



WRONGFUL CONVICTION: A BLIGHT TO THE CRIMINAL JUSTICE SYSTEM

By Anoushka Dey

From Amity University (Amity Law School),
Noida

It is a mere fact that once a person gets arrested, no difference is made between the accused and the convicted. While prisons are an effective way to keep the society safe by keeping the criminals- out of circulation. Wrongful Imprisonment/conviction on the other hand, has an adverse effect on the society. Wrongful Conviction means the conviction of a factual innocent, which leaves the actually guilty free, running around the streets among other human beings. A criminal justice system runs on the faith and confidence of the people, when such confidence is lost, the society is bound to eternal doom. While several causes have been identified-which lead to wrongful conviction, only few steps have been taken to eradicate them. Wrongful Convictions are a mistake on part of the state and is globally viewed as a critical problem. Various studies of wrongful convictions show that exonerees are likely to face stigmatization for the rest of their lives which makes wrongful conviction a social problem as well. Humans are social animals and lose the meaning of life when they are isolated by other 'law-abiding' social animals. Furthermore, severe injustice and social injury is caused when...law becomes adverse and state convicts...an innocent person.¹ To protect the criminal

justice system as well as to honour the principles of natural justice and rule of law, it is essential for every step of the justice system to show transparency and accountability and act with caution- keeping in mind the objectivity of fairness and justice.

Key words: Wrongful Conviction, Criminal Justice System, Natural Justice, Exoneration, Acquitted, Innocent.

CHAPTER ONE

Introduction

India is a Sovereign- Socialist- Secular- Democrat – Republic- which strives to attain justice, liberty, equality , fraternity for all the citizens of India.² India became independent- in 1947 and its constitution, came into force- on 26th November 1949. The Indian constitution is considered the supreme law, which provided for India to be governed by the rule of law. Rule of law indicates- that law is absolute and rules over all people including the ruler and the- nominated representatives of the people. Such rule of law should however be safeguarded by legal sanctions and enforcing authority, which can be found in courts.³ The Constitution of India guarantees its citizens a set of fundamental rights along with other rights. These rights in order to hold value must be enforceable and backed by the court of law in the event of their violation. The establishment of the justice delivery system aims to achieve precision which will further promote and safeguard the rule of law.⁴

1. VAN DER MEER V/s THE QUEEN (1988); 82 ALR 10.
2. G.O.I. The Constitution of India (Forty-Second- Amendment) Act, 1976.

3. A.V. Dicey's Theory on Rule of Law.
4. Bharti Yadav V/s State of Uttar Pradesh 2006(135) DLT620.



The Criminal procedural law is another viable instrument for ensuring that the objectives and goals of criminal justice are made achievable. The purpose of this code is to ensure a fair trial and that justice is rendered effectively and on time. However, justice can only be rendered effectively when the actual offender is arrested and charged for the offence he committed, and the innocent is exonerated from punishment.

The established maxim of 'let hundreds of guilty people be acquitted- but no one innocent person shall- get convicted' is very fundamental in ensuring integrity and faith in the criminal justice system. The criminal procedural code provides for various fundamental principles like presumption of innocence, right to remain silent, burden of proof to ensure that there is no miscarriage of justice. Such miscarriage may arise not only from the acquittal of the guilty but also from the conviction of an innocent. Unfortunately, despite several principles safeguarding our criminal justice system, it is still not free of erroneous convictions. This puts a strain not only on the justice system at large but also has immeasurable consequences for the exoneree and his family as they lose the support and approval of the so-called law-abiding society.

Emergence of Wrongful Conviction as a major concern across the world

Wrongful Conviction was a part of the criminal justice system from way before the 19th century. But it only received slight concern from the public and official authorities. It was only after a series of landmark cases after the 19th century, that

wrongful conviction stirred up a frenzy in the media and was able to gather the attention of numerous scholars, judges and the general public.

The case of the **Dreyfus Affair** was a landmark case which shook the justice system in **France** during the late 19th and early 20th century.

Dreyfus was convicted for snitching military secrets to Germany. A French spy, who was present in the German embassy had discovered a letter in a bin in Paris, which held essential military information of France. He was convinced that the writing on the letter resembled that of Dreyfus and he was convicted and sent behind bars in Devil's Island off of French Guiana. After months of further research into the case by Dreyfus' brother, the actual culprit was finally caught. Dreyfus got exonerated. In 1906 his innocence was made official by a judgement in the Supreme Court.⁵ Alfred once freed was finally reinstated in the army.

This case rocked France not only because of the miscarriage of justice but also because of the heavy involvement of anti-semitic groups, in drawing conclusion of a case based on religion rather than evidence.

Newspapers like *La Libre Parole*, *L'Aurore*⁶, played a major role in spreading awareness among people about the miscarriage of justice.

The **Horst Arnold case**⁷ was a landmark case in **Germany**, wherein Arnold, in 2001, a sports and biology teacher at a school in a German city was accused by his fellow

5. Judgment of the SC on the Dreyfus Affair case, given on- 12 July 1906.

6. "J'accuse," letter by Emile Zola in 2001.

7. <https://avoiceformen.com/mega-featured/how-the-german-legal-system-failed-horst-arnold//>.



female colleague of rape and was sentenced to 5 years of prison based solely on her testimony and no other evidence. It was finally in 2011 when he was officially declared innocent after he had already served his 5 years in prison. The false accuser was sentenced to prison for 5 years and 6 months in 2013. Revenge was of no use to Arnold, who had already lost precious 5 years of his life. The German legal system had failed to protect an innocent and hampered the very principles of natural justice, which created a lot of commotion among the general mass.

In **Canada**, two landmark cases played a major role in attracting the attention of huge masses towards miscarriage of justice.

The first was the **Donald Marshall Jr. case**, 1971, wherein, Marshall a 17 year old boy was imprisoned for eleven years for a crime that he did not commit, based on false witness statements. Marshall's conviction was overturned only several years later after new evidence appeared from different witnesses and his petition for appeal to the Supreme Court of Canada was granted. A year after the appeal he was finally declared innocent.

The second case was of **Tammy Marquardt** in 1993, mother who was imprisoned for thirteen years for the murder of her two and a half year old son based on an erroneous report given by an expert on forensic pathology. Her conviction was overturned only after other forensic pathologists provided evidence for the statement made by the mother that epileptic seizure could be a cause of death.⁸

These cases made it clear that even though Canada had taken a strong stand in reversing its convictions on the basis of new evidence and practiced caution in recognizing wrongful conviction. It is not free from error of false witnesses, racism and erroneous evidence. After these cases, it was made essential that the prosecution must fully disclose all evidence it has in its possession to the defense council, and that proper legal mechanism should be established for compensation to the ones wrongfully convicted.

The landmark case in **Australia**, that created a frenzy among the public mass was the case of **Lindy Chamberlain-Creighton**, 1980, where Lindy, the mother of a nine week old girl was convicted for the murder of her daughter. Her conviction was reversed only in 1988, when during the search for remains of a British Tourist, who fell to his death in Uluru, the jacket of the daughter of Lindy was found in an area of Dingo (Australian dog) lairs. The mother's statement that she saw a Dingo leave the tent of her daughter was hence proved.

Several books were written by Lindy herself on this matter such as *The Dingo's Got My Baby*, *Through My Eyes: an autobiography to spread awareness about her story and how justice can be achieved even after all hope is lost*.

In another case in the **United States of Scottsboro boys**⁹. Nine black teenagers ranging from 13-19 were arrested after being accused of rape by two white women.

8. Roach Kent (R.K.) Wrongful Convictions in Canada, 80 U. Cin. L. Rev. (2012).

9. Binder Alan, "Alabama Pardons 'Scottsboro Boys' finally After 80 Years," New York Times, November 21, 2013.



Several books and articles were written on this case as it was one of the most notorious cases of racial injustice in the U.S. in its times. Justice was finally served in 2013, ending the racial injustice as well the miscarriage of justice.

The case of **Sam Sheppard**, who was convicted for the murder of his wife, in 1954 and was finally exonerated in 1966.

This case generated a huge media coverage for its controversial nature and played a major role in making the American public as well as official authorities aware of the miscarriage of justice in their criminal system.

Judge Learned Hand, an American judge in 1923 said that “the American justice system was always filled with wrongful convictions of the innocent.”¹⁰

These individual occurrences stirred up the awareness among the people. Finally it was DNA testing which was used to prove absolute guilt. The DNA test done in United States in 1989, became the first case of exoneration based on DNA testing. This led to a wide number of inmates making petitions to be tested in order to prove their innocence as well. However, such petitions were rejected based on legal grounds.¹¹

In New York, 1992, two professors, Barry Scheck and Peter Neufeld, formed the

Innocence Project at Cardozo Law School to pursue cases of innocent inmates-exonerating the innocent, highlighting the weakness in eyewitness identification and ensuring a stronger justice system.¹²

The Innocence project was huge step towards a fair justice system and is still achieving success in exonerating innocent convicts.

CHAPTER TWO

Meaning and Definition

Wrongful conviction in simple words would mean to convict a person- for a transgression that he did not do. Some researchers have argued that a better term for this would be false conviction as wrongful conviction could go on to mean that an individual has experienced miscarriage of justice even if - he is guilty, because of his conviction being carried out... wrongfully, in violation of the constitution or by infringing his fundamental and basic rights.¹³ The term ‘miscarriage of justice’ has often been used to define false convictions.

Miscarriage of justice can be defined as “a-deeply unjust and discriminatory judgement, given by a judge in a trial. For example, when a defendant is convicted...despite of lack of evidence or core witnesses.”¹⁴ However, in certain cases erroneous judgement did not simply mean miscarriage of justice. Miscarriage of justice is declared only if after the thorough examination of the entire case and evidence-

10. E.M. BORCHARD & E. R. LUTZ, CONVICTING THE INNOCENT: 65 ACTUAL ERRORS OF THE CRIMINAL JUSTICE SYSTEM (2015).

11. wrongful convictions, <http://criminal-justice.iresearchnet.com/system/wrongful-convictions/>. VISITED 02-05-20.

12. <https://www.innocenceproject.org/about/>. VISITED 02-05-20.

13. R.M. Bohm; Miscarriages of criminal justice: An introduction to the Journal of Contemporary Criminal Justice System (2005).

14. Garner, A. Bryan; 7th edition of Black's Law Dictionary. p. 811. Publisher - St. Paul: West Group.



it can be held that there would have been a probable change in the verdict given against the appealing party had the error in judgement not been committed in the first place.¹⁵

Understanding the concept of an **Innocent Person** is very essential in order to preserve fairness in the criminal judicial system. The Justice delivery system causes as much harm to the society when it acquits a guilty as it does when it convicts an innocent. “An innocent is someone who has been convicted by erroneous judgements- without any middle evidence, proper investigation or witnesses.”¹⁶ If an innocent convict is sent to jail and has to serve his sentence then nothing can undo the damage that will be caused to him and his family. There will be irreparable mental and social impairment. The convicted innocent will lose the respect and trust of his fellow law-abiding social animals, which is especially important to a man living in any society. In some cases the victims of wrongful conviction can also experience physical, economical and emotional stress which may take years to go.

An example of this can be given by Assam’s **Madhubala Mandal case**. Madhubala Mandal, Indian citizen, a resident of West Assam, was 59 years old - when she was wrongfully detained for three years at a detention centre in - Assam's Kokrajhar district. Madhubala’s arrest was a case of - mistaken identification. The police were looking for a woman named Madhubala Das, for doubtful citizenship, who, a resident of the same village, had died many years ago. Madhubala was a daily wage worker, who

had lost her husband and only son before her detention and was the only one to provide for her physically challenged daughter. This wrongful detention not only left her emotionally and economically drained but also physically unable to have any hopes or aspirations for her or her daughter.¹⁷

All this highlights the need to eliminate as far as possible the occurrence of wrongful conviction of an innocent person and also the need to bring in more accountability in our criminal justice system. But of course, no system of criminal justice can be totally free from wrongful conviction of the innocent and some amount of risk will always be present.

CHAPTER THREE

General Causes of Wrongful Conviction

Causes of wrongful convictions differ from area to area and from country to country. The common causes which may be attributed to wrongful convictions are as follows –

1. **Misidentification by eyewitness** – Inaccurate or false identification by an eyewitness is one of the major causes of wrongful conviction. People often believe that if they witness a crime, they are likely to remember the face of the perpetrator because of the severity of the situation. But this is not always true in cases. Human memory is very gullible and can be easily contaminated by the smallest of external factors. If a witness is in a situation where he is in front of a gun or any other dangerous weapon, his mind will unconsciously focus more on the weapon instead of the face of the perpetrator and his stress during that time is very likely to hamper his memory. Though the main facts

15. The People V/s Watson, 46 Cal., 836 (Cal. 1956).

16. C Ronald, A Rattner, & E Sagarin, *Convicted but Innocent* (SAGE Publications 1996).

17. http://timesofindia.indiatimes.com/articleshow/69983399.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst//.



of a situation may be remembered by the human memory, the minor facts are often forgotten. In such cases, it is extremely easy to get influenced or make a mistake while identifying the perpetrator. Such mistakes are very detrimental to an innocent who might get mistakenly identified as the perpetrator. Even though there is nothing legal authorities can do to improve or rectify the memory of the eyewitness, steps can be taken during the investigation process to limit such mistakes. Police should make sure to not influence the witness and identification by line-ups even though susceptible to mistakes, should be done with caution. Identification by an eyewitness is a prime evidence but it cannot in any case be used as the sole evidence.

2. False Confession – Most of the exoneration cases include false confessions, which makes it an important cause of wrongful conviction. Often the psychological aspect which is attributed with confession is that ‘why would one confess to something which he has not done, knowing the dire consequences that he has to face for it.?’ This aspect is what makes a confession so valuable. But often in many cases, suspects confess to something that they did not do because they are subtly made to understand that it will bring them better consequences. During investigations, the police are often sure about their suspicion and fail to keep an open mind to conduct a better investigation. Even though coerced confessional statements are not admissible as evidence under The Indian Evidence Act, 1872.¹⁸ Subtle manipulation is used to get the suspect to confess to a magistrate or before a court and often the suspect even though innocent succumbs to such manipulation, as he feels that it will get him better consequences. Confessions are often used as the only ground for conviction. Hence, it is

important to ensure that investigations are conducted fairly and that confessions are free, voluntary and credible.

3. Tampering of Evidence – In many instances, it becomes difficult to track down the actual perpetrator because the evidence available in the crime scene gets tampered with or false evidence is planted by the people involved in the case. In other instances, the investigating officers fail to secure the crime scene properly which leads to the evidence getting tampered with in the form of extra fingerprints, losing of things essential to the case and confusion in the scene of crime. Hence, it is essential for the investigation to take place with proper care and caution.

4. Stereotyping – Stereotypical factors such as race, caste, family background, past criminal records, social status play a significant role in wrongful conviction. People from the lower class or the unfortunate people who are not aware about their rights often get trapped within the working of our legal system. If someone has a history of violent behaviour, he automatically gets counted as a suspect for the present case. People who do not abide the societal normal are always under suspicion by the authorities, even if they are innocent. Moreover, in a country like India, where the caste system prevails in such lengths the dominant caste frame people from the lower caste to get themselves out of problem. Thus, leading to the wrongful conviction of an innocent. To avoid this it is essential that caste and politics do not interfere with law and investigation is done with an unbiased and fresh mind.

5. Perjury – One of the most common causes of wrongful conviction is perjury. Perjury is when a witness gives false statements or makes false testimony on purpose even when

18. Section 24, The Indian Evidence Act, 1872.



under oath. False testimony can be given by someone to either purposefully frame an innocent to achieve an ulterior motive or is given by the one who actually committed the crime to save himself. Often at times police or other investigating officers hire criminals or informants to give a false testimony against the suspect, who then get money or leniency in criminal charges in return. To avoid such cases it is essential that every testimony given is screened efficiently and the investigation process is look upon properly.

6. **Ineffective Defence Council** – Most defendants in such cases are indigent and live under poor conditions. They cannot afford to hire a lawyer of their own. Since, it is their legal right to be represented by a lawyer, state provides for them public defenders. Such lawyers are often overworked and underpaid and are not effectively able to prepare for the trials. Though this is not the case for every Government lawyer and some of them are very competent. This is still a strong cause of wrongful conviction.¹⁹

CHAPTER FOUR

Consequences of Wrongful Conviction

Victims of wrongful convictions often have to face dire consequences before and after their exoneration. Some of such consequences are –

1. **Pre – exoneration conditions** – When a person gets convicted, he is treated like a criminal. After he is sent behind the bars, he is exposed to the torturous life of a prisoner. Harshness to some extent is essential for the criminals to get them back on track, but when an innocent is subjected to such harshness it violates the very meaning of justice. Specially if someone is convicted for heinous

crimes like rape and murder, they are treated badly and beaten up inside the prison. All this- when faced by an innocent is unjust and a pure hinderance to the principles of natural justice.

2. **Loss of economic, family and social life** – The loses experienced by victims of wrongful conviction are extreme in terms of family and financial conditions. After being wrongfully convicted for years, the victims definitely lose their job and are no longer able to sustain themselves or their family. In most cases, the victim is the sole bread winner of the family, and his conviction has an adverse effect on the entire family. In many families, the wife ends up re-marrying and the children are sent to an orphanage where they are not cared for properly due to deficiency in resources and end up having a bad childhood.
3. **Stress, anger and retaliation** – The conditions of prison and the torturous environment definitely has a negative impact on the mental health of a victim. Even after exoneration the victims experience an overall change in their temperament and lose their cool easily. This often leads them to retaliate towards the injustice faced by them and they end up becoming harsh and difficult towards the society and specially towards the justice system.
4. **Loss of Freedom** – Article 19 of the Indian Constitution ensures Right to Freedom and Article 21 ensures Right to Life and Liberty. What happens to these rights when someone is wrongfully imprisoned? These rights get violated. And since they are convicts, they have no say and have to live an undignified life behind the bars till they are proved innocent, and the conviction is reversed.

19. Eyewitness Misidentification, Unvalidated/Improper Forensics, False Confessions/Admissions, Informants/Snitches are

causes of wrongful identification recognised the Innocence Project (U.S.A.) 1992.



5. **Late Exoneration** – Exoneration is done after the case is revisited after receiving new evidence or facts. The process of receiving new facts of the case may take a long time and by the time the convict is proved innocent, he has already spent more than 5-7 years in prison. At times, the convict's innocence is proved after he receives his capital punishment. Exoneration has little to no meaning where miscarriage of justice leads to such consequences.
6. **Post – exoneration stigma** – Getting proved innocent after years of conviction might be a sigh of relief for the wrongfully convicted. But this relief does not last long. Once the convict steps out from behind the bars, he realizes that he has lost his family, his job and his place in the society. He loses his identity. After years of being behind bars, his release extends to become a continuous sense of imprisonment. Moreover, he gets followed by the label of being a former prisoner and the stigma attached to it haunts him and he is unable to adapt back to his normal life.
7. **Problem for the Society** – Convicting an innocent often means letting go of the one actually guilty. This is a threat to society's safety as there might be a possible murderer on the loose. Repeated cases of wrongful conviction also speaks volumes about the working of our justice system. Rule of law indicates that law is absolute and greater than all. People put their trust and faith in law and when the legal system fails them, it is difficult to gain that trust and confidence back. If there is no trust in the legal system, then such a society is bound to fail.

CHAPTER FIVE

Legal Remedies and Solutions to Wrongful Conviction

20. BABLOO CHAUHAN V/s STATE GOVT. OF DELHI, 2017, CRL.A. 157/2013.

The Indian Constitution guarantees certain fundamental rights to its citizens which is necessary for living a dignified life in the society. Two such rights are Article 19 (Right of Freedom) and Article 21 (Right to Life and Liberty). When a person is wrongfully convicted or imprisoned, his right of free movement and right to live a dignified life gets violated along with many other basic rights. This violates the very existence of rights and disrupts the legal system.

The Law commission of India- after being required by the High Court of Delhi in the case of Babloo Chauhan vs. State Govt. of NCT of Delhi²⁰, drafted its 277th report. The report addressed the issue of miscarriage of Justice in India which was caused due to wrongful conviction/prosecution/incarceration and provided few recommendations for it-

- Compensation is to be given in cases of wrongful prosecution- as compared to cases of wrongful conviction or wrongful incarceration.
- Special courts to be established to deal with compensation and rehabilitation of the victims in order to speed up the process.
- Compensation to be given on the basis of both monetary and non-monetary value (rehabilitation, vocational courses, counselling).
- Special legislatives to provide guidelines for determination of the amount of compensation.

Legal remedies available in India –

1. **Public Law** – Wrongful conviction leads to the violation of Article 19, 21, 22 of the Indian Constitution. These rights are



guaranteed by the constitution and people can seek remedies in the form of compensation by filing writ petition under Article 32 in the Supreme Court and under Article 226 in the High Court.

2. **Private Law** – Remedy available in the form of- monetary compensation against erroneous acts of the state which can be pursued in- civil courts.
3. **Criminal Law** -The Indian Penal Code, 1860 and The Criminal Procedural Code, 1973 which provide for- the actions that be taken against the- wrongdoers of justice.

International remedies - Article 14 (6) of the International Covenant on Civil and Political Rights makes it compulsory- for countries to have legal mechanisms to ensure rehabilitation and compensation- for the victims of- miscarriage of justice. Countries such as United Kingdom, Germany, United States of America, Canada, New Zealand and Australia have incorporated- this statute in their legal system to provide for- compensation to the victims of miscarriage of justice.²¹

Additional Measures -

1. **Establishing Rehabilitation Centres** – Once a person has to stay behind the bars for several years, he loses the meaning of his life. It is essential to put such a person through rehabilitation so that he can grow out of his past experiences and start a fresh life. Rehabilitation centres established for this specific purpose would thus aid in proper and faster recovery of the victim.
2. **Proper Monetary Compensation** – A person loses many precious years behind the bars. The years which he otherwise would have used to financially progress in life. On the basis of the no. of years of wrongful

imprisonment, family condition and family requirement, properly calculated monetary compensation should be paid to the victims.

3. **Proper Investigation** – The process of investigation is very essential in gathering evidence. This evidence are what lead to the conviction of an accused. Mistakes or negligence in this step may lead to the wrong person getting convicted. It is very essential for the police and the investigating officers to exercise care and caution while investigating.
4. **Open apology** – When a person gets arrested, he gets attached with the label of a prisoner. This label follows him even after he gets exonerated. It is essential for the government to make an open apology to the victim, taking full responsibility of the error made by the state. This apology should till some extent improve the way the society treats him.
5. **Proper Execution of Laws** – In India, the problem has often been with the execution of laws rather than making of it. Proper execution of laws would ensure a stronger justice system increasing people’s faith and confidence in the legal system as well as the government.

CHAPTER SIX

Few case briefs of wrongful conviction in India

Below mentioned are a few landmark cases of wrongful conviction in India, which attracted a lot of media and public attention –

Mohammad Aamir Khan case²²

Sections – 121, 121A, 132, 302 of IPC, 1860
Facts of the case –

- In February 1998, Aamir Khan, an 18-year-old boy was picked from the streets of Old

21. Government of India, Wrongful Prosecution (Miscarriage of Justice): Legal Remedies – Report No. 277, Law Commission of India, August 2018.

22. 138 (2007) DLT 759.



Delhi and shoved into a jeep by the police. Without any explanation or reason he was tortured and put behind bars in Tihar jail.

- Days after the arrest, he was finally presented in the court, where he was told that he was charged in 19 cases for- committing crimes relating to...waging war against the Government, conspiracy to wage war against the Government, terrorism and murder.
- These were cases relating to the serial bomb blasts which occurred in Delhi from 1996-1997.
- After the trials began- with no presence of witnesses or core evidence against him, Aamir slowly started getting acquitted from one case after another. Out of 20 cases, he had been acquitted for 17 cases.
- His acquittal in the remaining cases were based on lack of evidence.
- His release order came in January 2012, after 14 years of imprisonment.

Final Judgement – The conviction of the accused was overturned by the High Court of Delhi in January 2012 citing reasons that the prosecution had failed to prove- the charges against the accused- appellant.

Mecca Masjid Case²³

Sections - 120(b) r/w 121, 121A, 122, 123, 124A, 125 IPC and Sec 4 & 5 of Explosives Substances Act, 1908.

Facts of the case –

- On 18th May 2007, a bomb had blasted in- an open area within- Mecca Masjid, Hyderabad. The blast had resulted in the death of 16 people and had left more than 50 people wounded. This death toll included the death of 5 people, which was caused by police

firing in an attempt to control the mob which frenzied aftermath the blast.

- Harkat-ul-Jihad-al-Islami (HUJI), a... Pakistani terrorist group- attracted the initial suspicion for the blast. Based on this suspicion, a few Muslim- youths were wrongfully imprisoned and tortured by the police.
- Only after the revelation of proper facts by a fact-finding committee, the youth were released and given compensation by the Government.
- After the failure of the local police, the case was transferred to the Central Bureau of Investigation (CBI), who upon proper investigation identified alleged right-wing workers as the prime suspect. In 2011, the National Investigating Agency (NIA) took up the case- from the CBI- for further investigation. The NIA filed a charge sheet which included the names of 10 people belonging to the right-wing organization.
- Out of 10 accused, only 5 were caught and arrested after trial.

Issue – The main issue in the case was whether the arrest was done on fair grounds and based on justified evidence.

Final Judgement-

The accused were finally acquitted in April 2018 by the citation of lack of evidence by the NIA judge.²⁴

Gopal Shetye case²⁵

Sections – 376 of IPC, 1860

Facts of the case –

- On July 26, 2009, Gopal Shetye was picked up by the police and locked in the Kurla railway police station. The lockup was done without informing him the reason for his

23. SCC 17AIR 2014.

24. Mecca Masjid blast verdict: Accused acquitted by special NIA court. The Indian Express. 16 April 2018.

25. RAMDAS SHETYE V/s THE STATE OF MAHARASHTRA, 2017, CR. W.P. NO. 3960 OF 2015, ALONG WITH, CR. APP. NO. 92 OF 2016.



arrest, hence violating his rights under Article 22(1) of the Indian Constitution.

- Days after the arrest, he was finally informed that he was accused of raping a 28-year-old girl who was sleeping on a railway bridge, violating provisions of section 167 of CrPC.
- His case was presented to the Sewree court, and he was soon convicted and awarded 7 years of imprisonment. The conviction was based on the solitary piece of evidence- identification by the victim, who was due to her mental state easily manipulated by the police.
- Gopal further appealed to the High Court of Bombay against the decision of the lower court. Gopal's third application finally benefitted him by getting him justice.
- His release order came 3 months after he had finished his 7 years of imprisonment.

Final Judgement – The conviction of the accused was overturned by the High Court of Bombay on June 10, 2015, citing reasons that the investigation of the case contained various loopholes and the identification of the accused done by the victim was unsatisfactory.

Important aspects of the case -

- After the acquittal Gopal Shetye filed an application to the High Court of Bombay seeking a compensation of Rs. 200 crores claiming that the wrongful conviction had caused him not only economic and social injury but had also ruined his relations with his entire family.
- Even though his acquittal confirmed his innocence and the fault on the part of the prosecution and the police. His application seeking compensation was dismissed on the ground that if such compensation is given,

then every accused after his acquittal would resort to such remedies, which cannot not be possible in the operation of the judicial system.²⁶

2008 Noida Double Murder Case

Facts of the case –

- On May 16, 2008, the body of Aarushi Talwar (14-year-old) was found on a blood-soaked bed, in her room, in her house.
- The initial suspect for the murder- went to the 45-year-old live in servant.
- After the servant was found dead- the very next day in the same house, the suspicion transferred on to the parents.
- Focussing on the intricate details of the crime scene and ruling out all possibilities of forced entry into the house of the victim, it was established that- the murder was done by someone within the house or someone with close contact to the Talwar's.
- The initial suspicion of the of the police went to the father- of the victim. Who allegedly had murdered... his daughter along with the servant in a fit of rage after finding both of them in an intimate position in the victim's bedroom.
- However, such suspicion could not be backed by any core evidence. This led to the case getting taken over by the CBI, who suspected the other domestic workers of committing the crime.
- Due to the ineffectiveness in the ability to gather any concrete evidence, the CBI- called for closure of the case. But a special court- dismissed this and convicted both parents of the victim in November 2013.
- The Talwar's further appealed against- this decision to the Allahabad High Court.

26. <https://indiankanoon.org/doc/60448960/>. VISITED ON 05/05/2020.



Final Judgment – The Allahabad High Court acquitted the Talwar's' in 2017, citing the reasons of failure to conduct proper investigation and basing the conviction on unsubstantiated facts.²⁷

CHAPTER SEVEN

Conclusion

For the criminal justice system to gain the faith and trust of people, it is essential to show transparency in its working. People will have confidence in the system, only when they are assured that justice will be served. Transparency and accountability are two major aspects to gain public faith and confidence. Unfortunately, in our justice system there is hardly any transparency when it comes to delivering justice. Most of the working takes place under the table, keeping people at dark. This leads to miscarriage of justice.

The criminal procedure code provides for the fundamental principle of "Presumption of Innocence". This principle in its actual sense means that an accused is given the benefit of doubt and is presumed to be innocent, until his guilt is proven beyond a point of reasonable doubt. The sense behind this principle is to ensure that only the guilty gets convicted and not the innocent. The justice system suffers as much in the acquittal of a guilty as it does in the conviction of an innocent.

The very core of the concept of justice is in danger if innocents keep getting convicted. Wrongful conviction not only takes a toll on the innocent but is also a threat to the safety of the society as the one actually guilty roam

around freely while the innocent suffers torture and ill health beyond repair. The slow speed of disposal of cases often leads to prolonged trials, where the innocent gets exonerated after completing most of his sentence. Such reversal of conviction brings truly little peace to the victim of wrongful conviction. Some being exonerated after 14 years of jailtime, feel little to no rejoice. Though officially declared innocent, their lives come to a halt. Most of them lose their families, reputation and even physical and mental strength to start afresh in life.

The misuse of powers by various authorities have been witnessed at various instances. Manipulation of facts, torture by police, false identification by eyewitness all adds up to be a blight in the criminal justice system. To protect the criminal justice system as well as to honour the principles of natural justice and rule of law, it is essential for every step of the justice system to show transparency and accountability and act with caution- keeping in mind the objectivity of fairness and justice.

BIBLIOGRAPHY

The following references have been used for research :-

Primary Sources (Indian Statutes)

- The Indian Penal Code, 1860.
- The Code of Criminal Procedure, 1973
- The Indian Evidence Act, 1872.

Secondary Sources (Books)

- R.M. Bohm, An introduction to the Journal of Contemporary Criminal Justice System (2005).

27. NUPUR TALWAR VS STATE OF U.P., 2017, CR. APP. NO. – 293 OF 2014.



-
- Garner, A. Bryan; 7th edition of. Black's Law Dictionary.

Tertiary Sources (Websites)

- **SCC** **Online,**
<https://www.scconline.com/>.
- **Indian** **Kanoon,**
<https://indiankanoon.org/>.

