODUCTION

False prosecution means where a person knowingly or with intent institutes any wrong legal proceedings or litigation in court against another person to defame or to harass. In India thousands of cases are instituted in courts every day to seek justice for the injustice done to them by any individual or state, but some cases are instituted before courts in ego, ill-will intention, feeling of revenge or in agony as the person who institutes such case in court got hurt and they want to punish the person who did them so, by constituting false facts and allegations a false cases is framed up and such case is presented before court.

False case can be filed into both criminal or civil, false cases which are instituted before court remains under trial due to the long and time taking legal procedures, during this under trial period the accused person against whom such false case is instituted faces so much sufferings, harassment, gets defame or injure and goes through many difficulties to prove himself as innocent and as well that he is wrongfully set up by the Complainant or by opposite party.

As per the data statistics collected by National Crime Records Bureau, Prison Statics, India-2015, about 25.1% (70,616) under trial spends more than a year in prison, 17.8% (50,176) spends upto one year in prison as under trial, 21.9% (61,886) were in under trial prison for 3 to 6 months, and as the time passes these statistics increases day by day in India.

HISTORICAL PERSPECTIVE (ADMINISTRATION AND JUSTICE SYSTEM)

ANCIENT INDIA

In ancient India, which is from early vedic era to invasion of Mughals in India. At that time king was the sovereign of state and his orders and commands was treated as law which is to be followed by his subjects. Manu who wrote '*Manusmriti*', which is considered as one of the earliest law book written by any law giver in India, Manu mentions in topics on king and the state, duties of king, origin and nature of state, ministers, administration set up, judiciary, roles of judges, law and its sources and classification, punishments, principles, diplomacy and warfare. In his book he mentions that *dharma* is the supreme power in state and the king is merely an instrument to realise the goal of *dharma*.³ From this we can analysis that in ancient vedic era there was a strong set up of justice and administration system

³ H.V. Sreenivasa Murthy, History of India Part-1, p.168.

There were mainly two types of mode of proofs which were used at that time first divine and second human, which further classified into three types, documents, possession, witnesses.⁴ A classic example of case, where due to false set up and allegation an innocent were rewarded with death punishment⁵. *Charudutta* a Brahmin merchant who was alleged of assault and murder of a courtesan name *Vasantsena* and during trial *Charudutta* was proved as guilty as he had possession of ornaments of *Vasantsena* and the body which was found in jungle deemed to be the dead body of her, as it was hard to identify the body which was torned by wild animals in jungle, and all these circumstantial evidences went against *Charudutta* and was rewarded with death punishment, although being a Brahmin he was sentenced to death at that time when Brahmins were not given death punishment. But the reality were something else, real facts were like these, that *Sakara* who was son-in-law of king assaulted *Vasantsena*, as she refused to love him and chose *Charudutta* over his love, in the agony and revenge *Sakara* made up a plan that linked sequences of events that will eventually prove *Charudutta* guilty of murder of the said courtesan. The ornaments which *Charudutta* had in his possession was because, *Vasantsena* gave her ornaments as a gift to his son, which *Sakara* used against *Charudutta* in his trial and also the dead body of another women in jungle which was hard to identify, *Sakara* made the jury in believe that it was *Vasantsena*'s dead body and her murder is done by *Charudutta* and *Charudutta* was sentenced with death punishment.

Here *Charudutta* who was already in position of power, status and money due to his royal relation with the king, which he misused his position and framed up an innocent man in a fake case and which he never did. In *Dasakumaracarita* it was mentioned that judges accepted bribe in the trial of *Charudutta* and in *Mricchakatika* it showed that how to secure position even judges acted contrary to law⁶.

We can say after the trial of *Charudutta*'s that how in ancient times justice was not only miscarried but was controlled by person of status and power, even the law and judges were not independent and free to act in the state. This is a perfect example which shows that how back in ancient time, a person can be easily wrongfully prosecuted for such offence which they never committed.

MEDIVAL PERIOD

As Mughals invaded in India around 1526 B.C and established themselves for upto next 200 to 300 years until the Britishers arrived and colonized in India. There was not more development in hindu laws in medieval period or during the Moghuls reign in India. Their ultimate goal was to get throne of Delhi by which they get access to rule over whole India. Quran was the sole sacred text and guide for living life, it also states the duties and responsibilities that a person has towards god, state, and another person. The laws and administrative which was made during that time was based on principles of Quran. Even though king was bound to follow and act according to principles of Quran as it was a holy book and was believed to be revelation from Allah (god). If any person who so ever profess Islam goes against Quran or its principles then it was considered as sin and was entitle to get death punishment.

Under Islamic jurisprudence offences were categorized into parts one against god and state, another against any private or individual. King takes suo moto of offences which were against god and state, not into the offences against any private or individual, here person himself has to move to king's court regarding offences against any private or individual. As example, murder was considered as crime against the person but whereas consumption of alcohol or wine was considered as sin, against public morality and offence against god.

The law system was highly criticised by Warren Hasting, "law of barbarous construction, contrary to the principles of civil society, by which the state acquires as interest in every member which compares it and a right in his security. It is a law which it rigidly observed, would put the life of every parent in the hands of his son, and by its effect on weak and timid minds, would afford a king of pre assurance of impurity in those who were disposed to become obnoxious of it"⁷.

Non muslim's testimony as witness was not considered as valuable as compared to the testimony of a muslim person during trial. Even muslim women testifying as witness, were not on the same footing as compared to muslim men. If muslim men is one of the opposite party in any trial and in opposite it is non-muslim or any muslim women, then in such there is high probability that decision could fall in favour of muslim men. And no capital punishment could be given to a muslim on the evidence of a non- muslim.

There was a high religious distance during Mughal period in personal laws and due to this, confusion was created between non-muslim subjects of state, as trial and many laws were designed as per the muslim law. Due to which non-muslims were afraid that their voice would not be heard and if any muslim person in ill-will intent or in vengeance to

⁴ H.V. Sreenivasa Murthy, History of India Part-1, p.204.

⁵ Ms. Mita R. Shah, 'The Court Scenes of the Merchant of Venice and the Mricchakatika. A Comparative Study', ISSN NO. 2455-734X (2018-19).

⁶ H.V. Sreenivasa Murthy, History of India Part-1, p.214.

⁷ Quoted in M. Rama Juis, op. cit., p.13.

harass, defame and injure he may constitute false case and present it before the king and all favours will be on his side as he is a muslim and his word is considered as more trustworthy during trial.

COLONIAL ERA

Britishers came in india around 1600 B.C and they ruled in india upto more than 400 years. In 1947 India got independence from british colonial rule and attained status as sovereign and independent state. Britishers came to India for doing business but ended up in ruling over whole India. They introduced us with many laws, legislation, civil and political rights which still prevails in India upto this date, i.e. The Indian penal Code 1860, The Indian Contract Act 1872, The Civil Procedure 1908, and many more.

In madras sir Francis De took permission from the local ruler to build a residence for the Europeans, a fort named as 'St.George' was built by britishers for their residential purpose and to regulate their business fort which was also known as 'White Town', and the workers who works in fort 'St.George' were mainly Indians and lives around fort known as 'Black Town'. The administration and judicial set up of white town were under control of Governor-in-council of Surat and on his behalf one agent was appointed to look up affairs of white town, and judicial decisions were decided as per the English laws.

In murder trial of 1641⁸ a native Indian was charged for murder of his wife, this was first case where agent decided case, but without no proper investigation, witness and trial the person was pronounced guilty and this decision of agent was also approved by local ruler by continuing his death punishment. This case shows that how, without proper investigation and trial a person was sentenced with death punishment and such person was not even given adequate opportunity to be heard, which is the basic feature of law and justice of 'being heard by both the party' while deciding any case.

As the time passes, establishment of many courts shaped the legal and administration history in India. Establishment of high Court of judicature at Bombay (1672), which was later recognised in (1718), Supreme Court in Calcutta (1774), Supreme Court in Madras (1801) and at Bombay in 1823. The Supreme Court at Madras continued till 1801, and then it was replaced by High Court in 1862.

The trial of Nand Kumar (1775), this case is also said as the first judicial murder committed by Supreme Court which failed to act in prudence to serve justice to the natives, as it was one the main function of the Supreme Court to protect the natives of Bengal, Bihar and Orissa against the oppressive acts design by Britishers⁹. Nand Kumar a Brahmin and loyal to British company were abetted by the members of Council of Governor General named, Francis, Clavering and Monson who were opponents of Warren Hastings. To file a case against Hastings of accepting bribe from Kumar of about two lakhs and fifty thousand rupees to appoint his son as 'Diwan' and also by a women named Munnibai from whom Hastings took three lakhs and fifty four thousand rupees. While this whole incident happened back in the year of 1772, and whereas the allegation was raised in the year 1775. This matter came before Governor General and his Council, which was presided by Warren Hastings himself, but later on presided it was presided by Clavering as member suggested that Hastings cannot preside a matter in which he is involved. Later on the charges made against Hastings was proved and council directed Hastings to deposit the amount taken illegally in treasury of company.

This whole incident made Hastings upset as betrayal given by Kumar to him, whom he believed as loyal for him and for the company. In the feeling of revenge, Hastings raised a dispute of forgery case against Nand Kumar, which was occurred back in 1770, in the Supreme Court of Calcutta. Here the council members of Governor General came in favour of Kumar and pleaded on behalf of him but everything failed to save Kumar from getting prosecuted and Kumar faced trial by twelve English men jury and in their verdict Kumar was pronounced as guilty and also Supreme Court passed the sentence for execution of Nand Kumar, by hanging him until death on August 5, 1775.

This case showed that how Britishers used natives as scrape goat to satisfy their ego or malicious intent. And many series of events can be seen that how Britishers used natives for their own sake and purposes, indulging kumar into series of events which made him guilty of an offence and was pronounced capital punishment. Firstly abetment done by Governor General council members to Kumar to raise a matter against Hastings of taking bribe, as council members do not like Hastings personally, so they used Kumar here against Hastings. Secondly, in the feeling of revenge Hastings raised issue of forgery which was occurred in 1770 in Supreme Court and here Supreme Court also took the matter in their cognizance, whereas the jurisdiction of Supreme Court of Calcutta did not apply the area outside of Calcutta but Nand Kumar actually resides outside of Calcutta. Thirdly, partiality was done by the Chief Justice of Supreme Court of Calcutta, Sir Elijah Impey, who was childhood friend of Warren Hastings. Impey helped out Hastings to get rid of Nand Kumar as Kumar raised matter against Hastings and tried to defame him so to teach lesson to Kumar Hastings took help from Impey, and also got succeeded in their plan as Kumar was sentenced death punishment from the Supreme Court of Calcutta. Fourthly, capital punishment was given for the offence of forgery under the statute of

⁸ Dr. G. P. Tripathi, History of Courts And Legislation, p.120.

⁹ Dr. N.V. Paranjape , Indian Legal & Constitutional History , p.61.

England, but this law does not apply upon native Indians. Still court relied on the Statute of England and pronounced capital punishment to Kumar. Fifthly, Kumar was not given adequate opportunity of being heard and during trial severe cross examination was made while testifying witness, due to which whole defence of Kumar was collapsed. Here in this case the behaviour adopted by court was not only illegal but also contrary to law and legal principles.

INTERNATIONAL PERSPECTIVE

The International Covenant On Civil And Political Rights 1966 (ICCPR), is an international text which mentions about miscarriage of justice, and also provides the obligation of signatory states to set up and to work for the justice of individual resulting in wrongful or false conviction and to compensate them, as they suffered a lot due to punishment given to them in lieu of wrongful conviction.

Article 14(6) of this covenant states, 'where a person by a final decision been convicted for a criminal offence and when his subsequently on ground that there has been a miscarriage of justice, the person who suffered punishment as result of such conviction shall be compensated according to law'. There is one more Article in this covenant, Article 9(5) which mentions about 'right to compensation for illegal or unlawful detention. India is one the signatory of this covenant and along 168 state members, have ratified this covenant of 1966. State members incorporated the article of providing compensation to victim of miscarriage of justice into domestic legislation, so there can be creation of a statutory right for compensation to such victim of wrongful conviction. It is state responsibility to assess the quantum of compensation, maximum and minimum limits of case, claim procedure and etc.

India in its case decide by Supreme Court for compensation to kill a person in fake encounter in, Nilbati Behra v. State of Orissa¹⁰, The honourable court held that the Article 9(5) of the ICCPR, 1966, states that "anyone who has been victim of unlawful arrest or detention shall have an enforceable right to compensation for enforcing fundamental rights"¹¹.

CONSTITUTIONAL AND CRIMINAL LAW REMEDY

A. CONSTITUTION

Indian Constitution is one the longest constitution in the world. It is supreme in India and all the laws made in India considering the constitution. If any provision of law or act goes against Constitution then such part or whole law or act shall be deemed as unconstitutional and nullified. In context of false prosecution or false case, court kept in mind about the rights and privileges of victim of such and also made sure that victim is compensated for his loss due to the false institution of case.

Under Article 20 of the Indian Constitution states about, 'the protection in respect of conviction for offences'. According to the clause 1 of this article, 'There shall be no conviction for an offence, except for violation of law in force at the time of commission of act charged', which means that when an act does not come into the definition of an offence at the date of its commission, then it cannot be amounted as an offence at the date subsequent to its commission¹². Second part of clause 1 mentions about, protection of a person from greater penalty than at the time of commission of the offence.

Article 20(2) states that a "no person shall be prosecuted and punished for the same offence more than once", it means that a person who was already been prosecuted for the same offence, he cannot again be prosecuted for such same offence, and here he can take complete defence of his former conviction or acquittal.

Article 20(3) states prohibition against self- incrimination, which means person accused of an offence shall not be compelled to be a witness against himself.

Article 21 of our constitution provides, protection of life and personal liberty. This right guaranteed in Article 21 is available to all citizens, including 'non-citizens' also.

The ambit of Article 21 is very vast and wider as it covers whole aspect connected with a person or an individual's life and liberty. It also includes the person's dignity, freedom and liberty.

1. Right to fair trial – fair trial is the heart of criminal jurisprudence. Denial of fair trial is against human rights, and a person has right to fair trial.¹³

In the case of Nirmal Singh Kahlon v. State of Punjab¹⁴, the court held that fair trial also includes fair investigation, as these both are connected with each other for the preservation of fundamental right of an accused person, under Article 21 of the Indian Constitution.

¹⁰ (1993) 2SCC 746

¹¹ J. N. Pandey, Constitution of India, p.305.

¹² Chief Inspector of mines v. K. C. Thappar, AIR 1961 SC 883

¹³ Rattiram v. State of M.P. through Inspector of police, AIR 2012 SC 1485.

¹⁴ AIR 2009 SC 984.

2. **Right against inhumane treatment** – The honourable Supreme Court in the case of *Kishore Singh v. State of Rajasthan*¹⁵, held that the use of ‘third degree’ by police is violation of Article 21 and directed government to take effective steps to educate and aware police to not to opt such method as, this method is not only inhumane but also against the respect of person.

3. **Protection against illegal detention, arrest and custodial death** – In the case of *Nilbati Behra v. State of Orissa*¹⁶, honourable Supreme Court awarded Rs, 1,50,000 as compensation to the deceased’s mother whom son died in custody of police due to the torture or beatings done to him by police.

Dr. Justice Anand states that “custodial death is one of worst crimes in a civil society governed by the rule of law”, in the case of *D.K. Basu v. State of West Bengal*¹⁷.

4. **Compensation for killing a person in “Fake encounter”** – The honourable Supreme Court in the case of, *People’s Union for Civil Liberties v. Union of India*¹⁸, held that killing a person on fake encounter by police is clear violation of Article 21, and in this case court awarded Rs 1,00,000 as compensation to deceased.

Article 22 of our constitution provides safeguards against arbitrary arrest and detention. This Article guarantees four rights to a person who is arrested for any offence under an ordinary law:-

- Right to be informed of ground of arrest,
- Right to consult and to be represented by lawyer of his own choice,
- Right to be produced before magistrate within 24 hours,
- No detention beyond 24 hours except by order of the magistrate.

In the above mention fundamental rights guaranteed to arrest person, clause (1) and (2) of Article 22 are available to both citizens and non-citizens, but not to the person arrested or detained under any law for preventive detention.

B. CRIMINAL LAW REMEDY

1. INDIAN PENAL CODE, 1860 –

Chapter IX of the Indian Penal Code deal with ‘offences by or relating to public servants’ and chapter XI of the Indian Penal Code deals with ‘false evidence and offence against public justice’. Offences listed under these chapter contains sections for providing possible instances of police and investigating agency, prosecutorial misconduct regarding investigation, prosecution, trial and other criminal proceedings.

a. Chapter IX – ‘Offences by or relating to public servant’

Section 166, mentions that ‘being a public servant, disobeying law, with intent to cause injury to any person’, Section 166A, states that ‘public servant disobeying direction under law’. Section 167 provides that ‘public servant framing an incorrect document with the intent to cause injury’.

These above mentioned sections are for those public servant or official authorities, who misuses their power and privileges against any person to cause him injury. Such acts done by public servants or officials are punishable with 3 years of simple imprisonment or with fine, or with both.

In the case of *State v. Saqib Rehman & ors*, Sessions court, Dwarka, New Delhi in its order dated 2 February 2011, discovered a finding that the police officials concerned in this case had framed the person accused in the false criminal case, and false evidence, whereas person accused were already in police’s illegal custody and the police officials scripted false case with false facts and gave it a form of an encounter, based on a fake secret informer and showing an arrest of a later date¹⁹.

Section 218 of IPC provides that, ‘public servant framing incorrect record or writing it with a intent to save person from punishment or property from forfeiture’. He shall be punished with imprisonment of either of description for a term which may extend to three years with fine, or with both. This section has wider concept than section 167 of IPC, as Section 218 of IPC states that, ‘the incorrect information or framing with intention to save a person from legal punishment or property from forfeiture’.

Section 219 of IPC, states that ‘public servant in any stage of judicial proceeding, corruptly making report, order, verdict or decision, with the intent that he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine or with both.

Section 220 of IPC states that ‘Commitment for trial or confinement by person having authority who knows that he is acting contrary to law’. When any police officials goes excess of his legal powers of arrest, illegal detention or confinement, which he is not authorise or have power to do such, and he knows that he is acting contrary to law, in

¹⁵ AIR 1981 SC 625.

¹⁶ (1993) 2 SCC 746.

¹⁷ AIR 1997 SC 610.

¹⁸ AIR 1997 SC 1203.

¹⁹ Law Commission Report no. 277, ‘Wrongful Prosecution (Miscarriage of justice): Legal Remedies’.p.50.

such case he is liable to be punished with, imprisonment of either description for a term, which may extend to seven years or with fine, or with both.

b. Chapter XI – ‘False evidence and offences against public justice’

Under this chapter Section 191 to 200 are relating to give and fabricate false evidence. Section 201 to 229 are related to offence against public justice. Section 191 is about ‘giving false evidence’, and Section 192 states ‘Fabricating false evidence’. Section 193 to 195 mentions about the punishment for fabricating and giving false evidence, intentionally to procure conviction punishable with capital punishment, and life imprisonment.

Section 211 of IPC states ‘False charge of offence made with intent to injure’. This section clearly mentions about miscarriage of justice as, where a person with intent institutes criminal proceedings against any person to cause him injury and he knows that there is no lawful ground to do so, such offence is punishable with imprisonment for term which may extend to two years, or with fine, or with both and in matter where such criminal proceeding is instituted for an offence punishable with death or life imprisonment on a false charge, shall be punished with imprisonment for a term which may extend to seven years and also liable to fine.

2. CODE OF CRIMINAL PROCEDURE, 1973 –

Under the this code of 1973, the provision which talks about the victim justice of false arrest or illegal detention, trial or prosecution is Section 358, it provides compensation to person groundlessly arrested. This section empower court to order for payment of compensation to person who was wrongfully arrested without any “sufficient ground or cause”, by a person who caused police to make such an arrest. The person due to whom the police made arrest, may be ordered to pay compensation of Rs 1,000 maximum to the person who was arrested by police without any ‘sufficient cause’, such person who made instance to police for arrest may also be liable to be get sentence of simple imprisonment for period of 30 days maximum, if the ordered amount of compensation is not paid or recovered.

FALSE PROSECUTION BY WOMEN, MISCARRIAGE OF JUSTICE

In some of previous years, the cases instituted by women against men for offences like harassment, rape, dowry, cruelty has grown or increased in India. As in India patriarchal society is still dominant and women can be seen demanding for their rights and privileges as equal to men. That is fair enough to demand equal rights as compared to men. Infact gender equality is must in society, so that one gender is not deprived from opportunities and is equally compatible to contribute in society as well as for welfare of country. But the alarming situation is that, due to rise of feminist movements in India, women can be seen thrashing men’s life and reputation so that they can learn a lesson. As every coin has two faces just like that feminist movement showed women a way to raise issues regarding injustice done to them by men, but at same time these movement also showed women a way to use law as a weapon to take revenge from men in the shade of sympathy and playing their victim card in ill-will way.

As example we can see dowry cases instituted in court under Section 498A of IPC, 1860 according to this section, ‘Cruelty done to a married woman by her husband or any of his relative is made punishable with an imprisonment for term of three years and also with fine’. The objective of inserting of this section in IPC, 1860 was to protect married woman from cruelties or atrocities done to them by her husband or by any of his relative, for not fulfilling the demands of bringing more money or dowry in her matrimonial home. She can institute such case in court within seven years of her marriage against the cruelty done her, and also here state is obliged to provide her assistance and protection until she gets justice through court.

But in some previous years Section 498A of IPC, 1860 was highly misused by married woman against her husband to satisfy her agony and to teach him a lesson. If she have any issues with husband or by his any of relative. Then Section 498A was an easy way or we can say a weapon to use against her husband or his relatives so that she can teach them a lesson.

Due to these fake dowry cases husband loose his reputation, dignity in front his colleagues, friends, relatives and before whole society. Even before such man is prosecuted in court media already declares man as guilty and due to this media trial and false dowry case, he suffers a lot which cannot be returned to him later by anyone. Even though he gets acquitted by court in such dowry case which in real in a fake case, no compensation or cost is given to man, he loses many valuable time or years from his life due to this false case, his dignity is snatched which cannot be regained. There is no output after getting acquitted for a crime which they did not committed, although Section 182, 199, 211 of IPC 1860, provides provision for punishment of false case, but they are rarely invoked. Therefore whosoever suffers from flawed implementation or by abuse of law, must have an effective and practical redressal mechanism.

The Honourable Supreme Court observed in the case of, Arnesh Kumar v. State of Bihar and another²⁰, Section 498A was usually being “used as weapons rather than shield by disgruntled wives”.

²⁰ (2014) 8 SCC 273.

In the case of, Rajesh Sharma and others v. State of U.P.²¹, The Honourable Supreme Court gave numbers of directions, in order to prevent misuse of Section 498A of IPC 1860, such as that whenever complaint under section 489A received by police or magistrate then such would be referred to 'family welfare committee' which is to be constituted by 'District legal services authorities' in every district. This committee will look into the matter referred to them by police and magistrate under section 498A and till report is not submitted by committee to police or magistrate, until then no arrest would be normally effected, many more directions were given by honourable court in this case.

Court also understood that women misuses Section 498A of IPC, 1860 against their husband and institute false case in court. There is one such case where wife was asked by Karnataka High Court to pay cost of Rs, 25,000 to ex-husband in the context of misusing of Section 498A of IPC and constituting a false case. Karnataka High Court in his criminal petition no. 7129 of 2018 between Faisal Ahmed Khan v. Nazia Asma, court observed that "this is a case of a highly harassed husband by abuse of process of law. It is a classic case where complainant initiated criminal proceedings under section 125 of Code of Criminal Procedure, 1973 and 498A of Indian Penal Code, 1860 against petitioner and abused the said provisions". Therefore false allegations against petitioner were designed by complainant to harass him and court rejected all allegations made by women (complainant) against ex-husband (petitioner) of harassment.

CONCLUSION AND SUGGESTIONS

After analysing that false institution of case in court is the miscarriage of justice, where complainant uses laws as weapon or a way to make other person suffer from time taking and long legal procedures, under trial, illegal detention & etc for such offence which they didn't committed and were falsely framed in the false case with false allegations.

Person although acquitted from court from charges which were false or wrongfully instituted against him, such person needs to be recompensed for all financial loses, sufferings, defamation, harassment, from which he went through while facing false allegations and proving himself innocent in court. Despite the given remedies in law for compensation to victim and also in the landmark judgements decided by Honourable Supreme Court, to recognize the remedy of recovering appropriate damages from state as observed in the landmark case of Nilbati Behra v. State of Orissa²².

There is need for sets of legislative principles regarding the award of compensation or its amount to thereof for the victims of false or wrongful prosecution. Although relief is granted to such victims of false or wrongful prosecution by Supreme Court or High Court, but still there is no statutory right to get compensation for such victim.

There is also need to set up a special court who takes up matter regarding the losses caused due to wrongful or false institution of case in court and subsequently punished with imprisonment or with fine or with both. Because of wrongful institution of case against a person has to go through mental and emotional trauma, and sometimes through physical torture also. Such special court should award compensation to victim/ claimant for their sufferings and losses due to wrongful prosecution. This would lead the new opening doors to those who had already suffered from miscarriage of justice and real justice would be served to them by providing assistance and helping them to live a normal life with dignity and pride, which was lost due to previously false charges or wrongful prosecution. Here state should also assist such victims of miscarriage of justice, as every citizen needs to be treated with equality and dignity in a state. So that people's belief and faith can still rely upon administration that their rights and privileges are being protected, and if in future their rights are violated, then here they will be entitled to get adequate compensation or remedy, as amount thereof mentioned in their respective state laws.

²¹ AIR 2017 SC 3869.

²² (1993) 2 SCC 746.