

# **TAMIL NADU POLICE JOURNAL**

**October–December 2008**

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- Heinous/sensational crimes, Police procedure and steps taken in detection.
- Organised crime, economic offences, emerging trends in crime, cyber crime.
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- Latest trends in forensic science and medicine, computer forensics, scientific equipment, etc.
- Communication, photography, advances in finger print science.
- Police organisation, structure and reforms, modernisation, training initiatives.
- Intelligence, security, fundamentalism, terrorism and left wing extremism.
- Judicial decisions of importance to police officers and legal issues of interest to police and law officers.
- Exemplary police practices in India and abroad.
- Police sports meets, celebrations, workshops, seminars etc.

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## **EDITORIAL**

Visible policing is often strenuous, confusing yet rewarding. On the other hand, a great deal of effort goes into specialized policing that is a pre-requisite for crime prevention and crime control.

For professional Police Officers, constant upgradation of skills always remains an imperative. This implies updating of existing guidelines and formulation of new tools as demanded by the situation.

This issue blends the two aspects - visible policing through conflict resolution, tackling professional criminals and drug menace and invisible policing through advanced methods or intelligence collection and strategic planning to tackle some serious organised movements such as extremism and its collateral ramifications.

I hope the articles will provide some useful inputs to the professional officers.

**Editor**



# **WOMEN IN PRISON**

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*C*rime itself is not a disease though it may be due to disease. This is perfectly true in respect of women in conflict with law. Tamil Nadu is one of the few states where women inmates are housed in separate prison exclusively built for women keeping in view their special requirement. The prison establishment is also supervised fully by women prison officials. The total number of women inmates' population in the country is 14, 657 and the average in Tamil Nadu is about 1000 which is about 6% of total prison in the State. The All India male to female prison population is around 94% to 6%. In Tamil Nadu separate prison complex are available in Puzhal, Trichy, Vellore, Cuddalore and 10 other Sub-jails while in many states the women prisoners are kept in portion of the main prison complex.

There are several issues relating to women inmates. They can be categorized as (i) Admission (ii) Classification (iii) Reformation Programme (iv) Vocational Training (v) Health and Hygiene (vi) Psychological and emotional issues (vii) Vision and emergency leave (viii) Rehabilitation on release (ix) Resocialisation and acceptance. Women prisoners on admission are in a mentally disturbed condition. Mental Health is an issue in respect of all prisoners but more so for women prisoners. A study has revealed that nearly 60% of inmates suffer from various issues of mental health like

psychosis, major depressions and personality disorder. General health problems in custodial care are communicable diseases, mental health and substance abuse.

On the basis of their health, social background, educational standard, classification has to be made to house them in the prison.

Reformation programmes for the women inmates have to be tailored to their requirement. Most of the women inmates like their male counterparts are illiterate but generally their response to educational programmes is quite good. Vocational training for women is important which will help their rehabilitation on release. Specific marketable skills have to be imparted. Computer courses have been started in women prison complex and it is gratifying to note that women inmates have enthusiastically taken to computer literacy.

Women inmates undergo intensive emotional stress due to separation from their families. Study of the age profile of the inmates in Tamil Nadu prisons reveals that of the total 1000 inmates about 200 are in the age group of 20 to 30 years, which is the child bearing age for women. Almost 350 inmates are in the age group of 30 to 40 years where they have young growing children who are deprived of emotional support of the mother. In a land mark judgment in Upadhyay Vs. State of Andhra Pradesh, gender specific issues of women have been dealt in detail and minimum standards have been laid for care of mother and child. In pursuance of this, women inmates are allowed to keep their children up to six years of age. Pregnant women in prisons have to be given proper Pre natal and Post-natal care. Children born during incarceration shall be registered in local birth Registration office to avoid stigma of child birth in prison. Creche facilities for taking care of children in prison complex has been provided with sufficient play materials including cradle for the small children. Play

school facility to impart rudimentary instructions to children through play way method is available with qualified teachers from District administration. Special diet for pregnant women, lactating mothers and special diet for children are being provided on the basis of recommendation of Sudha Ramalingam Advocate Commission. Hygiene is yet another problem and care is being taken to ensure that healthy habits are inculcated in them particularly during menstrual cycle. The inmates are also counselled and tested for prevalence of AIDS.

Women undergo enormous emotional stress due to separation from the family. A survey has revealed that women inmates have a fatalistic attitude towards their imprisonment which they feel that they suffer as they have not obeyed the advice of elders. They blame their husbands or male companions who have forced them to criminal life. They are concerned about their children's future and are on guilt trip that they are not able to take care of their children. They fear that their children may succumb to wayward habits leading to inter generational crime. However in the case of male inmates they blame their parents for the plight. They also repent for their bad association and addiction to liquor and drugs. They rarely worry about future of their children.

Incarceration of women leads to the problem of intergenerational crime due to lack of parental control. Most of the inmates are from the poor strata of society and are subject to personality and physical abuse right from their childhood. Once they give birth to children their husbands begin to neglect them and look elsewhere for their sexual needs. This adds to neglect, feeling of loneliness, insecurity and emotional trauma. When they are incarcerated the trauma only gets aggravated.

The social stigma attached to a women prisoner is much worse compared to male. Visit by families is also few and far between. They are rarely consulted on important family decisions. Children are mostly neglected or in some instances taken care of by blood relatives who are reluctant to meet them due to societal stigma.

Analysis of crime profile of women prisoners in Tamil Nadu Prisons reveals that of the 172 convicted inmates 127 are involved in murder cases which is mostly crime of passion and not pre medicated. Sixteen are involved in dowry related cases, 10 in property offences and 10 involved in petty quarrel. Of the 800 inmates who are under trials, nearly 50% are involved in illicit liquor and drug offences. In the dowry cases women in the age group of 50 and above are concerned. There are 51 senior citizens above the age of 60 and one 85 year old involved in a dowry death case undergoing imprisonment in Puzhal prison. Most of the women concerned in prohibition and drug offence have been forced into the trade by their male companions. In dowry related cases it is always their son who through his mother instigates demand of dowry and the parents willy nilly get into the vortex of this social malaise.

As on date there are nine pregnant women in the Tamil Nadu prison and 48 children with their mothers. In the last three years Tamil Nadu prisons have been home to 22 children who have had the privilege of having been born in Prison. After all was not lord Krishna born in Prison? Highest was last year (2008) when 8 children were born. All children have survived and are healthy mainly due to the excellent health care in women prisons.

It is a sad commentary on the state of the society that women are increasingly forced into crime. In general there is change in the pattern of crime and increasing trend in certain offences. Arrest in the last 30 years has increased by 95% in

all India level. 26.53 lakhs of arrest have been made in 2006 in IPC cases as against 13.80 lakhs in 1973. Tamil Nadu is one of the states where arrest rate is high. On an average 7.33 lakhs are arrested every year including 65,000 women. Arrest of women is mostly in social offences under Special and Local Laws. Police have to look into the Policy of arrest as regards women. Arrest should be resorted to only in heinous offences or where there is immediate threat to public order.

In Thailand a system of deferred Sentence has been introduced by suitably amending Criminal Procedure Code where pregnant women coming in conflict with law are not sent to prison immediately. Their sentence is suspended for 3 years enabling them to take care of the child in the initial infancy stage.

Rehabilitation and social integration are two other crucial imperatives which should receive focused attention of correctional administration and also the civil society. It has to be ensued that the women on release is not placed in vulnerable position with high risk of reverting to crime. Substance abuse is not such a significant problem as in western countries or in most of the Asian Countries. Social acceptance and domination by spouse forcing a hapless women to deviance are two major challenges to Correctional Administration.



# **CIVIL DISPUTES AND ROLE OF POLICE**

**TR. ANOOP JAISWAL, IPS**  
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1. *As* per the existing legal provision, orders of the Govt. and directions of various courts, all cognizable complaints, including that of money and land disputes, should be first registered as criminal complaints by drawing an FIR and investigated upon to find the veracity of complaint and necessary action is taken against the accused. However, section 157 Cr.PC allows a station house officer to refuse investigation in a case if the offence is not of a serious nature. The provisions of this section have been further elaborated in PSO 562, wherein it is stated that police can refuse investigation under the following circumstances.
  - Trivial offenses, such as contemplated in Section 95 of the Indian Penal Code
  - Cases clearly of a civil nature or in which the complainant is obviously endeavoring to set the criminal law in motion to support a Civil Right.
  - Petty thefts of property less than Rs. 10/- in value provided that the accused is neither an old offender nor a professional criminal.
  - Injured person does not wish enquiry, unless a professional or habitual offender is suspected behind the crime or investigation is needed in public interest.

- Understandable simple cases and petty thefts of unidentifiable property and
  - Exaggerated assaults.
2. Besides, section 149 Cr. PC. enjoins upon a police officer to interpose for the purpose of preventing, the commission of any cognizable offence. Under the aegis of this law there has been a longstanding practice of petition enquiry, which has been endorsed by departmental circulars. Accordingly, when a complaint discloses petty and trivial community problems, family and matrimonial disputes, neighbourhood problems it is entered in the community service register assigning serial numbers. The station house officer or a police officer deputed by him, may cause enquiry and may either compromise or admonish and send out the parties after getting undertakings. This is done with the view to prevent a trivial issue escalating into a cognizable offence including breach of peace.
  3. Notwithstanding the above mentioned directions, in several circumstances relating to property disputes a police officer is often caught in a dilemma whether the wrong committed in such transaction is (a) purely a civil wrong (b) a criminal offence or (c) a mix of civil wrong and criminal offence. One of the causes for such confusion is the failure to understand and distinguish between possession and ownership. Criminal law, barring a few exceptions, is primarily concerned with possession whether it is theft of moveable property or criminal trespass into an immovable property. Hence it is worthwhile to examine the term possession in some detail.

4. Most property possessed is obtained with the consent of someone else who possessed it. They may have been purchased, received as gifts, leased, or borrowed. The transfer of possession of goods is called delivery. For land, it is common to speak of granting or giving possession. A temporary transfer of possession is called a bailment. Bailment is often regarded as the separation of ownership and possession. For example, the library continues to own the book while you possess it and will have the right to possess it again when your right comes to an end. A common transaction involving bailment is a conditional sale or hire-purchase, in which the seller lets the buyer have possession of the thing before it is paid for. The buyer pays the purchase price in installments and, when it is fully paid, ownership of the thing is transferred from seller to buyer. A bailment is a conditional possession. Violation of the condition may at times tantamount to a Criminal offence such as **Criminal breach of trust**. Hence, to decide whether a person has possession over a property, the question to be raised is as to how he got the possession or who conveyed him the possession and under what terms. Forcible or surreptitious entry or squatting does not tantamount to possession and may become a **Criminal Trespass** depending upon other facts and circumstances accompanying it. Further, where an offence of criminal trespass is made out it is incumbent upon the police not only to prosecute the offender but to ensure that the offence of criminal trespass is not continued.
5. Similar doubts also arise in areas of some other property disputes. For example, a distinction has to be kept in mind between mere breach of contract and the offence of cheating. It depends upon the intention

of the accused at the time of inducement. Mere breach of contract can not give rise to prosecution for cheating unless fraudulent, dishonest intention is shown at the beginning of the transaction. Mere use of the expression 'cheating' in the complaint is of no consequence. For cheating one has to see whether there was any **deception** played at the very inception. Annexure –I list out illustrations taken from IPC and from various court judgements which clarify some of the common doubts in this regard. However, any such list, by its very nature, can never be exhaustive.

6. At times, reference is made to police in disputes, which are already under the scrutiny of a civil court. The court may have granted interim injunction against any party or person involved in the dispute. This should not prevent the police from taking action as a transaction may involve both a civil wrong and a criminal offence. However, police action should be restricted to the criminal part only. Further, if police protection is sought for the implementation of a civil court order it should be given readily. No Police officer should insist on a specific court direction to give police protection. Circumstances comprising of a chain of transactions in relation to valuable security or property, in which some of the transaction are criminal in nature and some innocent, investigation should clearly differentiate them to avoid undue harassment to any innocent. For example, A forges records and sells it to B, B to C and C to D and so on. It is likely in this chain of events, some of the buyers and sellers may be innocent victims. Care should be taken to ensure that they are not implicated and responsibility is fixed on the criminal intention that piloted the transaction.

7. Where prima-facie a cognizable offence is made out in a complaint, the police have no choice but to register a case by drawing a FIR and proceed with the investigation. If at anytime during the investigation the complainant and accused want to compromise it should be done in accordance with section 320 Cr.PC. Further, Law gives the power of arrest of any suspect/accused to the police officer during the investigation of such a case. However, this discretionary power of arrest has to be exercised judiciously and not with an aim to coerce a suspect or an accused to deliver any money or property to a complainant. From time to time the Apex Court has laid down broad guide lines for the police in this regard. The national police commission has also laid down certain rules which may be worth adopting.
8. Despite these guidelines, a police officer may still find himself in a situation where on the face of the complaint it is difficult to decide whether the wrong committed is civil or criminal. In such situation it would be prudent to give the police officer some reasonable time (a maximum period of fifteen days) to make an **enquiry**, which includes referring the matter to his superiors or law officers and seek guidance. But the complainant should be informed about this and an endorsement for enquiry given to him. **Care should also be taken not to summon any person to the police station for enquiry or questioning till a proper criminal case has been registered.** Such preliminary enquiry has been endorsed and upheld even by the Apex Court. The Supreme Court has observed, in the case of P. Sirajuddin vs. State of Madras (AIR 1971 SC 520) that before a public servant, whatever be his status, is publicly charged

with acts of dishonesty, which amount to serious misdemeanor and first information is lodged against him, there must be some suitable preliminary enquiry into the allegation. And in corruption cases it is the established practice all over the country. However, it is also incumbent upon the police to ensure that the delay in lodging the FIR does not damage the case of the complainant in any manner. Further, if the complainant is aggrieved by the delay, sub section (3) of 154 Cr.PC gives him the remedy of approaching the Superintendent of Police for redress.

9. Such an enquiry may also be necessary to protect any harassment to any innocent person. The moment a person is named as an accused in a criminal offence, he suffers certain adverse consequences, even if he is not arrested or subsequently prosecuted. Besides, there is no gainsaying that the police officers, whether serving in Stations or in special units such as CCBs or DCBs, are already overburdened by cases either under investigation or trail. Hence registering cases at the drop of the hat may seriously affect the quality of investigation even in genuine cases as a case which is even dropped as a mistake of fact takes considerable time and resources to finalise. However, where the dispute prima-facie appears to be of a civil nature, the police officer **should not** enter into any enquiry or cause settlements.
10. When there are special agencies to look after certain economic offences, the station house officer should not entertain or enquire into such complaints but direct the complainant to these agencies.
11. Special units such as DCB and CCB may be strengthened and the scope of intervention in money and land disputes may be enlarged to avert any undue

burden on the police stations. This may be kept by keeping in mind the value of the property or to the extent public interest involved.

12. In service trainings should be imparted to investigation officer about land and registration laws and procedures and detection of fraud in this regard.
13. Action should be taken under Rule 20(I) of the Tamil Nadu Government Servants Conduct Rules 1973 against the police personnel who indulge in kattapanchayat at police station as instructed in Government Letter No. 53140/A/2003-1 dated 02.12.2003.
14. Strict action should be taken against anti-social elements who indulge in kattapanchayats and forcible occupation and eviction. Special parties may also be formed at the district level to tackle these anti-social elements and prevent them from criminally intimidating people into settlements, thereby undermining the authority of law and administration.
15. Loop holes in the rules and procedures relating to the registration of property has also been cause of the rising disputes and complaint. Computer tools have made forgery of documents much easier and difficult to decipher. A more stringent regime is called for the registration of property. The 'General Power of Attorney' has been another source of grave misuse often causing enormous loss to the government of registration fee as this instrument is widely used for sale of property. Besides it has become the source of perpetual dispute and litigation. The rules governing this instrument have to be reexamined and modified in a manner to reduce its abuse.

## Illustrations

1. A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby, dishonestly induces Z to lend him money. A is not intending to repay it. A cheats, – IPC Illustration Sec 415.
2. A sells and conveys an estate to B. A, knowing that in consequences of such sale he has no right to the property, sells or mortgages the same to Z, without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z. A cheats. – IPC Illustration Sec 415.
3. A intentionally deceives Z into a belief that A means to deliver to Z a certain property which he does not intend to deliver, and thereby, dishonestly induces Z to advance money upon the faith of such delivery. A cheats; but if A, at the time of obtaining the money, intends to deliver the property, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil section for breach of contract. – IPC Illustration Sec 415.
4. A is a warehouse-keeper, Z going on a journey, entrusts his furniture to A, under a contract that it shall be returned on payment of a stipulated sum for warehouse-room. A dishonestly sells the goods. A has committed criminal breach of trust. – IPC Illustration Sec 405.
5. A residing in Calcutta is agent for Z, residing at Delhi. There is an express or implied contract between A and Z, that all sums remitted by Z to A shall be invested by A, according to Z's direction. Z remits a lakh of rupees to A with directions to A to invest the same in Company's paper. A dishonestly disobeys the directions

and employs the money in his own business. A has committed criminal breach of trust.

But if A, in the last illustration, not dishonestly but in good faith believing, that it will be more for Z's advantage to hold shares in the Bank of Bengal, disobeys Z's directions, and buys shares in the Bank of Bengal, for Z, instead of buying company's paper, here, though Z should suffer loss, and should be entitled to bring a civil action against A, on account of that loss, yet A, not having acted dishonestly, has not committed criminal breach of trust. – IPC Illustration Sec 405.

6. A and B being joint owners of a horse. A takes the horse out of B's possession, intending to use it. Here, as A has a right to use the horse, he does not dishonestly misappropriates it. But if A sells the horse and appropriates the whole proceeds to his own use, he has committed Criminal misappropriation – IPC Illustration Sec 403.
7. A entrusted some gold to B for being sold and B neither returns the gold nor the sale proceeds. B has committed criminal breach of trust – Mohan, (1960) 10, Raj 1527
8. A hires a motor car from B under hire purchase system, which provided that until the car was fully paid for by A the car was to remain the absolute property of B. A also agreed that during the hiring not to assign, underlet or part with the possession of the car in anyway. A pledges the car to C. It was held that A was guilty of breach of trust – Mosus, (1915) 17, Bom LR 670.
9. When an accused trespassed into the property of another and refused to leave when asked by the owner

to do so and compels the owner either to use force within the limits of its right of defence of private property to remove an intruder or else to go to the court to achieve the same object, the conduct of accused tantamount to criminal trespass. – Dual Gosh Vs Devi Prasad, (1989) 3, Crimes 298 (Cal.)

10. Constructive possession is included in the word 'possession' in section 441 IPC and a trespasser cannot be heard to say he could have not caused annoyance merely because the party in possession of the trespassed premises was absent at the time of trespass. – Hyder Sahab Vs. Sabjan Sahib. AIR (1931) Mad 560: 33 Cr LJ 145 (1): 135 IC 542.
11. When a servant were entered in to a house, refused to leave it on demand by the owner, and on the contrary abused and threatened the owner. It is an offence under section 448 IPC. – Dulal Ghosh Vs. Devi Prasad (1989) 3 Crimes 298 (Cal.)
12. The fact that cheque issued has been dishonored by itself does not constitute offence of cheating. – Dunganrshi Vs. M/s Devi Prasad, 1985 Cr LJ 193 (Bom)
13. If the intention of the drawer of the cheque at the time when the cheque was issued was to deceive, it amounts to cheating. If it appears from the circumstances of the drawer that he did not expect that the cheque would be cashed in normal course, it would be prima-facie proof of the intention to cheat. Direct proof of Mensrea is seldom available. And it has to be inferred from surrounding circumstances. –Radha Krishna Dalmia Vs. Naryan, (1989) Cr LJ 443(MP).

14. The accused was charged for issuing a cheque with the intention to cheat and when cheque was dishonored of insufficiency of funds in account the respondent initiated criminal proceedings. The petitioner accused approached High Court for quashing of the proceedings on the ground that suit is of civil nature so no criminal proceedings can be started. It was held that when single transaction could spell out more than one offence, then it could become the basis of a complaint and would provide combined ground for prosecution u/s 138 negotiable Instrument Act and Section 420 IPC. –*Sosamma Vs. Rajendra & others*, Cr. LJ 2196 (Ker).
15. A criminal prosecution for cheating can be based on a contract which cannot be enforced in a civil Court or is hit by Section 24 of Contract Act. If A induces B to part with a (\*) on the assurance that he would exert his influence over the Income-tax Officer so as to persuade him assess B in a particular manner, in such a situation if the elements of cheating are made out A cannot evade prosecution, it being immaterial whether the offence involved an illegal or void contract which could not be enforced in a civil Court – *Rama shankar Sukla Vs. Rikbab Kumar Jain*. AIR 1952 All 428: 1952 Cr LJ 747.



# **FIGHT AGAINST CORRUPTION**

**S. RAMANI, IPS (Retd.)**

Former Director General of Police (Training)

*M*ore than at any other point of time in the past, the issue of corruption has come to acquire a lot of significance today. These are the days of globalization, liberalization and free trade. It is true that with increasing economic growth, corruption has also grown exponentially and truly astronomical figures are being cited as indicative of the extent of the malaise. No one really knows the exact figures. It is almost impossible to attempt a calculation of the figure. However it has to be accepted that corruption impacts our lives in a number of ways. It may even cost our lives or in less grave cases, our health, security and financial well being. For example we can take into account the grave fire tragedy that took place in a cinema hall in New Delhi called Upahaar, on 13<sup>th</sup> June 1997 in which 59 people died and a large number of others sustained injuries. The trial court held that many officials of the Delhi Vidyut Board, Delhi Police and the Municipal Corporation of Delhi turned a blind eye to the violations that were rampant in the Cinema Hall as a result of which the accident took place. In fact the Delhi High Court awarded a sum of Rs. 18 crores to be paid as compensation to the victims and their relatives. Since corruption is eating into our vitals and is costing us dearly on several fronts, it is necessary to take a good look at the anti corruption initiatives so that our society can be saved from the ill effects. Just to get an idea of the extent of the problem in our country we may take a

look at the Corruption Perception Index (**CPI**), published by Transparency International (**TI**) for the year 2008. This list is acknowledged universally as the most reliable. India is ranked 85 in a list of 180 nations. It matters little whether we have improved our position as compared to the previous year's list or that countries like Bulgaria, Romania and Columbia are ranked above us or countries like Sri Lanka and Pakistan are ranked below us. The simple fact is that a lot of ground has to be covered by us in our fight against corruption.

The question therefore arises as to what can be done. For this I had a look at the list of nations that figure high up in the CPI published by TI. Hong Kong is listed at no.12 for the year 2008 and has a CPI score of 8.1 in a scale of 10 (10 is highly clean and 0 is highly corrupt). I particularly chose Hong Kong, because some years ago it was not considered as such a highly rated society as far as vigilance and integrity were concerned. How could Hong Kong manage such a remarkable turn around?

Graft was a big problem in Hong Kong up to the seventies. After World War II Hong Kong emerged as a major production base for both local entrepreneurs as well as western companies, to meet the requirements of the Western World that was rebuilding after the war. This led to increase in corruption, more so in the police. The problem was so severe that it led to a public uprising, particularly after a Police Superintendent, who was notoriously corrupt, had fled the country to evade being brought to justice. The demand was that he be brought back to face trial. The government gave in and this led to the creation of a dedicated and independent anti corruption agency called the **ICAC – the Independent Commission against Corruption**. This Commission was successful in bringing the wanted person from London. He was subsequently jailed for four years. The Anti Corruption Branch of the Hong Kong Police was responsible for fighting

graft till then, but since most of the corruption was in the Police, a separate body, away from the Police was created.

There are some unique features that have made the ICAC a very successful agency. First of all, it was made completely independent, and answerable only to the Chief Executive (who is the head of Hong Kong government). It was given adequate resources and good statutory backing needed to combat graft. Let us look at this a little more closely to get a clear idea of the organization and method of functioning.

To begin with the ICAC had strength of 682 officers, three times more than the erstwhile Anti Corruption Branch of the Hong Kong Police. Now it has nearly 1,300 officers. The Commission has three Departments which are

- a. Law Enforcement
- b. Corruption Prevention and
- c. Community Relations.

Thus it may be seen that a three pronged approach is adopted by the Commission while dealing with graft. Equal attention is given to all the three wings. They believe that along with a sustained drive against the corrupt by the enforcement wing, it is also essential to take preventive measures and plug loopholes which is done by the Corruption Prevention Department. They also wanted to build a culture of vigilance in the society and have community support. This is taken care of by the Community Relations Department.

Having said this much, let us take a still closer look at the working of these three wings. Let us begin with the **Operations Department**. This is the main investigating Wing. It enforces the ICAC Ordinance, the Prevention of Bribery Ordinance and the Elections (Corrupt and illegal conduct) Ordinance. It

also investigates offences such as black mail by a “Prescribed Officer” (‘public servant’ here in India) by misuse of his office. It also takes up enquiries into complaints against Prescribed Officers which are indicative of corruption. An important point to note is that the Department even investigates complaints of corruption in the private sector, where the employees cheat and accept gratifications from suppliers, agents etc. Their anti corruption investigations are not confined to the public sector alone. The Operations Department is the largest Department in the ICAC. Besides reporting to the Commissioner of the ICAC, it also reports to the **Operations Review Committee**, which oversees all ICAC investigations. The Review Committee has wide terms of reference and gets a large number of reports from the Commissioner on investigations taken up and prosecutions launched and so on. It would also advise the Commissioner on sending information to the Departments, based on the investigation taken up. The Commissioner of the ICAC may also seek advice from the Committee on such matters as he may deem necessary. The committee can bring to the notice of the Chief Executive of Hong Kong, (who is the executive head) any aspect of the Operations Department or any problems faced by the Committee, in carrying out its task. The committee has both official and non official members. The Operations Department takes a pro active approach to uncover corrupt practices by maintaining contacts, by use of Information Technology and by deploying under cover agents. It seeks to co-ordinate with other law enforcement agencies in Hong Kong and main land China. It seeks to build an international net work to fight graft by exchanging visits and information and training. The Department is well equipped with modern gadgets and equipments.

Regarding the **Corruption Prevention Department**, it may be seen, that its main job is to effectively plug loopholes which may lead to corrupt practices. It examines the practices and

procedures of government departments and public bodies and tries to amend those that may lead to corruption. It also advises private organizations and individuals about measures to be taken, to prevent corruption. It has a professional team to do the job and this consists of government officers, engineers, surveyors, accountants and auditors and Information Technology specialists. This Department works with managements of companies and organizations and in a way, acts as their consultants. The Department monitors developments in public policies, law and government schemes and advises the concerned, so that ab initio, anti corruption initiatives are put in place. The Department aims at building partnerships to prevent corruption. The services rendered by the Department to private bodies are free of cost. The Corruption Prevention Department has developed **Best Practice Modules** aimed at the private sector on how to plug corruption loopholes. Companies are encouraged to draw up a written code of conduct for the staff to help prevent corruption and fraud.

The **Community Relations Department (CRD)** mainly focuses on educating the public against the evil of corruption and tries to enlist its support in combating graft. This Department has two wings. One wing is a specialist unit which maps out strategies to promote public awareness and disseminate anti corruption messages through mass media. It also seeks to promote basic values through schools and educational institutions. The second wing has regional offices. Face to face contacts with different segments of the society are organized here. The CRD officers work with different groups and produce tailor made programs to meet the needs of the target groups.

The Independent Commission against Corruption (ICAC) has a good mechanism to oversee the vigilance health of its own staff.

On comparison of the methods and systems followed by the ICAC with those here in India, it may be seen, that they are mostly available here also. No doubt, we have excellent laws and very good institutions headed by persons of very high caliber. Yet the results that we have achieved are not impressive enough, when compared to Hong Kong. We are way down in the Corruption Perception Index prepared by Transparency International. There may be several reasons for our poor track record. One may be our size. The other may be the low education levels and poverty of the people. Yet another may be socio economic situation and the excessive dependency on the government and its services by the people for many day to day things. Last but not the least, may be our election process. The Election Commission of India has proposed several reforms in the electoral process which are aimed at preventing many malpractices. The root cause of all our problems lies there. As and when the political will is found to implement the reforms, our problems on the vigilance front, will stand mostly solved.

I would like to end this article with one more observation. Today corruption has become a global problem and has assumed such menacing proportions that the United Nations itself had to come out with a convention against corruption. The convention highlights the preventive measures to be adopted. It calls for criminal laws to cover a wide range of acts of corruption, if they are not already crimes under the domestic laws. Besides the traditional crimes, other acts like trading in influence and concealment and laundering of proceeds of corruption is also sought to be criminalized. International co operation has been sought to be strengthened in every aspect of fight against corruption, including prevention, investigation and the prosecution of offenders. Member countries are required to take measures that will help tracing, freezing, seizing and confiscation of proceeds of corruption. Asset recovery has been emphasized in the convention. This is very

important. The needs of countries seeking the return of the illicit assets, has to be reconciled with the legal requirements of the country whose assistance is sought. Such a measure will redress the worst effects of corruption. It will also send a message to the corrupt officials that there will be no place to hide the ill gotten wealth. India is a signatory to the convention and we have mostly complied with all the requirements. Yet there is a lot of work to be done. Eternal vigilance is the price to pay, not only for Liberty, but for our fight against graft. As corrupt officials find out newer and newer methods of making money, the agencies will have to adopt different strategies to counter them. We can never let our guard down.



## **DRUGS – A READY RECKONER**

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*D*rug trafficking is the illegal global trade activity in drugs or controlled substances that have been classified as illegal drugs or as controlled substances under the drug laws of different countries. The value of Global illegal drug trade is estimated to be \$321.6 Billion in the Retail market, \$94 Billion in the wholesale market and \$12.8 Billion in the producer market. Illegal drug trade is the most lucrative and profitable business activity in the underworld market and closely followed by the illegal trade in counterfeit goods, which is estimated to have a Global Retail market value of \$313.61 Billion.

Despite stringent legal provisions across the world illegal drug trade continues to thrive in different parts of the world with increase in production and demand for illegal drugs. Drug trafficking operatives are one of the stealthiest operators who operate across borders with a network of individuals from the supply regions to the demand regions. The network of drug trafficking operatives include the cultivators/producers/manufacturers, suppliers / traders / distributors, carriers/transporters / couriers, operators / coordinators / facilitators, receivers and the street level peddlers. This complicated network operates on a need to know basis and all the different stages of drug trafficking are executed in the most clandestine manner.

A successful drug trafficking operation involves the passage of the drug in custody from the supply region to the demand region. Since the distance between the supply and demand regions are vast, the operatives adopt some of the finest concealment techniques to escape the layers of enforcement and security agencies they have to pass through. The operatives network is Intra-State, Inter-State and International in character. Though these operatives usually have a specified role in drug trafficking, there is no hard and fast rule in terms of roles to be played in exigencies. The traditional operatives are street smart in maintaining their anonymity and continue to exist in fictitious names to different customers and clients.

The stealth among the bigger operatives is more profound that they escape the dragnet of the enforcement and security agencies very often. Despite a multi-agency approach towards drug law enforcement in the country, most of the operatives continue to remain at large or unnoticed or unidentified by the enforcement and security agencies.

Though there have been regular seizures of drugs and controlled substances by different enforcement agencies, the operatives arrested and prosecuted are largely confined to those who were in possession of the contraband at the time of seizure. There are also some significant instances in which larger number of operatives have been arrested and prosecuted. Due to the geographical spread and trans-border nature of drug trafficking, the entire network is hardly neutralized. Due to the complex and complicated nature of this network, most of the enforcement agencies leave their tasks unfinished or sometimes even unattended due to manpower and coordination constraints of operating across jurisdictions.

This article aims to create awareness among the readers about the major Narcotic Drugs and Psychotropic substances that are abused in society. It is imperative for law enforcement

officers to have some basic knowledge and idea about the different drugs that ruin societies and also fund terror outfits in some parts of the world.

## HEROIN

<b>What is it?</b>	Heroin is a semi synthetic drug that is produced by treating Opium alkaloid, Morphine with Acetic Anhydride.
<b>Source</b>	Opium derived form Poppy plant ( <b>Pappaver Somniferum</b> )
<b>Discovery</b>	1874, English chemist, Alder wright (Synthesized) 1898, German chemist, Heinrich Dreser (Bayer Chemical company introduced as medicine)
<b>Trade/Street Names</b>	Smack, House, Junk, Tar, Ball, scag, Rufus, Garbage, Big 'H', Boy, Brown, Brown Sugar, Crap, Shit, China man.
<b>Active Substance</b>	<b>Di-acetyl Morphine.</b>
<b>Psychophysical action</b>	Acts as a Narcotic Analgesic and as a depressant.
<b>Preparation Method</b>	<p>Morphine is extracted from opium by Mohr Process or Lime method. Morphine is further mixed with acetic anhydride to produce Heroin.</p> $  \begin{array}{ccc}  \text{OPIUM MORPHINE} & + & \text{ACETIC ANHYDRIDE} = \text{HEROIN} \\  \xrightarrow{\text{Lime method}} & & \xrightarrow{\text{Charcoal}} \\  (\text{Lime} + \text{Ammonium chloride}) & + & \text{Sodium Carbonate}  \end{array}  $

<p><b>Colour &amp; Identification</b></p>	<ul style="list-style-type: none"> <li>• Colour ranges from off white to pale grey or dark brown or tan.</li> <li>• Usually seen in powder form.</li> <li>• White heroin is considered the most refined and most potent</li> <li>• The powder may be fine or granular and may also consist of a mixture of powder and chunks</li> <li>• Packed mostly in paper bindles, glassine envelopes, sealable coin bags, folded aluminium foil envelopes, small balloons for retail sales and in plastic for import/export.</li> </ul>
<p><b>Producing Regions</b></p>	<p>Golden Crescent (Afghanistan, Pakistan and Iran), Golden Triangle (Myanmar, Laos – Vietnam, Thailand), Mexico, Colombia, Peru and India</p>
<p><b>Methods of Administration</b></p>	<p>Injection, Smoking, Snorting</p> <p><b>Injection :</b> The effects of Heroin ingested intravenously are felt within 7 to 8 secs and produces a “rush” which lasts one to five minutes.</p> <p><b>Intramuscular Injection :</b> Effects felt within 5 to 8 minutes</p> <p><b>“Chasing the Dragon” :</b> Smoking method</p>

Effects	<p>Psychophysical effects last four to six hours</p> <p><b>Medical Use</b> : Relieves both cough and diarrhoea. Effective pain killer and tranquilizer.</p> <p><b>Immediate Effect</b> : Euphoria, Drowsiness, Nausea, Respiratory depression, contracted pupils, Itchy nose and skin, dry mouth, Sweating, Urine retention, Vomiting, sedation.</p> <p><b>Long Term Effects</b> : Tolerance, dependence, malnutrition, constipation, decreased appetite, Abscesses, High incidence of infection and infectious diseases, Early death.</p> <p><b>Effects of Overdose</b> : Slow &amp; Shallow breathing, Convulsions, Coma, possible death.</p>
Global Market Value	\$64.82 Billion
Estimated Global Users	12 Million
Global Poppy Cultivation & Opium Production	<p>235,700 Hectares of Poppy Cultivation in 2007 (238,000 Hectares in 1998 Highest so far)</p> <p>Afghanistan: 193,000 Hectares and 8870 MT of Opium in 2007 is 92% of the Global Production.</p>
Price per gram	Africa - \$34.25, Asia Pacific - \$ 132.26, Central and South America - \$ 41.60, Europe - \$ 78.14, Middle East - \$ 28.10, North America - \$ 178.30

## COCAINE

<b>What is it?</b>	Cocaine is a semi-synthetic drug that is extracted from the Coca leaves in the Andean Region of South America.
<b>Source</b>	Coca Leaf ( <b>Erythroxylon Coca</b> )
<b>Discovery</b>	1860, Albert Nieman, German student

<b>Trade / Street Names</b>	Bernice, Big 'C', Chick, Coke, Dust, Flake, Girl, Blow, Nose candy, Snow, Toot, white, white girl, Rock, Crack, Hubba.
<b>Active substance</b>	C <sub>17</sub> H <sub>21</sub> NO <sub>4</sub> - Benzoylmethylecgonine
<b>Psychophysical action</b>	Stimulant of the central nervous system
<b>Preparation method</b>	Harvested coca leaves are dried and put through a chemical process
<p><b>Dried coca leaves</b> → <b>Cocaine alkaloids</b> → <b>Cocaine Paste</b>  + <i>Strong alkali (Lime or cement)</i> + <i>water</i> (<i>yellowish</i>)  + <i>Solvent (gasoline or Kerosene)</i> + <i>Acid</i> 40 % to 60 % Cocaine  + <i>Alkali</i></p> <p><b>Cocaine Paste</b> → <b>Cocaine Base</b> → <b>Cocaine Hydrochloride</b>  + <i>Water</i> (75 % Cocaine) + <i>Ethyl Acetate</i> (85% and above)  + <i>Sulphuric Acid</i> + <i>Hydrochloric acid</i>  + <i>Potassium Permanganate</i> or <i>Hydrogen Chloride gas</i>  + <i>Alkali</i></p>	
<b>Colour &amp; Identification</b>	<ul style="list-style-type: none"> <li>• Usually seen in the form of a fine white powder, flakes, small chunks or rocks or a combination of these forms.</li> <li>• Flake is the highest quality but seldom seen.</li> <li>• Crack has often been described as looking like chunks of soap or plaster.</li> <li>• Powdered form is called as “duff”.</li> <li>• Ranging from bitter to sweet taste.</li> <li>• Packaging is mostly in small glass vials, aluminium foil, paper bindles and plastic bags.</li> </ul>
<b>Producing Regions</b>	Andean mountain region of south America mainly in Colombia, Peru, Bolivia.
<b>Method of Administration</b>	Snorting, Nasal Inhalation, Injection and Smoking

<p><b>Effects</b></p>	<p><b>Immediate Effect:</b> Euphoria, Rush produces a full body orgasm, Anxiety, Greater confidence, Increased alertness, Release of social inhibitions, Teeth grinding, Violent behaviors, Talkative, Sweating, panic, Feeling superior and Body tremors.</p> <p>It is a fast acting stimulant and has a short duration.</p> <p><b>Smoking:</b> Rush lasts 1 to 5 minutes High lasts 10 to 20 minutes</p> <p><b>Snorting:</b> Rush lasts 3 to 5 minutes High lasts up to 60 minutes</p> <p><b>Injection:</b> Rush lasts 3 to 5 minutes High lasts 20 to 30 minutes</p>
<p><b>Side Effects</b></p>	<p>Weight loss, Insomnia, Fatigue, Headaches, Nasal infection, Sexual dysfunction, Paranoia, Magnon's Syndrome.</p>
<p><b>“Cocaine Crash”</b></p>	<p>After the Cocaine level in the blood drops, usually within 30-60 minutes, the user experiences Cocaine Crash as the drug wears off and Dysphoria sets in with pulse rate &amp; BP dropping to lower level.</p>
<p><b>Long term effects</b></p>	<p>Aggressiveness, Anxiety, Coma, Convulsions, delirium, Nausea, Strokes, Sudden death, Psychosis, Paranoia, Malnutrition, Hallucinations, Possible deaths, Restlessness.</p>
<p><b>Medical Problems</b></p>	<p>Abscesses, Circulatory problems, Crack lung, HIV / Tuberculosis / Hepatitis C, Grey/ black sputum, Severe bowel gangrene.</p>
<p><b>Global Market Value</b></p>	<p>\$ 70.45 Billion</p>

<b>Estimated Global Users</b>	16 million
<b>Coca Cultivation &amp; Cocaine Production</b>	181,600 Hectares of Global Coca Cultivation in 2007, Colombia 99,000 Hectares of Coca Cultivation. 994 MT of Global Cocaine Production in 2007, Colombia-600 MT.
<b>Price per gram</b>	Africa - \$ 32.42, Asia-pacific - \$ 171.74, Central & South America - \$15.19, Europe-\$87.10, Middle East-\$65, North America-\$86.15

## MARIJUANA / HASHISH / HASHISH OIL

<b>What is it?</b>	Marijuana refers to the leaves and flowering tops of the cannabis plant that are dried to produce a tobacco-like substance. Marijuana is a green or brown mixture of dried, shredded leaves, stems, seeds and flowers of the cannabis plant. It has more than 400 chemicals. Hashish and Hashish oil are derivatives of Cannabis plant. It is the most frequently used of all illicit drugs.
<b>Source</b>	<b>Cannabis Sativa Plant</b>
<b>Street Name</b>	Astro Turf, Bhang, Charas, Hay, Green, Grass, Ganja, Hemp, Herb, 'J', Jay, Jane, Kali, Dope, Shish oil, Weed oil, Shish, Finger, Candy bar, Skunk.
<b>Active Substance</b>	Delta – 9 – tetrahydrocannabinol ( $\Delta$ - 9THC)
<b>Psychophysical action</b>	Variable

<b>Preparation Method</b>	
<b>Marijuana</b>	Harvested Cannabis Plants are dried and the resulting material is cut or ground to a suitable consistency. Prepared marijuana contains fragments of leaves, branches, stems and seeds. THC content varies from 1 to 20 %.
<b>Charas / Hashish</b>	It is the concentrated resin exuding from the leaves and stems of cannabis plants. The resin is dried and pressed to be sold as Hash. The resin is expressed by rolling the cannabis fronds between the hands or by beating plants over a cloth and then scraping the sticky resin from the cloth. Hand Rubbing, Shaking, sieving, water extraction and thumbing are some of the methods by which Hashish is extracted.
<b>Hashish Oil</b>	Heating cut marijuana leaves or hashish over a solvent solution (acetone, ethanol or petroleum ether). Hashish oil is 3 to 4 times stronger than Hashish
<b>Colour &amp; identification</b>	
<b>Marijuana</b>	Green leafy bush that often has a significant odour, dull green or brownish in colour.
<b>Hashish</b>	Black, dark Brown, Light Brown, Reddish Brown, Greyish Brown or Greyish green to green. May be granular or smooth, dry or soft. Powder form is very rare.
<b>Hashish Oil</b>	Syrup like solution with black or dark brown colour and unpleasant odour

<b>Producing Regions</b>	172 countries in the world Exporting countries: Morocco, Nigeria, South Africa, Ghana, Afghanistan, Pakistan, Kazakhstan
<b>Methods of Administration</b>	<b>Marijuana :</b> Smoking <b>Hashish:</b> Smoking, Oral <b>Hashish Oil:</b> Smoking, Oral

<b>Effects</b>	
<b>Physical Effects</b>	Acceleration of the heart rate, Dryness of the mouth and throat, Slight drop in body temperature.
<b>Psychological Effects</b>	Euphoria Rapid mood changes Increased sensory perception Feelings of anxiety, panic and hallucinations. Impaired short term memory
<b>Effect of Overdose</b>	Fatigue, Paranoia, Possible Psychosis
<b>Global Market Value</b>	\$ 141.80 Billion
<b>Estimated Global Users</b>	165.6 million
<b>Cannabis Cultivation &amp; Production</b>	41,400 MT is the Global Marijuana Production in 2006.(Americas-55%, Africa-22%) 6000 MT of Global Hashish production in 2007.
<b>Price per gram</b>	Africa - \$ 0.79, Asia Pacific - \$9.33, Central & South Americas - \$ 1.7, Europe - \$ 6.6, Middle East - \$3.0, North America - \$ 11.25

## MDMA/ECSTASY

<b>What is it?</b>	<b>MDMA</b> was developed as a precursor in the production of other therapeutically active drugs. Later this drug was reported to generate “warm feelings towards others”. The drug was subsequently used by the psychotherapists on individuals experiencing emotional problems. It became a party drug over the years.
<b>Source</b>	Safrole, a colorless or slightly yellow oil, extracted from the root-bark or the fruit of sassafras plants is the primary precursor for all manufacture of MDMA.
<b>Active Substance</b>	3,4, methylenedioxyamphetamine
<b>Street Names</b>	Adam, Ecstasy, X, XTC, Clarity, Essence, doctor, love drug
<b>Psychophysical Action</b>	Hallucinogen
<b>Discovery</b>	1914, E. Merck Company, Germany The first medical test of this drug was conducted by the US army in 1953 as part of their research for psychological warfare agents.
<b>Producers</b>	Belgium, Netherlands, Germany, England, Canada
<b>Method of Preparation</b>	Complex Process, Time consuming and involves hazardous chemicals. Safrole, Isosafrole or Piperonal are used as precursor chemicals.
<b>Colour &amp; Identification</b>	MDMA has an appearance similar to Methamphetamine and has a faint Liquorice-like odour.

<b>Method of administration</b>	<ul style="list-style-type: none"> <li>• Available in powder, capsule and tablet form.</li> <li>• Snorting, smoking, injecting, but is usually taken orally.</li> </ul>
<b>Physical Effects</b>	<ul style="list-style-type: none"> <li>• Blurred vision, Dryness of mouth, Enhanced sense of smell, Increased BP/ Body Temperature / energy / Heart Rate, Nausea, Sweating, Teeth grinding, dilation of pupil, urinary retention.</li> <li>• MDMA causes the release of large quantities of serotonin in the brain.</li> <li>• Numerous MDMA deaths have occurred at Raves. Most of these deaths can be attributed to the effects of serotonin toxicity (Serotonin Syndrome)</li> </ul>
<b>Psychological Effects</b>	<ul style="list-style-type: none"> <li>• Initial effects are felt within 30-45 minutes after oral ingestion. Most intense effect occurs within 60-90 minutes after ingestion and persists at the level for approximately two hours.</li> <li>• Altered perception of time, Euphoria, change in visual perception, greater self-esteem, Increased Openness, Relaxed feeling, Decreased aggression, Decrease in sexual activity.</li> <li>• Most of the psychological effects are short term and disappear as the drug wears off.</li> <li>• Anxiety, confusion, depression, paranoia, panic attacks.</li> </ul>
<b>Price / Tablet</b>	\$ 10 to \$ 50

## LSD

<b>What is it?</b>	LSD is a powerful semi-synthetic hallucinogenic drug. LSD has become one of the drugs of choice at Rave parties. LSD increases visual and auditory perceptions, making rave experience more intense.
<b>Source</b>	Ergot alkaloids of Claviceps, a fungus that grows on cereal grasses, particularly Rye.
<b>Discovery</b>	1938, Albert Hofmann, Swiss scientist, Sandoz Company
<b>Active Substance</b>	d-lysergic acid diethylamide
<b>Street names</b>	Acid, Big 'D', Cube, 'D', Dose, Dot, Paper acid, Spots, Ticket, Sunshine, Sandoz
<b>Psychophysical action</b>	Hallucinogen
<b>Precursor Chemicals used in preparation</b>	Lysergic acid, Lysergic acid amide, Ergometrine, Ergocristine and Ergotamine tartrate.
<b>Preparation method</b>	Curtis reaction or the Garbrecht synthesis
<b>Effects</b>	<ul style="list-style-type: none"> <li>• A powerful semi-synthetic Hallucinogenic drug.</li> <li>• Doses are measured in micrograms</li> <li>• Dose or hit of only 20 micrograms will affect the body</li> <li>• Doses of fifty to seventy five micrograms produce Euphoria.</li> <li>• Doses above the level of 75 micrograms can result in a "trip"</li> <li>• Drug of choice at Raves.</li> <li>• Increases visual and auditory perceptions</li> <li>• There is no evidence that LSD is physically addictive.</li> <li>• Feels initial mental effects of LSD after 30-60 minutes. The mental effects peak in 3 to 5 hours and wear off within 8 to 12 hours of ingestion.</li> </ul>

<p><b>Effects</b></p>	<ul style="list-style-type: none"> <li>• <b>Physically</b>, there is an increase in BP / Pulse Rate / Temperature / Respiration and the pupils dilate.</li> <li>• <b>Mentally</b>, there is a distortion of sensory perception, along with impaired judgment. The user may experience vivid hallucinations</li> </ul>
<p><b>Identification</b></p>	<ul style="list-style-type: none"> <li>• Pure forms of LSD crystals are usually clear or white in colour but impurities may cause a yellow tan or even black colour</li> <li>• Nearly all retail sales of LSD are in the blotter paper form.</li> <li>• Usually sold in the form of 'blotters' or small tablets.</li> </ul>
<p><b>Methods of administration</b></p>	<ul style="list-style-type: none"> <li>• Normally taken by placing a square or ticket of blotter paper on the tongue.</li> <li>• LSD can be mixed with liquids, consumed with foods, or added to pills or sugar cubes and is readily absorbed by the gastrointestinal tract.</li> <li>• LSD can also be absorbed by placing drops in the eye.</li> <li>• LSD can not be ingested by smoking as it is destroyed by high heat.</li> </ul>

## AMPHETAMINES & METHAMPHETAMINES

<p><b>What is it?</b></p>	<p>Amphetamines are synthetic drugs that have an amphetamine base and many of them have legitimate medical applications.</p>
<p><b>Source</b></p>	<p>Synthetic drug derived from Ephedrine / Pseudoephedrine chemicals.</p>

<b>Discovery</b>	1887, Synthesized as a cheap substitute for Asthma drugs in Germany  1937, Became available in Tablet form.
<b>Trade / Street Name</b>	Chalk, Batu, Meth, Crank, Crystal, Go, Go fast, Hearts, Pep pills, Quartz, Speed, Zip, Wire, Tweak, Ice, Glass
<b>Psychophysical Action</b>	Stimulant
<b>Preparation method</b>	<p><b>1) Nazi method (Birch reduction method)</b>  Ephedrine/ Pseudoephedrine + Anhydrous Ammonia + Lithium or Sodium Metal + water + solvent <math>\longrightarrow</math> freebase Methamphetamine  Freebase methamphetamine + solvent + Hydrogen Chloride gas <math>\longrightarrow</math> <b>Methamphetamine Hydrochloride</b></p>
	<p><b>2) P2P Amalgam method</b>  Phenyl-2-Propanone/Methylamine + Mercuric chloride + Hydrochloric acid +  Aluminum + Isopropanol + Sodium Hydroxide  ----- <b>Methamphetamine Hydrochloride</b></p>
	<p><b>3) Hydriodic acid and Red phosphorous reduction</b>  Ephedrine/Pseudoephedrine + denatured alcohol/acetone/ other solvents + Hydriodic acid + Red phosphorus Solution + <math>\longrightarrow</math> Sodium  <i>Heating 5-8 Hrs</i>  Hydroxide + water + solvent -----  freebase Methamphetamine + Solvent  ----- <math>\longrightarrow</math> Methamphetamine  <i>Hydrogen Chloride Gas</i> Hydrochloride</p>
<b>Colour &amp; Identification</b>	<ul style="list-style-type: none"> <li>• White powder sometimes with a slight colouring towards yellow, brown or grey.</li> <li>• Meth can also be available in a special crystal form.</li> <li>• Ice resembles broken or powdered glass.</li> </ul>

<p><b>Producing Regions</b></p>	<ul style="list-style-type: none"> <li>• Germany, India and China are the major producers of Ephedrine / Pseudoephedrine (Precursors required for producing Methamphetamine)</li> <li>• East and South East Asia, North America, Europe and Oceania produce Methamphetamines.</li> </ul>
<p><b>Methods of Administration</b></p>	<p>Snorting, Smoking, Oral, Injection</p>
<p><b>Effects</b></p>	<ul style="list-style-type: none"> <li>• Relieves fatigue, reduces the need for sleep, increases energy and confidence levels and brings about psychological and physical exhilaration.</li> <li>• The effects last between 4-12 hrs</li> <li>• Body develops tolerance,</li> <li>• Causes “Methmouth” – Tooth deterioration, alertness, Anxiety, Euphoria, confusion, delirium, dry mouth, dilated pupils, irritability, Jaw clenching, Sweating, Talkativeness, Teeth grinding , Increased body temperature / Heart rate / respiration / BP/ self confidence, lowered social inhibitions</li> </ul> <p><b>Long-term effect:</b> Physical and mental problems.</p> <ul style="list-style-type: none"> <li>• Delusions, visual and auditory hallucinations, violent behaviors, Magnon’s syndrome, Paranoia, seizures, Tremors, suicidal thoughts, weight loss, poor hygiene, Insomnia, chest pains, Impaired coordination.</li> </ul>

<b>Yaba or Yaa baa</b>	Local name of a methamphetamine and caffeine tablet produced in the Golden Triangle (Burma, Laos and Thailand). The literal translation is “Crazy medicine”. These tablets contain 25-30Mgms of Meth and 45-65 Mgms of caffeine. They are Red, Orange or green in colour. They are embossed with an “R” or “WY”.
<b>ICE</b>	Ice is a purified form of Methamphetamine that is injected by smoking. Has an appearance similar to broken pieces of ice or glass. Ice is extremely powerful and has a high purity.
<b>Global Market Value</b>	\$ 28.25 Billion
<b>Estimated Global users</b>	24.7 million
<b>Price per gram</b>	Africa -\$4.3, Asia Pacific - \$155.86, Europe - \$31.87, North America - \$ 85.6
<b>Production</b>	330 Metric Tonnes to 770 Metric Tonnes

## KETAMINE

<b>What is it?</b>	Ketamine is a rapid acting anesthetic, which is chemically related to PCP ( <b>Phencyclidine</b> , phenylcyclohexylpiperidine). It has stimulant, depressant, hallucinogenic and analgesic characteristics.
<b>Source</b>	The production of Ketamine is a complicated multi – step process using Bromocyclopentane, Chlorobenzonitrile, Methylamine and strong acids

<b>Discovery</b>	1962, Calvin Stevens, American Pharmacist and patented by Parke-Davis for use as an anesthetic in humans and animals in 1966.
<b>Street Names</b>	Ket, Kit Kat, Super K, Vitamin K, Cat Valium, K, Ket, Special K
<b>Active substance</b>	Ketamine HCL
<b>Psychophysical Action</b>	“Dissociative anesthetic” and possesses anesthetic, amnesiac and analgesic properties.
<b>Method of administration</b>	<b>Medical use :</b> Intravenous or Intramuscular injection <b>Recreational use :</b> Snorting, oral, Intramuscular injection
<b>Effects</b>	Distorted Vision, Drunken Feeling, Dry Mouth, Nausea, Numbness, Tremors, Vomiting, Increased BP / Heart Rate / Body Temperature, Loss of coordination, Sweating. <b>Recreation users</b> take the drug to experience the mellow, dreaming, wavy feelings the drug produces. These effects are often referred to as “K-Land”. Stronger dose produces an effect called “K-Hole”
<b>Identification</b>	The powdered Ketamine has an appearance similar to Cocaine. Vials of Ketamine appear clear to yellowish in colour.
<b>Price per gram</b>	\$ 25 to \$ 160



# **THE NAXALITES' MENACE – A STUDY AND ANALYSIS**

**M.V. POORNACHANDER**

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## **Definition**

'Naxalite' was born out of 'Naxalism'. This nomenclature is peculiar only to India.

## **Origin**

Aftermath of British Raj, feudal landlords were enslaving the oppressed / deprived / downtrodden / landless / agricultural poor labourers into bonded labour. They were paid meagre wages for subsistence but were extracted with maximum labour. Social unrest ensued. The feudal landlords were too powerful and the govt machinery were their stooges. Nexus between Politicians, Panchayatdars, local Police Thanedars and landlords was wreaking havoc on the poor farmers.

In a village named 'Naxalbari' in the state of West Bengal, in the 1950's, rose a cult figure by name 'Charu Mazumdar' from the peasant's family but educated person who took the cudgels on behalf of the oppressed poor people and advocated the educated youth to embrace the path of organized violence against the atrocities of rich landlords and politicians and their goons and stooges and govt. agencies such as Police etc. This uprising was directed against the govt. establishments.

## **Philosophy**

'Che Guevara' was the forefather of guerilla warfare which emanated from Latin America. 'Ambush' technique of indirect warfare was devised by him to demolish and destabilize the Police or Army convoys of the govt on move but later developed into landmine blasts, bomb blasts, attacks on Police / Army posts, blasting railway bridges / trains etc. Massacre of Police personnel, politicians and rich landlords were perpetrated unabatedly. These ways and means were adopted by the Naxalites who rose into armed rebellion struggle. They cannot be termed as liberation fronts as such. They are extremists of Marxists / Leninists faction or Maoists. Philosophy is communism. Aim is to overthrow democratic elected govts. To eliminate haves and emancipate the have – nots. They were originally against the Monarchy. Their original symbol was sickle and Hammer. Aim is to terrorise their targets.

## **Composition / Base / recruitment**

All disgruntled youth joined the Naxalites' band wagon. Oppression in any manner like female poor youth / girls harassed / raped by Politicians, landlords or Police; innocent male youths brutalized, unemployment, drudgery, social ostricisation, deprivation and abdication of house and land, segregation, poverty, starvation, denial of job opportunities and genuine claims, Corrupt govt official's intransigent attitudes, neglect, let down by influenced of the society, infringement on their fundamental rights and liberties, insult and abuse on the lower castes, etc. Most of them are educated youth.

## **Spread**

Naxalites have spread into West Bengal, Bihar, Uttar Pradesh, Jharkand, Madya Pradesh, Chattisgarh, Nepal, Maharashtra, Andhra Pradesh, Orissa, etc and now they are named as

(PWG) People's War Group and Dalams. ULFA are also extremists. Militant Tamil Chauvinists organization like TNLA or TNLF are also Naxalites only. Bodo militants and Naga insurgents also can be classified as Naxalities since they are also upsurge movements / groups. Their base roots easily spread in to dry belt areas like Vidarbha and Telengana, Warangal, Chattisgarh, Koraput, Bastar district. Their mindset is that rich are getting richer and poor are getting poorer. The imbalance in the society is to be set right by them. Now they join hands with ULFA, LTTE etc for training and weapons / arms / ammunition acquisition. In recent times some of them were known to have joined Veerappan's band wagon. Jail break is their forte now.

### **Conclusion / remedy**

The collector, RDO, Thasildar, BDO and revenue / govt officials should address their grievances promptly, sincerely and assuage their plight or apathy, create employment opportunities, give vocational training, prevent the rich landlords and politicians from oppressing these poor sections of the society and exploiting them; Any injustice meted out to them to be addressed by the Media; Their labour to be properly waged; govt welfare schemes should reach them and benefit them.



## HAVE AN EYE ON THE NATURE

**M. KARUNANITHI**

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“One impulse from a vernal wood may teach you more of man of moral, evil and of good than all the sages can”

— William Wordsworth

One cannot deny that nature, the Almighty’s creation teaches lesson to the mankind which is also the creation, of the Almighty. The new inventions and developments of science are all taken from already existing flora and fauna. In a similar way, we can take examples and guidelines from nature for our day-to-day life and career. We should not forget that commonly practiced individual behaviour collectively form social culture.

### **Birds of same feather flock together**

It is a common sight that we can catch often. A group of birds in the sky. How many of us have given thought to the technicality behind it. It is there to teach us a valuable lesson. The bird migrates from one country to other in particular season covering thousand of Kms. It is possible for them only because of the manner by which they fly together. We can see them flying in ‘V’ Shape. It is for a purpose of flopping of wings by the bird flying in the front, leading the group, would facilitate the birds flying behind to flap slowly without taking much pain or effort equal to that of the leading bird. When

the leading bird gets tired it would come back and next bird would take that position. In the fashion they one by one take, the leading position and help the other birds to follow it with less effort and strain. This will stand as a lesson to all those participating in the joint venture which requires rather a self regulation. Whether it is in a family or in an institution “sense of belonging” should be a watchword. If any one did injustice to its capability, it would force others to step into the breach and suffer to achieve the objective.

We can aptly compare this with the method to be followed during crowd control. Mob operation is a drill trained well during the period of basic training and subsequently in weekly and inspection parades; it was refreshed to keep the skill alive. In practice some officers when they had to give lathi charge on an unruly mob, they are not advancing towards the crowd in column without leaving any chance for the crowd to advance and also making sound to suppress the voice raised by the mob. This method would give a cost effective result where as the method adopted by some inexperienced officers would yield an adverse impact. They instead of advancing together, few bold and provoked officers run widely into the crowd and beat the person caught along in fit of anger, without foreseeing the consequences, only to get caught in the press lenses to face the unfair criticism later.

### **Dog with a dry bone**

Bone is the favourite food for a dog always but we might have seen the dogs, which would be biting a completely dry old bone for a long time enjoying the taste of it. But the reality is different. When it breaks the bone by biting it hard the sharp edges of the broken bone puncture the gum of the dog and cause blood to ooze out. Tasting its own blood the dog would think that it was the taste from the dry bone. It tallies with the behaviour of a person who enjoys the ill-gotten money and

benefit without foreseeing the consequences. In their thought it is the gravy train attached to their post of status. They fail to understand that they are spoiling their own image by their corrupt practice.

### **Tiny Roots of Coconut Tree**

A coconut tree occupies a small portion of land above the land than other trees like banyan. It can bear a tender coconut at the top with more sweet water only if its tiny roots travel long distances under the earth in search of ordinary water.

As a police personnel one has to sacrifice his personal comfort, feeling and sentiments some times to enforce law and maintain peace and thereby to give comfort to the public. Most of the occasions he has to suppress his natural feelings when he encounters unfair criticisms and undue reactions from the public. This would enrich the image of the police force as sweet coconut water.

### **Wisdom of a cat**

A cat employs the same method to carry its young ones, and its prey normally the rat. But there is a vast difference in the pressure it exerts in the bite. In the same way enforcement of law against criminals and antisocial elements must be different from that on an ordinary citizen who violates traffic rules or any other local law in advertantly or out of ignorance. To differentiate this, the officer concerned should apply his wisdom. Mere knowledge in law does not suffice to be a successful police officer but a wisdom for application of his knowledge in an appropriate time and manner is a must.

### **How comes the greatness of 'Sun'**

The sun is great but its greatness is appreciated only when it opens the soft petals of tiny flowers to help it to spread its

fragrance in the air. Police officers may have enormous powers. As an investigating officer it is his discretion to arrest a person. But the way in which he uses his discretion speaks about his integrity and that only brings him reputation as a successful police officer. He is not expected to throw his weight around to go ultra vires but to give importance to the victim whether he is poor, illiterate or down trodden.

This reveals the truth that our behaviour should be in line with nature. Our natural instincts always guide us when we go in deviation of natural law. Law of nature is not biased. For instance as per law of gravitation, even a richest or influential person would suffer the same risk if he falls from fifth floor of a building. But sometimes we ignore these warnings and repent for it later after undergoing the sufferings as a result. We conveniently named it as 'experience', So .....

Let us have an eye on the nature

“Nature does nothing without purpose or uselessly”

**Aristotle**



# **THOTTINAYAK CRIMINALS OF GANDHINAGAR COLONY IN THIRUVERAMBUR POLICE STATION LIMITS OF TRICHY DISTRICT**

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## **Origin**

The Thottinayaks originate from Kollakuppam village in Nagari Police Station limits, Chittoor circle, Chittoor district in Andhra Pradesh. They are basically Telugu speaking; mother tongue being Telugu. Those who have settled in Tamil Nadu are also Telugus but speak fluent Tamil. Interchange marriages take place between Thottinayaks of Andhra Pradesh and Tamil Nadu. They are normally dark complexioned and with medium statured build.

## **Modus Operandii**

Their chief method of operation is 'Diverting attention' by several means, for eg:- filth rubbing on victims. In olden days Night soil was used and in the recent past (for the past 20 years or so) the youngsters who have taken over the mantle of criminality, use chewed Biscuits / Plantains, Pan supari. Another way of diverting attention of the victim is by throwing rupee notes on the ground within the vicinity of the intended prey / victim. Filthy substance is also rubbed on the vehicles of transport used by customers coming out of Bank premises or even rubbed on their bodies. Another unique method

adopted is to throw itching powder (made out of Senthatty plant) on the bodies of probable victims, with the result that itching spreads rapidly. The victim's attention is also diverted by means of engaging them in a conversation. One more M.O. followed by these notorious criminals is creating obstruction around the vehicle of transport (of the Bank customers), parked in front of bank premises, sometimes, the victim's cycle tyre is also punctured. Bag lifting is their chief M.O. and they perform it with much panache and sleek finesse. Bag lifting is executed in Bathing ghats, Bus stands, by diverting attention of the victims. Usually two or more persons operate to ensure a 'coup de grace' for these types of crimes (bag lifting) through diverting attention of the hapless victims. They do not adopt any violent methods to accomplish their nefarious goals. One of the main and interesting feature of these Thottinayak criminals is that they completely avoid indulging in any house – breaking, robberies, dacoities etc. their principal M.O. is only 'diverting attention'.

Thottinayak ladies also operate in festivals, indulging in chain snatching from adults (ladies) as well as snatching of chains and bracelets from children who are carried by their parents on their hips. Minors (children) are also trained for assisting the lady criminals in committing crimes, for eg:- bag , lifting and for giving signals. Small boys between 10 years and 16 years of age are trained and engaged to operate and act in certain manner, according to the signal given by the captain of the gang. Thottinayak criminals operate from outside the bank premises, where as the 'RAMJINAGAR – KEPMARIS' operate even from inside the bank premises, adopting the same M.O. – 'diverting attention'. At any cost, Thottinayaks avoid using arms / weapons for accomplishing their inveterate criminal pursuits.

## **General Information**

Criminal behaviour is embedded in their minds. Illicit brewing

is also a side profession of these criminals. They also resort to assaulting of the Police personnel who raid their habitats. Once when Thiruthani Police station crime Inspector raided their hideouts, he was badly assaulted and mauled by one Kollakuppam gang leader called 'Military Kondaiyan'.

A cashier of the LGB – chain factory was deprived of Rs. 1 Lakh as he was coming out of the bank premises, after withdrawing the amount; his attention was diverted and the cash was looted by one accused 'Balu', a thottinayak criminal, at Opanakara street in coimbatore. The abode of Thottinayak criminals is 'GANDHINAGAR' settlement colony in thirverambur Police station limits of Trichy district in Tamil Nadu. They have also operated in local district, bordering districts and even throughout Tamil Nadu and tend to operate in Andhra Pradesh, Karnataka and Kerala too during festival seasons.

These criminals' caste name is 'Thottinayak'. Hence, they should be called as 'Thottinayak' only and 'NOT' as 'Koravas'. Gandhinagar settlement colony comprises of approximately more than 500 Thottinayak criminals. Before this criminals' settlement colony was named as Gandhinagar, it was called as Thiruverambur gang colony. In the beginning, these bandits migrated from Andhra Pradesh to Tamil nadu and settled themselves on the banks of the river 'Oyyakondan' near Thiruverambur and hence they were called as Thiruverambur gang. But subsequently their settlement colony was named Gandhinagar, which now forms part of Thiruverambure Police station limits. This colony is situated at about approximately one Km from the Thriuverambur Police station on the Tanjore to Trichy road, near the river banks. At Thiruverambur Police station, for 'Thottinayak criminals, exclusively 37 history sheets are being maintained, out of which 10 are for DCs, 24 for KDs, and 3 for Suspects. Since, this police station limits'

houses notorious Thottinayak criminals, it is highly sensitive from the crime point of view. Especially, when the operation sphere of the Thottinayaks ranges from bordering districts, bordering states to other states. These criminals seem to be highly proficient in speaking many languages and dialects of India and therefore prone to commit crimes in other states.

## **Conclusion**

Whatever be the reason for the opening of Thiruverambur Police station, (being for BHEL complex), the primary one must be to keep control over 500 families of 'Thottinayaks', one of the notorious criminal tribes in the country. There should be continuous tagging kept on these criminals who operate in many states of India, with deadly effect and escape detection with ingenuity. The 'Thottinayaks' offer a fascinating study of collective criminal behaviour, sanctioned by their peculiar religious beliefs. While few of their families settle down to honest labour, most of them continued their depredations and even perfected the 'art' of 'diverting attention', of the victims / bank customers, while coming out of bank premises. They also cannot be distinguished from the local populace because of their smart turnout, air of confidence and ease. Recovery of the stolen property is possible normally through the police officer who has gained the confidence of the elders in the colony. A strategy should be evolved atleast to keep track of the movements of the Thottinayak youth, if not cure them of their chronic and inveterate criminality. The brewing of homemade arrack by the Thottinayak women is too minor a delinquency to warrant mention here.



# CYBER ATTACK

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*R*ecently there was complete power failure / blackout for several hours in three Major Cities in USA. Investigations revealed the fact that nuclear power stations were fazed with cyber attack from Russia and China which was the handwork of technosavvy cyber crime experts patronized by those govts and the intention was to destabilize USA using these means and weaken it since they could not afford to subjugate USA through direct Warfare.

Muslim terrorists like A1 Quaeda are also envisaging cyber attack on USA.

Both FBI and CIA of USA hired the services of one Indian (cyber crime expert in counter cyber attack) by name ATKIN FADIA (MBA – STANFORD UNIVERSITY) based in Mumbai who started a software enterprise in Malaysia – who also teaches counter – cyber attack in many Countries including India – Author of a book title ('Ethical Hackers' – Indian edition – Rs. 300 only) to probe in to 9/11 attack on Sears Twin towers – World Trade Centres, aftermath investigations.

Learning subjects like cyber crime, Hacking, Counter cyber attack, encrypting technology, Digital swapping, Cyber stalking etc gain importance now.



# IMPORTANT JUDGEMENTS AND JUDICIAL PRONOUNCEMENTS

## Supreme Court Cases (Criminal)

(2006) 2 SCC (Cri)

*of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail". (SCCp. 31, para 18)*

*(emphasis in original)*

In the present case, admittedly, the respondent is an advocate. Being an advocate he is in a commanding position and standing in the society. Keeping in view his position in the background, a reasonable apprehension of the witnesses being tampered with or won over, coerced, threatened or intimidated by using his influence and position cannot be ruled out.

In fact, going through the entire order of the High Court granting bail, we do not find any mitigating circumstances, which warranted the High Court in granting bail in a non-bailable grave offence under Sections 302/201 IPC.

For the reasons aforesaid this appeal deserves to be allowed. The order of the High Court dated 7-9-2005 granting bail to the respondent is hereby quashed and set aside. The respondent is on bail. His bail bond and surety stands cancelled. He is directed to be taken back into custody forthwith. The appeal is allowed.

**(2006) 2 Supreme Court Cases (Cri) 568**

(Before H.K. Sema and Dr. AR. Lakshmanan, JJ.)

Criminal Appeal No. 137 of 2005

Nisar Khan alias Guddu and others .... Appellants;

*Versus*

State of Uttaranchal ... Respondent

*With*

Criminal Appeal No. 138 of 2005

Rajesh Sharma and another ... Appellants;

*Versus*

State of Uttaranchal ... Respondent.

**Civil Appeals No. 137 of 2005 with No. 138 of 2005,  
decided on January 25, 2006**

- a. Evidence Act, 1872 — S. 27 — Recovery of arms pursuant to disclosure statement made by accused immediately after arrest — Offending arms recovered from the bank of a river, as pointed by accused, which were concealed under sand and covered by stones — On the recovery memo signatures of all the accused obtained — Held, High Court fell in grave error by disbelieving the recovery memo solely on ground that the place was a common place frequented by the public.

*Nisarkhan v State of Uttaranchal (Sema, J) Dhananjay Chatterjee v. State of W.B., (1994) 2 SCC 220 : 1994 SCC (Cri) 358; Golakonda Venkateswara Rao v. State of A.P., (2003) 9 SCC 277 : 2003 SCC (Cri) 1904;*

*Praveen Kumar v. State of Karnataka, (2003) 12 SCC 199 : 2004 SCC (Cri) Supp 357, relied on*

- b. Criminal Trial — Witnesses — Hostile witness — Evidence of — Eyewitnesses supported prosecution case consistently — About one year after their examination, cross-examination and discharge, they were recalled and re-examined by defence — All of them then turned hostile and resiled from their previous statements — Even on re-examination they consistently supported prosecution story with regard to the date, place and genesis of the incident and they resiled from their previous statements only with regard to identity of accused — However, evidence on record showing that accused and prosecution parties were at loggerheads and were known to each other from before — An eyewitness had already filed application before trial Magistrate that he had been threatened and intimidated by the accused not to depose against them — Held, by the time the eyewitnesses were recalled, they were won over either by money, by muscle power, by threats or intimidation — Testimony of these eyewitnesses cannot be rejected on ground that they had turned hostile.
- c. Criminal Procedure Code, 1973 — S. 311 — Re-examination of witness — Application filed by accused to recall the eyewitnesses after a lapse of more than one year and after they were examined, cross-examined and discharged — Held, should not be allowed.
- d. Criminal — Trial — Appreciation of evidence — Murder — Direct evidence — PW categorically stating that all the accused named in FIR had come to the office of deceased armed with pistols/katas,

entered inside and started firing indiscriminately — This statement corroborated by evidence of two other PWs — In view of the direct evidence of eyewitnesses, held, non-recovery of the offending car said to have been used by accused would be no ground to disbelieve otherwise the creditworthy evidence of PWs.

**1999 CRI. L.J. 1382**

(Madras High Court)

R. Balasubramanian, J.

C. Natesan, Petitioner v. State of Tamil Nadu and others,  
Respondents.

Crl. O.P. Nos. 19654 and 19880 and Crl. M.P. Nos. 9339  
to 9341 of 1998, D/- 21-12-1998

- a. Criminal P. C. (2 of 1974), Ss. 267, 482 — Power to require attendance of prisoner — Prisoner Transfer Warrant issued by Courts situated outside particular State — But its execution taking place within such particular state — Issue whether proposed transfer of custody is without authority of law and offends the personal liberty guaranteed under Art. 21 of Constitution — High Court of that particular State has jurisdiction to decide such issue.
- b. Criminal P.C. (2 of 1974), Ss. 41, 48, 57 — Arrest — Powers of police — Accused even if in judicial custody — Can be formally arrested in respect of any number of other crimes registered elsewhere in country — Court cannot be used as device to secure presence of accused in custody.

The Code contemplates two situation of arrest (i.e.) arrest is made by the police without a warrant and

arrest is made by the police with a warrant. In the first type of arrest, the arrested person has to be produced before the nearest Court subject to the power of remand of the Court concerned. In the second type of arrest, the Court before which the arrested accused is produced subject to bail, can permit the removal of his custody to the Court which issued the warrant. From provisions of Ss. 48 and 57 it is clear that the person involved in crime in one part of this country can be arrested in any other part of this country and produced before the nearest Magistrate within the time prescribed by law, who can either release him on bail or pass on order for custody.

1992 Cri LJ 2768, Followed.

(Paras 11, 12, 13)

- c. Criminal P. C. (2 of 1974), S. 267 — Power to require attendance of prisoner — Words “other proceedings under this Code” in S. 267 — Cannot be given restricted meaning as preceding word inquiry or trial — Court has power to ask for transfer of prisoner even during investigation.
- d. Criminal P.C. (2 of 1974), S. 267 — Power to require attendance of prisoner — Normally arrest must be shown and Court must be informed about same as a condition precedent — Issuance of Prisoner Transfer Warrant neither preceded arrest not Court being informed about same — On facts and in interest of justice investigating agencies directed to show arrest and have P.T. Warrants implemented.
- e. Criminal P.C. (2 of 1974), Sections 269, 267 — Issuance of Prisoner Transfer Warrant under Section 267 — Section 269 does not confer vested right on

accused for not to be transferred — Transfer pursuant to P. T. Warrant cannot be avoided by accused.

- f. Criminal P. C. (2 of 1974), Section 267 — Issuance of Prisoner Transfer Warrant under Section 267 — Personal liberty of accused as guaranteed under Article 21 of Constitution, not violated.

Constitution of India, Art. 21.

Once an information of the commission of a cognizable offence is given to the police, it has to be reduced to writing by the officer concerned as provided for under Section 154 of the Code. There is no doubt in this case that complaints disclosing cognizable offences against the petitioner have been registered not only in the city of Chennai but also in some places in other States as well. Once a cognizable offence is disclosed, the police is at liberty to investigate the case without the order of a Magistrate. The power to investigate includes the power to arrest. Under Section 48 of the Code, a police officer may, for the purpose of arresting without warrant any person, whom he is authorised to arrest, pursue such person into any place in India. Therefore, it is clear from this Section that irrespective of the place where the crime of a cognizable offence is registered, the police officer is entitled to pursue that accused for the purpose of arrest to any place wherever he is found and he need not necessarily wait for the accused to come into his territorial jurisdiction to effect arrest. A person so arrested, shall be taken before the nearest Magistrate and under Section 57 of the Code, the detention of the arrested person in the police custody shall not exceed 24 hours excluding the time necessary for the journey from the place of arrest to the Magistrate's Court. The production of the arrested person before the nearest Magistrate is subject to the bail provisions. It is open to the Magistrate to remand the accused to judicial custody. Therefore it is clear that the person involved in crime

in one part of this country and produced before the nearest Magistrate within the time prescribed by law, who can either release him on bail or pass on order for custody. The above provisions relate to the arrest of an accused by a police officer without a warrant.

The accused can also be arrested pursuant to a warrant of arrest issued by the Court of competent jurisdiction. Section 78 of the Code provides, when an arrest warrant is to be executed outside the local jurisdiction of the issuing Court, the procedure to be followed. When an arrest warrant directed to a police officer is to be executed beyond the local jurisdiction of the Court issuing the same, the procedure to be followed is provided for in Section 79 of the Code. Section 80 of the Code provides for the procedure to be followed on arrest being effected. Under Section 81 of the Code, the authority, before whom the arrested person is produced, can direct his removal in custody to the Court which issued the arrest warrants. Therefore it is clear that the Code contemplates two situations of arrest (i.e.) arrest is made by the police without a warrant and arrest is made by the police with a warrant. In the first type of arrest, the arrested person has to be produced before the nearest Court subject to the power of remand of the Court concerned. In the second type of arrest, the Court before which the arrested accused is produced subject to bail, can permit the removal of his custody to the Court which issued the warrant.

The Honourable Supreme Court of India in the judgment reported in *C.B.I. v. Anupam J. Kulkarni*, 1992 SCC (Cri) 554 L 1992 Cri LJ 2768 : 1992 (3) SCC 141 : (AIR 1992 SC 1768) has held that even if an accused is in judicial custody in connection with the investigation of an earlier case, the investigating agency can formally arrest him regarding his involvement in a different case and associate him with

the investigation of that other case. The importance of this decision as far as the case on hand is concerned is that even when a person is in judicial custody, he can be shown arrest in respect of any number of other crimes registered elsewhere in this country and there cannot be any legal obstacle for the case.

**1999 CRI. L.J. 1395**

(Madras High Court)

M. Karpagavinayagam, J.

Kamaladass, Appellant v. State, Respondent. CrI. Appeal No. 767 of 1991, D/- 31-8-1998.

Penal Code (45 of 1860), Ss. 302, 304-B — Dowry death — Accused charged under S. 302, I.P.C. for causing death of wife — However, evidence on record establishing ingredients of offence under S. 304-B — Conviction of accused under S. 304-B in absence of framing of charge under S. 304-B — Not illegal.

**IN THE SUPREME COURT OF INDIA  
CRIMINAL ORIGINAL JURISDICTION**

**WRIT PETITION (CRIMINAL) NOS. 666-70 OF 1992**

Vishaka & Ors.

... Petitioners

*Versus*

State of Rajasthan & Ors.

... Respondents

**JUDGEMENT**

**Verma, CJI**

This Writ Petition has been filed for the enforcement of the fundamental rights of working women under Articles 14, 19

and 21 of the Constitution of India in view of the prevailing climate in which the violation of these rights is not uncommon. With the increasing awareness and emphasis on gender justice, there is increase in the effort to guard against such violations; and the resentment towards incidents of sexual harassment is also increasing. The present petition has been brought as a class action by certain social activists and NGOs with the aim of focussing attention towards this societal aberration, and assisting in finding suitable methods for realisation of the true concept of 'gender equality'; and to prevent sexual harassment of working women in all work places through judicial process, to fill the vacuum in existing legislation.

In the absence of domestic law occupying the field, to formulate effective measures to check the evil of sexual harassment of working women at all work places, the contents of International Conventions and norms are significant for the purpose of interpretation of the guarantee of gender equality, right to work with human dignity in Articles 14, 15, 19(1)(g) and 21 of the Constitution and the safeguards against sexual harassment implicit therein.

Gender equality includes protection from sexual harassment and right to work with dignity, which is a universally recognised basic human right.

The obligation of this Court under Article 32 of the Constitution for the enforcement of these fundamental rights in the absence of legislation must be viewed along with the role of judiciary envisaged in the Beijing Statement of Principles of the Independence of the Judiciary in the LAWASIA region. These principles were accepted by the Chief Justices of the Asia and the Pacific at Beijing in 1995 as those representing the minimum standards necessary to be observed in order to maintain the independence and effective functioning of the

judiciary. The objectives of the judiciary mentioned in the Beijing Statement are:

**“Objectives of the Judiciary:**

The Objectives and function of the Judiciary include the following:

- a. to ensure that all persons are able to live securely under the Rule of Law;
- b. to promote, within the proper limits of the judicial function, the observance and the attainment of human rights; and
- c. to administer the law impartially among persons and between persons and the State.”

**“Violence and equality in employment:**

Equality in employment can be seriously impaired when women are subjected to gender specific violence, such as sexual harassment in the work place.

Sexual harassment includes such unwelcome sexually determined behaviour as physical contacts and advances, sexually coloured remarks, showing pornography and sexual demands, whether by words or action. Such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the women has reasonable grounds to believe that her objection would disadvantage her in connection with her employment, including recruiting or promotion, or, when it creates a hostile working environment. Effective complaints procedures and remedies, including compensation, should be provided.

States should include in their reports information about sexual harassment, and on measures to protect women from

sexual harassment and other forms of violence of coercion in the work place.”

The present civil and penal laws in India do not *adequately* provide for specific protection of women from sexual harassment in work places and that enactment of such legislation will take considerable time.

It is necessary and expedient for employers in work places as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women:

### **Duty of the Employer or other responsible persons in work places and other institutions**

It shall be the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required.

### **Definition**

For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

- a. physical contact and advances;
- b. a demand or request for sexual favours;
- c. sexually coloured remarks;
- d. showing pornography
- e. any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Where any of these acts is committed in circumstances where-under the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work whether she is drawing salary, or honorarium or voluntary, whether in government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory for instance when the women has reasonable grounds to believe that her objection would disadvantage her in connection with here employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

### **Preventive Steps**

All employers or persons in charge of work place whether in the public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation they should take the following steps:

- a. Express prohibition of sexual harassment as defined above at the work place should be notified, published and circulated in appropriate ways.
- b. The Rules/Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.
- c. As regards private employers steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.

- d. Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places and no employee women should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

### **Criminal Proceedings**

Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

In Particular, it should ensure that victims, or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

### **Disciplinary Action**

Where such conduct amounts to mis-conduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

### **Complaint Mechanism**

Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.

## **Complaints Committee**

The complaint mechanism, referred to in (6) above, should be adequate to provide, where necessary, a Complaints Committee, a special counsellor or other support service, including the maintenance of confidentiality.

The Complaints Committee should be headed by a woman and not less than half of its members should be women. Further, to prevent the possibility of any undue pressure or influence from senior levels, such a Complaints Committee should involve a third party, either an NGO or other body who is familiar with the issue of sexual harassment.

The Complaints Committee must make an annual report to the Government department concerned of the complaints and action taken by them.

The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee of the Government department.

## **Workers' Initiative**

Employees should be allowed to raise issues of sexual harassment at workers' meetings and in other appropriate forums and it should be affirmatively discussed in Employer-Employee Meetings.

## **Awareness**

Awareness of the rights of female employees in the regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner.

## **Third party Harassment**

Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person in charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

The Central/State Governments are requested to consider adopting suitable measures including legislation to ensure that the guidelines laid down by this order are also observed by the employers in Private Sector.

These guidelines will not prejudice any rights available under the Protection of Human Rights Act, 1993.

Accordingly, we direct that the above guidelines and norms would be strictly observed in all work places for the preservation and enforcement of the right to gender equality of the working women. These directions would be binding and enforceable in law until suitable legislation is enacted to occupy the field. These Writ Petitions are disposed of, accordingly.



## **TNPA – COURSE CALENDAR**

October, November and December 2008

<b>Sl. No</b>	<b>Title</b>	<b>Date</b>
1	Workshop on Right to Information Act	21-10-08
2	Terrorism	04-11-08 & 05-11-08
3	Human Rights	11-11-08 & 12-11-08
4	Workshop on Right to Information Act	19-11-08
5	Drug Law Enforcement	02-12-08
6	Domestic Violence Act	10-12-08 & 11-12-08
7	Crime against children and dealing with uncared children and protecting them against criminality	29-12-08 & 30-12-08