

## **WRONGFUL CONVICTIONS: WHEN JUSTICE FAILS**

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### **ABSTRACT**

*Indian criminal justice framework works on the principle of innocent until proven guilty. In spite conviction of innocent people have become normal nowadays. The misery of being in prison because of unfair conviction and exhaustive loss of freedom are just fused by considerations of anything that may have been there, then the wrongful conviction. On the whole such cases, people have improperly indicted and imprisoned for a few valuable long stretches of their lives, even on respectable quittance, have very little to acquire. They need to confront social shame alongside their relatives and nonappearance of any legal arrangements or state systems irritates their misery. The state needs to forestall such wrongful conviction from the start. On the off chance that such feelings can be forestalled from the start place, such misfortunes will not happen. India, being a government assistance state needs to make reformist strides towards emancipation of such casualties of injustice.*

Keywords- Wrongful convictions, injustice, remedies, causes, miscarriage of justice

### **INTRODUCTION**

In the criminal justice framework, an accused is assumed honest till his guilt is proven. The presumption of innocence is an important principle of our legal system and basic right of accused person. The presumption must stand and be a guiding principle from the moment of suspicion, investigation, trial till the verdict is delivered. Over a period of time the pronouncements of supreme court has reaffirmed that presumption of innocence is the human right. In the case of *P.N Krishna Lal v Government of Kerala*<sup>1</sup>, the supreme court held that the principle presumption of innocence is entrenched in Constitution Of India. There are situations where the charged might be vexed pointlessly or maliciously because of the sick intentions of the police authorities. This prompts illegitimate indictment which eventually brings about unfair conviction. A wrongful prosecution is an act of filing any common or criminal case that has neither any generous worth nor accomplished for acquiring certifiable alleviation however expected to harm the litigant or to cut him down.<sup>2</sup> Because of this, an innocent individual is

<sup>1</sup> 1995 Supp(2) SCC 187, para 23

<sup>2</sup> Robert J. Norris, Catherine L. Bonventre, Allison D. Redlich, James R. Acker, & Carmen Lowe, Preventing Wrongful Convictions: An Analysis Of State Investigation Reforms, Criminal Justice Policy Review pp 1-30 (2017), <https://core.ac.uk/download/pdf/345085101.pdf>.

sentenced. After conviction, when it is discovered that the convicted individual is innocent, then will it not amount to injustice?

A person wrongfully convicted however released from prison is allowed to return to his life; yet was it feasible for him to return to a similar life he had a prior conviction. Despite vulnerability about the genuine rate of wrongful conviction, more is known about exemptions or those cases in which the wrongful conviction of honest individuals has been distinguished and turned around. No doubt, these cases address just "the hint of something larger of a considerably more profoundly imperfect justice system.

That is, these known exemptions likely don't address all wrongful convictions however they are a relatively small, unrepresentative sample of miscarriages of justice that happened to be discovered and overturned.

India has series of cases wherein the charged was sentenced and later on discovered to be blameless. One of the significant cases is S Nambi Narayan<sup>3</sup>, a researcher at the Indian Space and Research association (ISRO). In 1994, he was involved with releasing essential safeguard insider facts to two Maldivian officials. He was kept in custody for 50 days and was tortured until he was hospitalized. After two years, the CBI excused all charges against him, and the Supreme Court pronounced him not liable in 1998. These false accusations against a man of intellectual repute violated his right to life and personal liberty.

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### REASONS FOR WRONGFUL CONVICTION

- Eyewitness misidentification - Witnesses are said to be eyes and ears of justice. Perhaps eyewitness identification is the leading reason for wrongful conviction. According to many researchers, human memory cannot exactly record events as they see them. Witness memory is also like any other evidence at the crime scene.
- Malicious Prosecution- It incorporates levying a negative charge on police specialists or the investigating agency engaged with the case and has consistently comprised a focal standard for remedial action from the state. It means planting proof against the other party, creating charges, eliminating or stifling those pieces of evidence that prove the innocence of the accused.
- Misuse of laws and legal remedies- In many leading cases it has been held that misuse of the law leads to a wrongful conviction. In legal terms when it is widely said that

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<sup>3</sup> S. Nambi Narayanan vs Siby Mathews & Others etc. (2018).

where there is right there is the remedy but taking unlawful advantage of available remedy leads to such cases.

- Forensic Error- Forensic blunders include DNA, other samples falsely presented, the utilization of negated strategies and declarations given by lab specialists. There is a likelihood that there could be an intentional criminological blunder.
- False confessions - False confession is an affirmation of blame for wrongdoing for which the confessor, himself, isn't mindful. In high-profile cases, dirty politics is also played to fabricate evidence or confession.

Government Misconduct at times, because of government unfortunate behavior or defilement, government authorities make move to ensure the charged in indicted. It is principally because the charge has some nexus with the public authority official. It doesn't make any difference whether there is feeble proof or even an unmistakable proof of evidence.

In several cases like the Hussainara Hatton and others v Home Assistant State of Bihar<sup>4</sup>, Akshardham terror case<sup>5</sup> and Saqib Rehman case<sup>6</sup> individuals have been wrongly convicted. In the recent case of Vishnu v State of UP<sup>7</sup>, Allahabad high court has acquitted a man who spent 20 years in jail on false rape accusations for a crime he never committed, he lost his reputation and family in those 20 years of wrongful conviction.<sup>8</sup> Similarly, S. Nambi Narayan an ISRO scientist, was accused of espionage and spent 50 days in jail, faced mental trauma cost his career later found innocent by Kerela High Court which consequently shows that justice in its true sense is lagging.

### **REMEDIES TO CURE UNLAWFUL CONVICTION**

We are in such a state of affairs that we actually need to exercise remedies to cure unlawful conviction. A perusal of existing laws shows that there are three groups of remedies that are court-based with respect to a miscarriage of justice resulting in wrongful prosecution. They are Public Law Remedy (Art 21, 22), Private Law Remedy (Art 300); and Criminal Law Remedy (Chapter 19 of IPC).

<sup>4</sup> 1979 AIR 1369, 1979 SCR (3) 532.

<sup>5</sup> Adambhai Sulemanbhai Ajmeri & Ors vs State Of Gujarat, 2010.

<sup>6</sup> State (Gnct) Of Delhi vs Saqib Rehman @ Masood & Ors, 2012.

<sup>7</sup> 'Prosecutrix Testimony Not Reliable': Allahabad High Court Acquit Rape Accused After 20 Yrs In Jail, Appeal Remained Defective For 16 Years, Live Law (2 Mar, 2021), <https://www.livelaw.in/news-updates/rape-accused-incarcerated-for-20-years-acquitted-by-allahabad-high-court-defective-appeal-jail-170586>.

<sup>8</sup> Meera Emmanuel, A "sorry state of affairs": Allahabad High Court acquits man who spent 20 years in jail on rape charges, Bar & Bench (08 Feb, 2021), <https://www.barandbench.com/news/litigation/allahabad-high-court-acquits-man-who-spent-20-years-in-jail-rape>.

Wrongful Conviction disregards Article 21(right to life and individual freedom) and Article 22 (assurance against subjective captures and unlawful confinement) of the Constitution of India<sup>9</sup>. In such a case, the convicted can move to Supreme Court and High courts under Articles 32 and 226 of the constitution individually.

In the case of *Maneka Gandhi v. UOI*<sup>10</sup>, Supreme Court gave a new dimension to Art 21 by adding the right to compensation in cases of undue detention and bodily harm. In the case of *Rudal Shah v. State of Bihar*<sup>11</sup>, Supreme Court awarded compensation to a person who was illegally detained for 14 years after the acquittal order.

Indian investigation System requires changes in police examination by creating analytical practices that persistently challenge the unjustifiable suspicion shared by witnesses, examiners, and lawyers that we are in every case right. In case there has been an unfair conviction, the safeguard ought not to dread to re-open the case, on the appearance of the new observer or accepting new data which can topple the conviction. The defendant should fundamentally examine the circumstance and the assertions set somewhere near the investigator to convict the accused. The examination conducted should work on the principle of innocent until proven guilty. The defense lawyer should personally scrutinize the evidence to be produced before the court against the accused so that any discrepancy or forgery can be identified. More research must be done on the part of the defense lawyer in this regard. For the individuals who have been wrongfully convicted, the courts can take post-conviction procedures such as DNA testing into the account which incorporates investigation of biological evidence. The court will demand duplicates of DNA lab reports and records of evidence available to the defendant . DNA testing will be permitted if the evidence is available in a condition that would allow DNA testing;. This results from this testing can be contradictory to past results. They may help in proving the innocence keeping the conviction aside.

Importantly, there should be reforms on misidentification by eyewitnesses. According to the evidence act, it says that all witnesses should be testified unless there is a lawful incapacity. The defensive party should have access to witnesses so that the accused does not become the victim of misrepresentation.

Indian Penal Code lays down punishment for various offenses that lead to a wrongful conviction such as false evidence which is dealt with in Sec 191. Sec 193 to 195 provide punishment for the same. Section 211 is an important section with respect to a miscarriage of

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<sup>9</sup> The Constitution of India.

<sup>10</sup> *Maneka Gandhi v Union Of India* AIR 1978 SC 597.

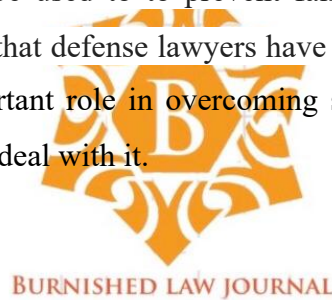
<sup>11</sup> (1983) 4 SCC 141.

justice. Under this section, if an individual with the intention to cause injury, establishes criminal procedures against an individual; or dishonestly charges him of having perpetrated an offense, realizing that there is no or legal ground for such procedures or charges<sup>12</sup>.

In Criminal Procedure Code Section 358 provides compensation to the person who is baselessly arrested. Most importantly we need to establish special courts to ensure speedy trial and justice.

### **CONCLUSION**

Wrongful convictions is the bitter truth of Indian legal system. It is a serious problem and it undermines the faith of people in Justice. Any individual who is wrongfully convicted is under an excessive burden of proving their innocence. One of the major issue behind this is the influence of high profile personalities on investigating authorities. Proper measures by the defense can help avoid such wrongful convictions. Cross-examination reforms are required in the event that cross-examinations are defiled by the party hoping to convict the individual Law enforcement agencies can adopt written eyewitness-identification procedures based on science. Electronic recording policy can be used to to prevent false confessions. There is need to improve discovery procedures so that defense lawyers have access to all the evidence against a defendant. State plays an important role in overcoming such situations. Therefore, states should take the necessary steps to deal with it.



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<sup>12</sup> Sec 211, Indian Penal Code, 1860.