

| LAW AUDIENCE JOURNAL |
| VOLUME 2 | ISSUE 2 | JUNE 2020 | ISSN (O): 2581-6705 |
| INDEXED JOURNAL | IPI VALUE (2019): 2.32 |
| IMPACT FACTOR (2018): 2.527 |

| LAW AUDIENCE JOURNAL® |
| VOLUME 2 & ISSUE 2 | JUNE 2020 |
| ISSN (O): 2581-6705 |

EDITED BY:
LAW AUDIENCE JOURNAL'S
EDITORIAL BOARD

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(ISSN (O): 2581-6705)

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“ROLE OF POLICE IN CRIMINAL JUSTICE SYSTEM IN INDIA.”

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I. ABSTRACT:

Police is a topic constrained regulated state governments, underneath the Constitution of India. Hence, every state government of India seems to have its police departments. The centre is however permitted to keep one's police agencies to help the state governments through trying to ensure law and order. Law enforcement has a main role in upholding and passing legislation, investigating crimes and maintaining safety also for the country and its citizens. In such a huge as well as densely populated nation like India, police agencies must be well-equipped to perform ones function well during terms of manpower, weapons systems, forensic assistance, logistics, and technology.

Individuals also need operations and maintenance liberty to perform the job professional way and also to fulfill favourable work conditions (e.g., controlled operating time as well as promotional opportunities), while also being made liable besides underperformance or misuse of authority. The suspect has been positioned in a somewhat influential position in the "Indian criminal jurisprudence" mostly by distinct jurisprudence from most of the nations in the world. Indian "criminal justice system" puts civil rights and dignity on a far higher scale for humanity.

In today's case law, an accused is presumed innocent, the suspected accused has been authorized with equality, true inquiry as well as fair hearing, and conviction has been considered to return a stable function in such criminal prosecution. The inquiry will be

careful and deliberate, rational, open, or timely to guarantee that the simple justice system is upheld. These are all the basic beams in Indian "criminal jurisprudence" and are quite in line with both the constitutional requirement set out in Articles 20 and 21 of the Indian Constitution.

Keywords: *Police, Constitution of India, Criminal Justice system, Crime investigation*

II. INTRODUCTION:

A "criminal justice system" is a set of political and social organizations that comply with just a structured set of established restrictions and conditions to enforce criminal law. "Criminal justice systems" have many main subs - systems, consisting with one or perhaps more government institutions including their employees: law enforcement as well as other police agencies; prosecution and "appellate courts"; law enforcement and criminal defense offices; "probation" and "parole" agencies; detention facilities (hospitals, prisons, reformatories, recovery houses, etc.); and correction services (responsible for someone or others); Such jurisdictions do seem to have a board to issue mandatory sentences. Much critical public and private participants throughout the process entail: "defendants"; "private defence attorneys"; "bail bonds"; many private entities offering support, protection, or care to violators; as well as survivors and organizations or entities supporting or helping victims (e.g., boards of compensation for crime victims).

There are indeed various regulatory departments which function involves the regulation of criminal law (e.g., "driver" and "vehicle licensing" offices; energy resources or revenue departments). "Legislators" and other elected politicians, while typically missing an active involvement in particular cases, get a major effect on criminal law creation and criminal justice policies. Such policies are often hugely affected by "news media", companies and business-employee labour unions, which provide a significant interest in crime and justice.¹ Duties of police in the criminal justice system are the follows: Helps protect "life and

¹ Criminal Justice System, *available at:* <https://guides.temple.edu/criminaljustice> (last visited on May 15,2020)

property" by upholding rules and regulations; constructively protects areas allocated, Reacts to alerts with police, Carries out initial as well as checkup criminal inquiries and traffic enforcement Carries out investigations, Organize official statements or document analysis regarding surveys and "patrol" practices, Arresting and charging offenders, Bears witness at trial, Urgent situation duties needed at inclement weather, Capacity to exert discretion in deciding when about to what extent to use force, Carryover a "law enforcement " vehicle day or night under emergency conditions, Comprehension of legal records, including citations, affidavits, summons, etc., Call rescue services in the case of an emergency and a catastrophe, Actively participates in Campus-oriented Community Police, Traffic and/or fraud inquiries are self-initiated.² Police's main duty is to protect people's lives, rights, and properties. The "Criminal Justice System was designed to protect these freedoms by assigning essential responsibilities to the police. Those who possess numerous tasks to perform, the much more significant of which is law enforcement and criminal investigation. It's the responsibility of the police to protect the valuable human rights of the citizens.³

II.I STRUCTURE AND ORGANIZATION OF POLICE:

Each Indian "state" and "union territory" have a different police force of its own. "Article 246" of the Indian Constitution specifies the "police as a state subject", meaning that perhaps the governments of the states establish the guidelines and restrictions regulating each police department. Those "rules and regulations" are included in almost every government force 's police-related handbooks. The "head of police force" from every state is the "Director General of Police (DGP)", who's able to administer the police department across each state to the "state government", as well as to suggest recommendations on police-related matters. The "DGP" denotes the "Police hierarchy 's" greatest tier. The police "hierarchical structure" in India follows specific coordination composed of experienced officers taken, by as the large, again from "Indian Police Service (IPS)" who were doing the supervising job, the "upper

² Duties of a Police, *available at:* <https://police.unc.edu/recruitment/officer-expectations-duties/> (last visited on May 15, 2020)

³ Role of Police in administration of Criminal Justice System, *available at:* https://shodhganga.inflibnet.ac.in/bitstream/10603/45012/1/11_chapter%206.pdf (last visited on May 15, 2020)

subordinates" ("inspectors", "sub-inspectors", and "asst. sub-inspectors") who operate normally at just the stage including its "police station", as well as the "police constabulary who are delegated the patrolling, surveillance, surveillance, The constabulary represents nearly 88 percent of the overall police force.⁴

II.II LAW RELATING TO POLICE IN INDIA:

The "Police Act, 1861" continues to be the main bit of law governing all elements of Indian police enforcement. The "Indian Penal Code (IPC)", the "Code of Criminal Procedure (Cr. P.C)" and the "Indian Evidence Act 1872" also regulate a significant part of intelligence work. Immediately again after "Indian Mutiny, 1857" was created the "1861 Act". That understanding of these strong protests forced the imperial leaders would enforce upon colonial subjects a regime police force which could have been used primarily towards consolidating or perpetuating colonial influence throughout the world. Also, the Act of 1861 established a system of police structured to have been completely subordinate to both the "executive" and strongly totalitarian. The "police hierarchy's" management ideology was focused mostly on mistrust of the "lower ranks". The emergence of independence of India changed the "political system" however maintained its imperial implications through the police force. The Police Act, 1861 was not superseded. Political policing stayed untouched. Implementing measures to ensure police greater accountability it represents has not, as it could have been a focus. The police's organizational ethos, moral framework, and ideology stayed nationalistic throughout the structure, but also practically inhibiting. Until the modern-day, India's police system can be described through a dictatorship force that imposes the interests among "politicians" or influential people above the requirements of the "rule of law" including their citizens' needs.⁵ The decades since sovereignty saw new laws being enacted in many nation-states. The first one to enter into place was the Bombay Police Act, 1951 which further controls the "Maharashtra and Gujarat" police agencies. After this arose the "Kerala

⁴ The Organisational Structure, *available at:*

http://www.humanrightsinitiative.org/old/index.php?option=com_content&view=article&catid=91%3Ashiva&id=673%3Apolice-india-police-organisation-a-structure&Itemid=98 (last visited on may 16,2020)

⁵ Police Legislation in India, *available at:*

http://www.humanrightsinitiative.org/old/index.php?option=com_content&view=article&catid=91%3Ashiva&id=673%3Apolice-india-police-organisation-a-structure&Itemid=98 (last visited on may 16, 2020)

Police Act, 1960", accompanied by the "Karnataka Police Act, 1963" and at last, the "Delhi Police Act, 1978". Quite notably, Madhya Pradesh's government passed a "Police Bill, 2002". Even worse, such new Laws are now almost precisely layered upon this framework of the "1861 Act", leading to no substantial change in police forces efficiency or behaviour.⁶

*The Acts & Ordinances of the Central and State Police are given in sequential order below:*⁷

- The Police Act, 1861
- Bihar Police Act, 2007
- Bombay Police Act, 1951
- Delhi Police Act, 1978
- Himachal Pradesh Police Act, 2007
- Kerala Police Act, 1960
- Karnataka Police Act, 1963
- Madhya Pradesh Police Bill, 2002

In sequential order the Central and State Police Bills are given below:⁸

- Karnataka Police Amendment Bill, 2007
- Kerala Police Amendment Ordinance, 2007
- The National Police Commission (NPC) draft Model Bill is set out below:⁹
- NPC Model Bill

II.III THE ROLE OF POLICE IN CRIMINAL JUSTICE PROCESS:

The processes of criminal justice are the following:

II.III.I First Information Report (FIR):

The first information report means data collected by either a "police officer" on duty due to both the tribunal of such an offence committed either by the aggrieved woman or some other

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *Id.*

⁹ *Supra* note 5

person. Based on the "first information report", police are beginning their investigation. Section 154 of the "Code of Criminal Procedure, 1973" describes what the first information amounts to. Any evidence about something like the commission of a "cognizable offence", unless taken orally to that of an officer - in - charge of a "police station", shall be limited to "writing" around him or through his way as well as read to the informant; and therefore any information, if either given in writing or reduced to writing as stated above, shall be signed by the parties gather information, and even the material of all of the above shall be reached throughout the document. A copy of the information as recorded, the informant shall be given immediately, free of charge. Anybody aggrieved by an officer's refusal- then the "police station in charge of "Police Station" recording the information in writing or by email, send this information to the "Superintendent of Police" involved, if he has been convinced that this information is revealed to either the execution of a "cognizable offence", either investigate the case itself or orders an investigation to have been carried over by any "police officer" subordinated to it. The provision in section 154 concerning the lowering of oral declaration in writing but rather acquiring the "informant's signature" to it would be intended to discourage negligent declaration with criminal offences through placing the informant with duties only for declaration he tends to make. FIR is just a grievance to laid down order and security matters in movement because it is only at just the process of investigation that almost all particulars can still be collected together. From one of the rulings, the "Madhya Pradesh High Court" noted that the police report that persuades enforcement mechanism to begin investigations is FIR, following findings are/were issued, these aren't really harmed under "section 161" of the "Code of Criminal Procedure, 1973" and thus cannot be considered therefore.¹⁰

Damodar V. State of Rajasthan¹¹, In this case, the Supreme Court held that where the information has been transmitted through telephone to police and DO entries have been made, it does not entail a FIR although the information revealed constitutes a "cognizable offence"

¹⁰ The First Information Report, *available at*: <http://www.legalserviceindia.com/Criminallaws/fir.htm> (last visited on may 17, 2020)

¹¹ AIR 2003 SC 4414

II.III.II Power of police relating to arresting:

Cr. P.C includes the arrest power given to police officers, including "an arrest without a warrant" (section 41), the detention of a person who refuses to disclose himself and his "place of residence", the "search for premises" in which the person in custody enters or has been suspected to even have visited, the seizure of private possessions with these arms, etc. In contexts of judgment, Cr. P.C is also versatile in arresting an individual over many kinds of crimes including "bailable", "non-bailable", "cognizable", and "non-cognizable" offences. The emergence of ambiguous and quite ordinary language, whenever it tends to come to circumstances as well as preconditions besides arrests, is indeed an issue that can be identified via an extremely cautious reference of Cr .P.C. Statements such as sensible but also factual allegations or pre-arrest investigation will be of personal importance and thus can give the "police officer" massive authority.¹²

A police officer according to Cr. P.C. Section 41 Any person can be arrested without a Magistrate's order, and warrant if that person: Have decided to commit any criminal offence; or Was deemed a suspect under either the Cr. P.C. Or by order of a Government of the State; or Is reasonably suspected of possessing or suspecting any offence relating to any stolen property; or Has fled from police custody, or attempted to escape; Prevents any police officer from fulfilling his official duty; or Is accused of having been a deserter of some "Union Armed Forces"; or Is associated except under extradition legislation; or To be a prisoner discharged infringes any law referred to in 356(5) Cr. P.C. or Its request for arrest was received from another police officer stipulating the person to really be arrested and the reasons for his arrest. Under section 42 of Cr. P.C. a "police officer" is also motivated. To apprehend any person accused of committing a non-recognizable crime and refusing to give his name and residences at the request of that officer or officer, there are grounds to assume that such evidence is false in order to determine certain information. "Section 46" of Cr. P.C. is recommending the arrest process.¹³ The arrest is a person's violation of liberty that may be caused by the person's body is directly violated. In compliance with "Section 46(1)", the person who makes the arrest must in fact contact the body of the party to be detained unless,

¹² *Supra* note 10

¹³ *Ibid.*

by act or expression, he discloses to the custody. Section 46(1) of the provisions does provide that just because a woman is needed to still be arrested, her submission to something like the custody shall be oral. A police officer is not supposed to access the woman except as allowed by conditions or if the police officer would be a female. Furthermore, no woman will, therefore, be arrested "after sunset and before sunrise", as provided for in section 46(4). Nevertheless, under rare cases, this may be achieved if a woman police officer obtains prior approval from the First Level Judicial Magistrate by creating a written report. Section 46(2) gives the individual wider control in arrest matters. If an individual manages to break the arrest, the arrester could have all the power needed to implement the arrest. Section 46(3) prohibits the arrester to affect the death of a person who has not been convicted of a crime punishable by death or life imprisonment. No individual, then, does have the intention to commit a person's death. A "police officer" usually does have the power to arrest a person within his jurisdiction and although section 48 does provide an expansion to such powers. A "police officer" who seems to have the power to arrest a person without a warrant can undertake that person to arrest that person anywhere in India. Furthermore, as per "section 49", in order to deter his escape, the person in custody shall not be restricted more as well required.¹⁴

Arnesh Kumar vs. the State of Bihar and another¹⁵, "Police officers are making an arrest because they think they have the right to do otherwise. Those who think uncertain as the arrest restricts freedom tend to bring embarrassment as well as tried to cast scars everlastingly. We conclude to use it for police officers. One aspect is the nature of the power to detain; the reason for its implementation is something else. Besides the right to arrest police officers must've been ordered to articulate their motives.

II.III.III Investigation Process:

If "police officers" were assigned to a scene of the crime they may be grateful if the offender has been on the site. Within this case, the police are simply removing the suspect and

¹⁴ Law relating to arrest, *available at* : <http://lawtimesjournal.in/law-relating-to-arrest/> (last visited on May 20, 2020)

¹⁵ Criminal Appeal No. 1277 of 2014.

concentrating on gathering evidence against them and it stood up in the courts. The main resources police go through when prosecuting crimes include "interviews or interrogations", and forensic evidence collection. Individuals then use the relevant data those who obtained to create a potential outcome around each other about what really occurred to assist the evidence gathered. They sent the police to the scene as soon as the police receive a phone call that somehow a crime is committed and is now underway. Police on the scene can be able to trace the suspect correctly. The officers would then charge the person or bring them for the reservation to the police department or state prison. Even though the police arrested the offender red-handed, those who will always gather evidence also at a crime scene to facilitate a criminal conviction. This compilation of evidence would involve questioning all possible on-scene witnesses. There will also be a site analysis that will involve taking photos, weighing, taking physical samples, taking broad assumptions, and taking stuff that may be related to the incident. The police and their staff should follow the laws of the "Fourth Amendment" for lawful "search and seizure" throughout all periods. This usually means that unless the police need some personal property to be searched, those who should first obtain a search warrant or even have a reasonable suspicion which would enable a "search without a warrant".¹⁶

As the "police officers" perform interviews, police focus towards determining the truth of the case, seeking to figure out what happened who might be liable. They will also interview witnesses individually so they'll have the individual recollection of the incident within each case. Police might like to interact with people who observe the crime personally. The witness had to have seen, experienced, felt, smelled, or touched something directly to still have personal information. The police should properly record these declarations by witnesses along with findings of the police officer about either the witness, so that if the details can be made accessible to potential "police officers", investigators and "prosecutors". A central part of any judicial enquiry is police officer findings. Police officers are qualified to identify information and to inform. They would observe the location of arms, traces of blood, clothes, weather, and whatever other information that may clarify the crime or criminal behaviour.

¹⁶ Police Investigation, *available at*: <https://criminal.findlaw.com/criminal-law-basics/how-do-the-police-investigate-crimes.html> (last visited on May 20,2020)

Investigators will also collect forensic evidence at the scene of the crime. This can involve taking photos, measurements, fingerprints, collecting blood, and capturing any items that may be connected to the crime. Each piece of evidence must then be registered and reported appropriately. To preserve fingerprints and prevent contamination, physical objects will be collected using gloves. When the crime warrants it, forensic evidence, such as fingerprints, blood, or saliva found on the scene, maybe gathered and sent for examination to laboratories. Police will also be collecting forensic samples at the crime scene.

This will include taking photos, weighing, collecting "fingerprints", gathering blood, and finding any objects that could be related to the crime. Every bit of evidence then needs to be properly documented and recorded. Human items should be handled using gloves to protect the fingerprints and avoid contamination. Forensic evidence, like "fingerprints", "blood", or "saliva" discovered mostly on the scene, may indeed be collected and submitted to labs for analysis when the crime warrants it.¹⁷

II.III.IV Policing through Social Media:

Police are playing with social media in several areas of India. The emphasis is mostly on the use of outlets like Facebook and Twitter to disseminate information about crime-related matters, preventing crime efforts and police dept. initiatives to the public. The "social media" account can also be used to collect public information. In certain cases, the police approach appears to skip a vital part of the problem. Although law enforcement agencies are involved with mitigating the negative effects of social media, they frequently fail to consider the effect on their security officers caused by "social media". Because social media has already provided protesters the opportunity to interact with one another accurately and reliably, police need to understand how and when to track them to gauge the attitude of even a community, determine if signs of criminal activity are developing and remain acquainted with any activities by large amounts of people. The best defence against another threat is early identification and the identification of ways to reinforce countermeasures by the police.

¹⁷ *Id.*

Inaction will make the issue blast to alarming proportions.¹⁸ "Social networks" pose threats that law enforcement authorities need to identify. Expecting that there will be no large-scale effect would not reduce the costs whenever they do; constructively managing the risk does. Police also have to understand whether they communicate their actual acts to the public via "social media". Because any enforcement action taken by a police officer in public may be captured on a mobile phone or posted online, the police should always behave appropriately as though they were watched, as this may well have been the case. One challenging job may be the strategic tasks of tracking social networks and turning vast volumes of data into actionable intelligence. Social media notifications include an "e-mail notification" if a given word is listed or checked online. Many search engines provide these services at no charge. The resources offered save time and make surveillance easier. This can help police maintain the track of a sudden spurt in a particular contact. Developing strategies after problems, rather than implementing punitive steps that may not be necessary, may be cost-effective. The problem with this approach is the shaky relationship among police and social media. Social networks create power, and comments from the police give fuel for the energy. The Jallikattu protests are an example of how technology media have modified the nation's social and political climate ever since.¹⁹

III. CONCLUSION:

Police occupy a particular spot in the "criminal justice system". Not only can police officers' actions impact the workings of the entire criminal justice system, however police are considered to have been the program's "gate-keepers." Individuals are typically the first to make connections with convicted criminals and therefore are possible to produce some rather crucial decisions on what's actually happening to certain men. Maybe the most widespread ruling a police officer tends to make is always to undertake the journey of just an accused person via the cave of Indian criminal justice. In a criminal case, the police task comes to an end to filing an indictment sheet/"final report". When the police have finished their

¹⁸ Policing in the age of Social Media, *available at*:

<https://www.newindianexpress.com/opinions/2018/mar/17/policing-in-the-age-of-social-media-1788411.html>
(last visited on May 21,2020)

¹⁹ *Supra* note 17

investigation or collected sufficient documents for dealing also with accused's case, police must file an indictment folder. Whenever they conclude the enquiry and consider insufficient evidence for a conviction against the accused, they submit a final report. Police no longer perform the advancement of such a criminal proceeding after filing "charge sheet". The "Public Prosecutor" takes on that role. The police play the role of investigating the case in the initial stage within the Criminal Justice System.

Police's most have significant role would be to investigate every allegation recorded in police station. The investigation includes the recording of witness statements and the gathering including all evidence relevant to the case. The police file a charge sheet in court based on the report, even if they are sure of the convicted person's wrongdoing. Police have no jurisdiction to decide how a man is "guilty" or "innocent". Police inquiries must be carried out according to legislation even with complete regard for human rights. At the time of the arrest, detention and questioning, the Supreme Court set out rules that the police would obey. Police are prohibited from torturing or beating or shooting someone during the investigation. Even for small offences, they couldn't impose any type of punishment on either a person.

This indicates that police position is important and they have to use police strength carefully but not randomly. Police investigations have become a crucial part of the "Criminal justice system", and therefore "law enforcement" could indeed make silly mistakes which often lead to either an innocent man going to prison. Police officers have to obey significant legal regulations so if investigating a crime. When you're the matter of even a police investigation, people might also communicate to a highly trained defence lawyer who could help make sure which ones interests are protected throughout any investigation and who could be ones watchdog.