Rights of Crime Victims

Why in news?

In a big development in the Lakhimpur Kheri violence, the 3-judge bench has cancelled the bail of the accused Ashish Sharma and provided greater participation for victims in the criminal justice process.

What happened in Lakhimpur Kheri?

- On September 29, 2021, several farmers had gathered in the Lakhimpur Kheri District to celebrate the birth anniversary of Sardar Bhagat Singh and to protest against the Indian Agricultural Acts of 2020.
- During this gathering, the farmers objected to certain comments made by Ajay Mishra, Union Minister of State for Home.
- On October 10, 2021, an annual Dangal (wrestling) competition was being organised by the accused Ashish Mishra and the program was to be attended by Ajay Mishra.
- In, the protesting farmers blocked the path and some supporters of Ashish Mishra were statedly attacked by certain farmers.
- Agitated with these happening, Mishra had allegedly drove into the crowd of the returning farmers and hit them with an intention to kill.
- Resultantly, many farmers and other persons were crushed by the vehicles.

What is the Supreme Court judgment about?

- The Allahabad High Court bench had granted bail to Ashish Mishra.
- Thereafter, the HC order granting bail to Mishra was challenged in the Supreme Court after a Special Leave Petition was filed by the relatives of the deceased farmers.
- The apex court had set aside the Allahabad HC order granting bail to Mishra and asked the accused to surrender within a week.
- The SC had made sharp remarks legitimising the claims of victim to participate in the criminal justice process.
- The court observed that international instruments and the recommendations of the law reform reports were in favour of granting greater participation for victims of crime.
- The court has said that the victim cannot be asked to wait till the commencement of the trial to assert their right to participate in the proceeding.
- The victim has a legal right to be heard at every step post the occurrence of the offence.

What is the impact of the judgment on victims?

- **Definition of victim**- The victim as defined in Section 2(wa) of the Code of Criminal Procedure (CrPC) becomes a victim only after an accused has been charged with the offence.
- The judgment overcomes this bar to provide the victim with the right to be recognised as a victim immediately after the occurrence of the offence.
- **Rights of the victim**- A victim, not being a complainant, has been prevented from several

pre-trial rights under the CrPC. It includes
    - the right to approach the superior police officer in case of a refusal to register an FIR
    - the right to be informed about the progress of the investigation or the decision not to investigate
    - the right to be informed on the filing of the final/closure report
- The judgment clarifies that although the complainant and victim are two different entities in the law, the victim has unrestricted participatory rights from the stage of the investigation.
- It means that the victim must have all rights that a complainant has, and much more.
- The SC observations secure a range of rights for the victim at the trial stage including
    - the right to be informed of the proceedings
    - the right to protection
    - the right to speedy justice
    - the right to present arguments and written submissions
    - the right to examine witnesses
    - the right to be heard at sentencing
    - the right to be compensated and restituted
- **Participatory rights of the victim**- The court observed that the participatory rights of the victim extend all the way to the stage of appeal or revision.
- The Supreme Court has also observed that the rights of the victim must not be restricted.

What are the challenges in the implementation of the judgment?

- **Enunciation of the rights**- The major challenge lies in the proclamation of the rights which the judgment seeks to secure.
- It remains to be seen how the judgment is interpreted in the future and which rights are consequently identified.
- In the absence of such clarity, it also remains to be seen how the judgment will be applied by the lower courts in practice.
- It seems that it will not be easy to implement the judgment immediately.
- **Other judicial precedents**- There are several provisions and judicial precedents which stand in the way of a comprehensive guarantee of such rights to the victims.
- For instance, Section 301 limits the right of the victim's participation at the trial in a court of session to submission of written arguments after evidence is closed in the matter.
- In the case of *Rekha Murarka v. State* (2019), the SC held that granting victims a right to participation at trial may lead to the trial becoming a 'vindictive battle' between the victim and the accused.

What lies ahead?

- **Legislative recognition**- A legislative recognition has to be given to the principle of participation which has received the judicial stamp of approval.
- **Amending CrPC**- The CrPC of 1973 and the CrPC of 1898 carry fewer provisions in terms of access, participation, assistance, protection and compensation to victims of crime.
- There is an urgent need to amend the CrPC in order to facilitate the recognition of victim rights and to create a statutory framework.
- **Legislative incorporation**- The recommendations of the Committee for Reforms in Criminal Laws take note of such a need.
- Such legislative incorporation can grant recognition to the rights of victims and secure their implementation by the functionaries of the criminal justice system.

References

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