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THE ISSUES AND CHALLENGES IN THE CRIMINAL JUSTICE SYSTEM

AUTHORED BY - MR. VISHESH YADAV

ABSTRACT

The criminal justice system is a complex network of legal and social institutions, it faces numerous issues and challenges, for example, perjury, false cases of rape, false cases of cheating, using the criminal justice system as a shortcut, Malvestigation false investigation, abuse of power of arrest, tampering of evidence, Bribe there are numerous issues and challenges which are faced by a criminal justice system which if not resolved resulted into faulty justice system many of the times evidence which are procured during the investigation are tampered and damaged or negligence on the part of police. Hence, this is why sometimes there is difficulty in appreciating evidence. The primary institutions of the criminal justice system are the police prosecution and defence lawyer and the courts and the prison system.

THE ISSUES AND CHALLENGES IN THE CRIMINAL JUSTICE SYSTEM

There are numerous issues which are faced by criminal justice, In India only about 16 out of 100 people booked for criminal offences are finally convicted. The low rate of conviction points to the inefficiency of the Criminal Justice System of India – which includes the police, prosecutors, and judiciary, the main question that arises is why these problems are faced by the criminal justice system so answer of there are numerous issues

PERJURY

every witness commits perjury in India, witness committing perjury is a serious offense that involves lying under oath or making false statements in a legal proceeding. perjury can have severe consequences. Perjury can affect the credibility and reliability of the evidence presented in a legal proceeding it can also undermine the public trust and confidence in the judicial system. perjury can lead to wrongful conviction, miscarriage of justice, or acquittal of the guilty.

for the smooth functioning of the criminal justice system, the judiciary needs to stay on its guard so that no innocent should be punished for the offense of another. perjury can be detected and exposed by various means such as cross-examination of contradictory evidence forensic analysis or confession.

However, perjury can also be difficult to prove as it requires establishing the witness's state of mind and intention to lie .

generally, perjury requires that the witness knowingly and intentionally makes a false statement about material issues an issue that is relevant and significant to the outcome of the case

In INDIA the court cannot take cognizance of perjury unless it is by way of complaint in writing by the court itself or by application made by a party under section 340 of the code of criminal procedure.

. THE FALSE CASES OF RAPE

The false cases of rape are those where a person accuses another person of raping them when no rape has occurred. This is a serious offense that can have grave consequences for the accused, the victim, and the justice system. According to the web search results, some facts about the false cases of rape are:

The prevalence of false cases of rape is difficult to estimate, a However, some studies suggest that the rate of false cases of rape is between 2% to 10% of all reported cases. The motives for

making false cases of rape can vary, but some common ones are revenge, attention, alibi, regret, or coercion. Some false cases of rape are also the result of misidentification, misunderstanding, or mental illness

The impact of false cases of rape can be devastating for the accused, who may face social stigma, legal harassment, financial loss, or imprisonment. Some accused may even commit suicide due to the trauma and humiliation

The detection and prosecution of false cases of rape can be challenging, as it requires proving the intent and knowledge of the accuser. Some factors that can help expose false cases of rape are cross-examination, contradictory evidence, forensic analysis, or confession

The prevention and reduction of false cases of rape can be achieved by improving the awareness and education of the public, the police, and the judiciary about the issue. It can also be done by providing support and protection to genuine victims, ensuring fair and speedy trials, and imposing strict penalties for false accusers

THE FALSE CASE OF CHEATING

The false case of cheating is a situation where a person accuses another person of cheating when no cheating has occurred. Cheating is a criminal offense under the Indian Penal Code (IPC) that involves fraudulently or dishonestly deceiving a person to induce them to deliver any property or to do or omit to do anything that causes or is likely to cause harm to them in body, mind, reputation or property. Some of the essential ingredients of cheating are:

The representation made by the accused was false;

The accused knew that the representation was false at the time of making it;

The accused intended to deceive the person and induce them to act or omit to act;

person acted or omitted to act on the basis of the false representation;
The person suffered or was likely to suffer damage or harm as a result

The false case of cheating can have serious consequences for the accused, who may face legal action, social stigma, financial loss, or imprisonment. The false case of cheating can also affect the credibility and integrity of the justice system and the genuine victims of cheating.

The false case of cheating can be detected and exposed by various means, such as cross-examination, contradictory evidence, forensic analysis, or confession. The false case of cheating can be prosecuted by the court before which the offense is committed or by a superior court.

CRIMINAL JUSTICE AS A SHORTCUT

Most of the time the criminal justice system is used as a shortcut to get the result. Most of the time, some of civil cases are also put and converted into criminal cases as civil cases are so much delayed in the administration of justice most of the time civil cases are converted in criminal cases so that speedy justice is provided and there is misrepresentation of fact and many drills played in a courts.

MALVESTIGATION

Malvestigation is generally used as a metaphor in courts, it refers to investigation. Investigation plays an important role in justice system. A complete criminal investigation can include searching, interviews, interrogations, evidence collection and preservation, and various methods of investigation. Falsity in investigation is a serious issue that can affect the justice system and the rights of the parties involved

Falsity in investigation can refer to any act or omission that involves lying, deceiving, fabricating, or tampering with evidence or information in a criminal investigation. Falsity in investigation can be committed by anyone involved in the investigation process, such as the police, the witnesses, the accused, or the experts. Falsity in the investigation can have various motives, such as revenge, attention, alibi, coercion, corruption, or incompetence. Falsity in investigation can have various consequences, such as wrongful convictions, acquittals of the guilty, miscarriages of justice, or loss of public trust.

Some of the examples of falsity in investigation are:

Making false statements or confessions under oath or to the police; Altering or forging documents, such as invoices, bids, contracts, or reports; Planting or destroying evidence, such as weapons, drugs, or DNA samples; Misidentifying or influencing witnesses, such as by coaching, bribing, or threatening them;

Falsity in the investigation can be detected and exposed by various means, such as cross-examination, contradictory evidence, forensic analysis, or confession. Falsity in the investigation can be prosecuted by the court before which the offense is committed or by a superior court.

ABUSE OF POWER OF ARREST

Abuse of power of arrest is a serious issue that can affect the rights and dignity of the people who are arrested without any valid reason or due process. It can also undermine the credibility and integrity of the law enforcement and the justice system.

However, the police are the most common perpetrators of abuse of power of arrest, as they have vast discretion and authority to arrest a person without a warrant or orders from a magistrate.

Abuse of power of arrest can have various motives, such as revenge, attention, alibi, coercion, corruption, or incompetence. It can also be influenced by factors such as political pressure, communal bias, media hype, or public demand

Abuse of power of arrest can have various consequences, such as wrongful convictions, acquittals of the guilty, miscarriages of justice, or loss of public trust

REFORMS THAT ARE NEEDED

1-POLICE SHOULD BE PUNISHED FOR UNLAWFUL DETENTION-

Unlawful detention is a serious violation of human rights and the rule of law. It can cause harm and humiliation to the detained person, as well as undermine the credibility and integrity of the justice system. Therefore, I agree that the police should be punished for unlawful detention, as per the law and the constitution.

According to the web search results, there are several provisions in the Indian law that incorporate safeguards against illegal arrest and unlawful detention. For example, Section 46 of the Criminal Procedure Code (CrPC) prescribes the method of arrest by a police officer, which must be followed to avoid any illegality. Sections 55 and 157 of CrPC require a written order or a report from an officer in charge for making an arrest without a warrant. Sections 41 and 41A of CrPC lay down the conditions and procedure for arresting a person without a warrant in a cognizable offence. Section 42 and 43 of CrPC empower a police officer or a private person to arrest a person who commits an offence in their presence or who is proclaimed as an offender. Section 44 of CrPC authorizes a magistrate to arrest or order an arrest of a person who commits an offence in his presence or who is accused of any offence before him.

Moreover, there are several remedies available for a person who is illegally arrested or unlawfully detained by the police. For example, Section 56 and 57 of CrPC mandate that a person who is arrested without a warrant must be produced before a magistrate within 24 hours, excluding the time necessary for travel. Section 58 of CrPC requires

that every police officer making an arrest must report to his superior officer about the arrest and its cause.

Section 59 of CrPC states that no person who is arrested shall be detained in custody without being informed of the grounds for such arrest or without being given an opportunity to consult a legal practitioner of his choice. Section 60A of CrPC declares that no arrest shall be made except in accordance with the provisions of CrPC or any other law for the time being in force.

2- BAIL LAW SHOULD BE MADE MORE LIBERAL

the bail law in India, that it should be made more liberal, that it should be easier and faster for the accused to get bail, especially in non-bailable offences. You may have some reasons for your opinion, such as:

Bail is a fundamental right of the accused, as guaranteed by Article 21 of the Constitution.

Bail is a presumption of innocence, as the accused is not proven guilty until the trial is completed. Therefore, the accused should not be subjected to unnecessary and prolonged detention, which may cause harm and humiliation to him and his family. Bail is a safeguard against arbitrary and excessive use of power by the police and the judiciary, who may abuse their authority to arrest and detain the accused without sufficient grounds or due process. Bail can also prevent torture and custodial violence, which may violate the human rights of the accused. Bail is a necessity for ensuring a fair trial, as the accused can prepare his defense better if he is released on bail. He can also access legal aid and representation, which may not be available or adequate in jail. Bail can also reduce the burden on the overcrowded and under-resourced prisons, which may affect the health and safety of the inmates.