Fake Encounters

What is the issue?

The inquiry into the 2019 Hyderabad encounter killings is a reminder that the police must observe the spirit of the law.

What is the case about?

- In 2019, an incident of rape was reported in the outskirts of Hyderabad and on the next day, the victim's dead body was found burnt.
- Four persons were arrested in connection with the rape and murder.
- Later, it was reported that the four suspects were killed when they attacked the police.
- It was further reported that the deceased suspects had snatched arms from the police and opened fire upon them, and were subsequently killed in an exchange of arms.
- Later, the Supreme Court constituted a Commission of Inquiry headed by one of its retired judges, Justice V.S. Sirpurkar to inquire about the alleged encounter of the deceased suspects.

What has the panel found?

- The Sirpurkar Commission called the entire Hyderabad encounter episode a 'fake' one.
- The Commission recommended that the police officers and personnel be tried under IPC
    - Section 302 (murder) read with 34 (common intent),
    - Section 201 (causing disappearance of evidence, providing false information)
- The report stated that there did not arise any occasion for exercising the right of private defence.
- The Commission has believed that the actions of the police officers in deliberately firing at the deceased suspect, is not justified in light of Sections 46 Cr.P.C. read with 60 Cr.P.C.
- These officers cannot take shelter under Section 76 IPC and Exception 3 to Section 300 IPC because their contention that they fired in good faith at the deceased suspects has been disbelieved.

Section 96-Nothing is an offence, which is done in the exercise of the right of private defence.

Exception 3 to Section 300 IPC says that culpable homicide will not amount to murder if it is done with the intention of causing bodily injury, which is sufficient in the ordinary course of nature to cause death.

What is the status of extra judicial killings in India?

- **Uttar Pradesh's Case**- In 2017, the Uttar Pradesh Chief Minister, Yogi Adityanath, had publicly stated that criminals would be jailed or killed in encounters.

- By the end of his first term as the CM, 151 criminals had been killed and over 3,300 injured by gunshot injuries in over 8,500 encounters.
- **Assam's case**- The Chief Minister of Assam too gave clear directions to the Assam police personnel that criminals who attempted to escape should be shot.
- **Other states**- In the same manner, the recent 'bulldozer policy' of Uttar Pradesh has also been adopted in Madhya Pradesh and Delhi.

What is the criticism against extra judicial killings?

- **Against rule of law**- Extra-judicial killings go against the very spirit of rule of law.
- **Violation of fundamental right**- Fake encounters compromise on the individual's right to life under Article 21 of the Constitution.
- **Blame on low ranking officers**- When commissions are set up to inquire into fake encounters, it is usually low-ranking officers who have to face the brunt.
- **Magisterial inquiries**- Magisterial inquiries conducted by local magistrates turn out to be absurd as they have to work in consonance with the police of the district.
- **Awards and citations**- Those indicted in fake encounters have been awarded police gallantry medals.
- **Violation of human rights**- Killing unarmed and helpless suspects who may not decidedly be criminals is an act of cowardice that violates human rights.
- **Criminals in uniform**- If States begin to adopt extra-judicial strategies to bring down the crime rate, then the country would be ruled by criminals in uniform.

In 2011, Supreme Court has held that fake encounter killings should be treated as the rarest of rare offence and police personnel responsible for it should be awarded death sentence.

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