On Dealing with False Criminal Cases

What is the issue?

There has been increasing misuse of legal provisions such as Section 304B on dowry deaths and Scheduled Castes (SCs) and Scheduled Tribes (STs) (Prevention of Atrocities) Act, 1989.

What does the data show on false allegations?

> *Section 304B in of Indian Penal Code provides for an imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life for commiting dowry death.*

- As per **NCRB's Crime in India 2020** report, about 5% of the cases under Section 498A were found to be false.
- Out of the 17,765 cases under Section 498A decided by the courts, only 3,425 cases ended with a conviction
- About 12% of the cases under the SCs and STs (Prevention of Atrocities) Act were found to be false by the police.
- Out of the 8,138 cases under the SCs and STs (Prevention of Atrocities) Act decided by the courts, only 3,588 cases ended with a conviction.

What has been the court's view on these provisions?

- **Dowry deaths** - Realising the misuse of Section 498A, the Supreme Court in *Rajesh Sharma vs State of Uttar Pradesh (2017)* issued certain guidelines.
    1. Formation of district Family Welfare Committees (FWCs)
    2. Restraint on arrest till the complaint was examined by the committee
    3. Disposal of the proceedings by a senior judicial officer in case of a settlement between the parties
- But in 2018, the Supreme Court in *Social Action Forum for Manav Adhikar vs Union of India* held that the constitution of the extrajudicial FWCs was contrary to the procedure prescribed under the Code of Criminal Procedure (CrPC).
- **SCs and STs (Prevention of Atrocities)** - The Supreme Court in

Subhash Kashinath Mahajan vs State of Maharashtra (2018), issued certain guidelines.

1. Holding of a mandatory preliminary inquiry to avoid false implication of an innocent individual
2. Approval of the appointing authority before the arrest of a public servant

- However, in 2019, the Supreme Court in *Union of India vs State of Maharashtra and Ors .,* overruled the above judgment and held that the guidelines were opposed to the protection given to members of SC and ST communities.

What do these judgments indicate?

- It indicates that the court cannot lay additional guidelines when the existing law is clear and only legislature can modify such law.
- The onus is on the police to ensure that once the law is set into action no undue advantage of the special law is taken by the complainant.
- Some investigation must be done to confirm the genuineness of a complaint before an arrest takes place.
- The Supreme Court in *Arnesh Kumar vs State of Bihar (2014)* asked the police to satisfy themselves on the necessity of an arrest under the parameters laid down in Section 41 of the CrPC.
- The judicial magistrate has to examine the report furnished by the police officer and be satisfied themselves before authorising detention.

Is there any legal remedy available against those lodging false complaints?

- Criminal action can be initiated against the person who gives false information to the police or levels specific criminal charges against a person.
    - The police after the investigation may initiate action under Section 182 or 211 of the IPC respectively and both these offences are non-cognisable and a magistrate’s nod is necessary for further legal action.
- A judicial magistrate having jurisdiction ,after an inquiry, can take appropriate action against a person who filed a false case with the police.
- The complainant may approach a High Court for anticipatory bail and for quashing the FIR.
    - The High Court, under Section 482 of the CrPC, may quash the judicial proceedings even after a conviction, in case a genuine

compromise is reached between the conflicting parties.

- Damages may be claimed under the law of tort for malicious prosecution and causing injuries.
- Since the onus of arriving at the truthfulness of a case lies primarily with the investigating officer, it is their duty to investigate the case thoroughly and collect all the facts and circumstances fearlessly.

Reference

1. https://www.thehindu.com/todays-paper/tp-opinion/on-dealing-with-false-criminal-cases/article37332804.ece

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