Adequate time for a probe - Investigations in Heinous Offences

What is the issue?

- Taking cue from Andhra Pradesh's Disha Bill of 2019, Maharashtra government recently proposed Maharashtra Shakti Act of 2020.
- The legislations gain attention given the provision of reduced period of investigation.

What is the Disha Bill?

- Disha Bill mandated completion of investigation within 7 working days for "heinous offences" where "adequate conclusive evidence" is available.
    - These include cases such as harassment of women, sexual assault on children, and rape.
- The apex court has already ruled in favour of the prosecutrix's statement alone (if credible) being sufficient to convict an accused.
- Forensic evidence is corroborative in nature in this regard.
- Given this, the interpretation of "adequate conclusive evidence" by the police shall remain a problem.
    - The police, in fact, are concerned primarily with collection of all evidence relating to the offence.
    - It is only for the court to evaluate whether the available evidence is sufficient to convict the accused.
- Notably, Disha Bill has been withdrawn temporarily by the A.P. government following queries by the Centre, before it could get presidential assent.

Why is it important?

- Though the Disha bill is withdrawn it is important to look into it as more States may legislate to reduce the period of investigation.
- Taking a cue from Disha, the Maharashtra government recently announced that it would enact a law to deal with similar cases.
- The proposed Maharashtra Shakti Act of 2020 will have stern punishment for offences of sexual assault.
- It will also have a provision to complete investigation within 15 days.

How do investigations go about?

- Generally, the time of investigation depends on the severity of the crime, the number of accused persons and agencies involved.
- It includes -
    - examination of the scene of crime by the investigating officer (IO) and forensic expert
    - recording the statement of the victim (by the IO and the judicial magistrate) and witnesses
    - medical examination of the victim (at a place where a female doctor is available) and accused persons
    - collecting documents relating to age from parents, local bodies and school (in case of child victim and delinquents)
    - DNA findings of the forensic science lab (FSL)
    - test identification parade of accused persons (if initially not named)
    - seizing weapons of offence
    - the arrest of accused persons; etc
- This is besides the fact that in many cases of rape, the victim remains under trauma for some time and is not able to narrate the incident in detail.
- The speed and quality of investigation also depends on whether a police station has separate units of investigation and law and order.
- It also depends on the number of available IOs and women police officers, and the size and growth of the FSL and its DNA unit.

What is the ideal time for investigations?

- As per the Criminal Procedure Code (CrPC), investigation relating to offences punishable with imprisonment up to 10 years must be completed within 60 days of detaining the accused.
- For offences with higher punishment (including rape), it is to be done within 90 days.
- If this fails to happen, then he or she shall be released on bail.
- To speed up the process, the CrPC was amended in 2018.
    - The period of investigation was reduced from 90 to 60 days for all cases of rape.
- Though every investigation has to be completed without unnecessary delay, there is no upper limit to complete investigation when the offenders are at large.
- Each investigation is guided by its own set of facts and circumstances.
- Two gruesome cases of sexual assault and murder are important to mention in this regard.
- First, in the ‘Nirbhaya’ case, the police filed a charge sheet on the 18th day of its reporting.
- No effort was spared to nab the criminals and the case was rigorously

supervised.
- However, in the recent Hathras case, the police took more than 90 days to file a charge sheet.

What is the way forward?

- Investigation of sensitive offences should be done expeditiously.
- However, setting narrow timelines for investigation creates scope for procedural loopholes which may be exploited during trial.
- Therefore, instead of fixing unrealistic timelines, the police should be given additional resources so that they can deliver efficiently.

Source: The Hindu

