# Compensation for those Implicated in False Cases

## What is the issue?

Besides highlighting the torment suffered by him and his family, Aryan Khan's case threw focus on the countless victims of malicious prosecution.

## What is the background of the issue?

- The raid on the vessel resulted in seizure of narcotic substances and the arrest of several people.
- Even though nothing was seized, the agency made sensational claims in court about them being part of an international drug trafficking network
- It also cited messages purportedly exchanged on WhatsApp as evidence.
- A special investigation team from Delhi has now cited lapses in the initial investigation and the lack of prosecutable evidence
- It absolved Mr. Khan and five others and excluded them from the charge sheet filed recently.
- The lapses include
    - failure to video-graph the search of the ship
    - not conducting a medical examination to prove consumption
    - examining Mr. Khan's phone and reading messages on it without any legal basis

## Why a person should be compensated if there is false implication?

- If there has been physical discomfort of being in jail because the person may have been in jail for many years.
- There is the mental trauma that not only a person, but also their family and children undergo.
- There is social stigma associated with arrests.
- There is a financial, social and emotional burden of being involved in a crime, which in case you were falsely accused of or maliciously prosecuted.

To know more about the need to compensate for unlawful arrests, click here

## What about the instances of providing compensation for malicious prosecution?

- Sometimes there can be genuine mistakes and several instances of sedition.
- But a malicious and deliberate act on the part of an investigating officer should be viewed very seriously.
- In scientist Nambi Narayanan's case, he was acquitted 24 years after Kerala police arrested him in a fabricated spy case
- The Supreme Court gave him Rs. 50 lakh as compensation in 2018.
- The Delhi High Court on a couple of occasions has said the person needs to be compensated

for having been kept in jail even though he's entitled to bail and all the papers are in order.
- The agencies sometimes err on the side of arresting while the role of the prosecutor and judicial application of mind will help against an error of judgment in prosecuting a person.

*Section 66A (punishment for sending offensive messages through communication service, etc.) of the Information Technology Act has been struck down by the Supreme Court in 2015 as unconstitutional.*

## Do India need a new law to ensure disbursement of compensation?

- Section 211 of the Indian Penal Code talks of a false charge of offence made with an intent to injure.
- It can lead to two years of imprisonment, or up to seven years.
- This section is valid for malicious prosecutions, but further legislation for compensation would be a welcome step.
- There need to be a legislation on this respect as the amount of compensation stays at the discretion of the judiciary.4
- The state should have some legal or statutory responsibility and must also take responsibility in case of wrongful confinement.

**Reference**


1. https://www.thehindu.com/opinion/op-ed/do-we-need-a-law-to-compensate-those-implicated-in-false-cases/article65487956.ece



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