

"ACID ATTACK: A PAIN FOR LIFE TIME."

DISSERTATION

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UNDER SUPERVISION OF:

SARITA SINGH

(Assistant professor)

School of Legal Studies, BBDU

SUBMITTED BY:

ANKUR YADAV

ROLL No.:1190997010

School of Legal Studies, BBDU

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(Ankur Yadav)

(LLM)

Roll No. 1190997010

Babu Banarasi Das University

Lucknow

LIST OF ABBREVIATION

A.I.R.	:	All India Reporter
SCC	:	Supreme court cases
H.C.C	:	High court cases
HC.	:	High court
SC	:	Supreme court
CAPT.	:	Captain
e.g.	:	Example
I.P.C.	:	Indian Penal Code
Prof.	:	Professor
S.	:	Section
U.S.A.	:	United States of America
V.	:	Versus
i.e,	:	That is
ART	:	Article

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CHAPTER 1

INTRODUCTION

'Violence' as a term is very complex. Use of this term depends on the varied contexts across geographies, cultures, religion and sexuality. According to Stanko (2003), meaning of violence constitutes, "the act itself; the relationship of the participants to each other; the location of the act; and the outcome of the resultant damage" (ibid: 11). It is, in general, to impose ones will on another through threat or coercion and can vary from physical, psychological, emotional and conceptual (Bishop and Philips, 2006). Violence is intertwined with power and is a mechanism to exert it. For the purposes of the study, the unequal relationship between man and woman where man thinks himself to be superior tend to control woman through violence will be viewed. Violence against women emerges from the biasness in the gender relations. According to Declaration on the Elimination of Violence Against Women, Violence against women means, "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life" (1993). Women are subjected to many forms of violence ranging from psychological harassment to physical violence. Certain types of violence have a specific dimension to gender namely rape, sexual harassment at workplace, dowry deaths, and domestic violence and so on.

Domestic Violence has got many terms to its credit, such as, intimate partner violence, wife battering, family violence and so on. As the name suggests, domestic which directly implies private for which feminists have been fighting that there should be no demarcation with public. As is in the common understanding, women are the 'home ministers' for their home but their subjection to physical and psychological violence has led to evolution of Domestic Violence Act, 2005. Workplace is another site where women face the image as a 'sexual object'. The apex court has taken into consideration of this violence by providing guidelines to prevent sexual harassment at workplace in 2003. Still the bill was not able to reach at the act level. Rape has continuously shown the upward trend becoming so common that it always gets its share in the print media. It became so much a part of life that people thought its an everyday practice. After much intervention from civil society organizations it was dealt within Indian Penal Code. But the

scenario changed when common people come onto the streets protesting against the barbaric December 16 (Nirbhaya) 2012, gang rape case. In response to such demonstration of mass, that Justice Verma Committee came into existence and recognized other forms of sexual violence in which acid attacks were recognized as a non bailable offence. These were treated within Indian Penal Code (IPC) under the section of grievous hurt (326). Because of the recommendations of the abovementioned committee, through Criminal Law (Amendment) Act, 2013 section 326A and 326B were introduced in the IPC (Menon and Vashishtha, 2013). These sections were introduced understanding of the gravity of the issue.

Acid attacks are an extreme form of violence. Acid is a corrosive substance and when thrown on a person may cause skin tissue to melt, frequently exposing the bones underneath or leading to the loss of eye(s), hearing or irreparable damage to hands raised in defense. Permanent physical disfigurement is common and serious disability frequent (Uganda Acid Survivor Foundation, 2005-06). Acid throwing is also known as vitriolage as acid has been derived from a compound namely, "vitriol". It was considered as a mysterious compound due to its composition and chemical reactions it caused². Vitriol found its usage in Sumero-Assyrian dictionaries, Greeks, Romans, Persians, Arabs and in medieval times made appearance in Indian alchemy. Greek physician Dioscorides and Graeco-Roman physician Galen discussed about the vitriol from the surroundings in the caves, mine tunnels and along the sides of pits (Kapernko and Norris, 2002). Both the physicians had the medical interest in these substances which then found their way into various metallurgical processes being used in the purification of gold and in the fabrication of imitation precious metals (ibid). Through the period of antiquity, vitriol and its substances paved the way into Arabic, Persian and Indian alchemy. But it is from the use of vitriol by the Latin alchemists that sulfuric and nitric acids were discovered. As the discovery of acids occurred so were the changes in vitriol nomenclature during this period. Among the earliest works to use the word vitriol (as opposed to atrament) are the eighth century Latin version of the *Compositiones ad tingenda*, and the thirteenth century *Book of Minerals* of Albertus Magnus (ibid). The name vitriol comes from *vitrum*, the Latin word for glass, and was coined with reference to its vitreous luster. When the names vitriol and atrament remained in use during the later Middle Ages, vitriol seems to have been used with reference to the vitreous, processed substance (ibid). Vitriol played

² Dioscorides has described that vitriol was considered as a "mineral genus encompassing a number of varieties that he designates by mode of origin" (Kapernko and Norris, 2002: 998)

a very crucial role in the preparation of nitric and sulfuric acid. The reaction in which “solid iron reacts with a vitriol solution, which is understood today as the reduction of cupric ions by iron from a solution containing copper sulfate” enticed considerable attention in sixteenth century Europe as a process for the profit of both craftsmen and alchemists (Kapernko and Norris, 2002: 1004). The former used this reaction in the hydrometallurgy of copper and for enriching their manufactured vitriol in iron, while alchemists cited it as a repeatable and apparently undeniable example of the transmutation of metals (ibid). The production of sulfuric acid has become a yardstick of industrial activity (sbioinformatics, n.d). Sulfuric acid is a multipurpose product and finds its application as a dehydrating agent, catalyst, active reagent in chemical processes, solvent and absorbent (ibid) and also as a cleaning agent. Its uses varies from process industries from very dilute concentrations, for pH control of saline solutions to strong fuming acids used in the dye, explosives and pharmaceutical industries, in grades of less exacting specifications for use in steel, heavy chemical and super phosphate industries (ibid). The discovery of strong mineral acids, particularly of HNO₃, and aqua regia (HCl + HNO₃) had a strong effect on existing ideas about minerals, metals, and their chemical composition (Karpenko, 2009). For example, gold was considered as an indestructible metal but after the discovery of aqua regia derived from vitriol and salammoniac, gold was dissolved (ibid). Hydrochloric acid has a property to dissolve all metals except for gold so it became best separating agent (ibid). According to the various newspaper reports and reports from non-governmental organizations, mostly used acids for assault are sulphuric acid, hydrochloric acid and nitric acid (LICADHO, 2003; Uganda Acid Survivor Foundation, 2005-06; ASF, 6th Annual Report, 2004).

According to the literature review done by Mannan et al. (2006), before 1980, 192 cases of chemical assault were found in the studies conducted in developed countries (all in the USA), whereas after 1980, this figure falls to only 55 cases. There has been no documentation in developing countries pre-1980, whereas since 1980, 424 assaults have been recorded in peer-reviewed journals (ibid). There had been a weak reporting within developing countries; this would seem to represent an increase in the number of recorded attacks within developing countries in recent years (ibid). In this study, authors have opined that gender have an important dimension throughout the literature. In Bangladesh, female victims are dominant whereas in Jamaica male victims are dominant (ibid). Krob et al. showed a similar trend in a Western population (Washington DC) where there was a dominance of female assailants in the context of

domestic disputes (qtd. in Mannan et al.). In a documentary, *Stolen Faces* (News Asia, n.d.) on acid violence in a series of Silent screams (which shows violence against women in Asia), it is shown that India has the females to be the dominant victims whereas in Cambodia females are the assailants. Historically, to find the exact time of occurrence of acid attacks Indian scholars and activists are struggling and cite the infamous incident of Bhagalpur blindings and according to Prof. Vishvanathan, acid attacks on women increased after this incident (New York Times, n.d.). Bhagalpur blindings is the use of acid to be poured into the eyes of under-trials that were in custody by police of Bihar (Srinivasan, 2007). In another incident in 1982, acid was thrown during Hindu/Muslim conflict, also covered by New York Times (ASFI, n.d.). At present, there have been proper reporting of acid assault cases in various developing countries like Cambodia, Uganda, and Bangladesh through civil society organizations but India is still struggling with statistics. Newspaper reports are the backbone for data on acid attacks. According to a study, 174 cases were reported in 2000 (Law Commission of Report, 2003). According to the data I have collected from various newspapers approximately 136 (and counting) cases were reported from January 1, 2014 to February 28, 2014.

Acid throwing is usually an act of revenge, motivated by jealousy or hatred, because of a personal relationship problem such as a broken love affair or marriage, unfaithfulness, or rejection. The perpetrator is not able to take the rejection in a positive manner and blames victim for the problem, and wants to inflict as much physical and mental suffering as possible. The acid is usually thrown at the victim's face. The aim of the perpetrator is to destroy the face and make the victim look like a monster, so nobody will love the victim ever again (Cambodian League for the Promotion of Human Rights, 2003). There had been wide ranging causes for acid attacks from property disputes, robbery and disputes over petty issues. The consequences of acid attacks are very serious and include psychological trauma, financial impact and the most prominent physical injuries. For survivors, acid attacks are a type of torture which has long-lasting consequences. Survivors often suffer from psychological symptoms, such as depression, insomnia/nightmares, and fearfulness that the perpetrator will harm them again. From the social perspective, survivors often become lonely and ashamed because the community may stare at them, blame them for their bad fate, or just avoid them completely (ibid). Friends and even family members may abandon them. It was seen in many cases that survivors either does not want to go outside their homes; even simple tasks such as going to market can be very

embarrassing and frightening for them or even if they go they cover their face. Acid attacks initially remove survivors' ability to work or study. After the attack, discrimination generally makes it very difficult for survivors to find jobs or create successful self-employment opportunities. Many survivors may depend on their families for basic needs and this makes the family poorer leading to stress and family conflicts (Cambodian League for the Promotion of Human Rights, 2003). Acid not only burns the skin but also burns the psychology as well as family savings. It leads to physical deformity as given below:

Table 1: Effects of Acid Attack on Various Body Parts

Organs Impact

Organs	Impact
Skull	May be partly destroyed or deformed. Hair is often lost.
Forehead	Skin may shrink, as though stretched tightly, and be scarred.
Ears	Shriveled up and deformed. Deafness may occur immediately or later. Cartilage in the ear is usually partly or totally destroyed, exposing the victim to future infection and hearing loss.
Eyes	Direct acid contact or acid vapors can damage eyes, causing blindness. Even if the eyes survive the acid attack, they remain vulnerable to other threats which can cause blindness during the victim's recovery. Eyelids may have been burned off, or may be deformed by scarring, leaving the eyes to dry up and go blind. This is very difficult to prevent.
Nose	Shrunken and deformed. Nostrils may close completely because the cartilage is destroyed.
Cheeks	Scarred and deformed.
Mouth	Shrunken and narrowed, and may lose its shape. Lips may be partly or totally destroyed. Lips may be permanently flared, exposing the teeth. Movement of the lips, mouth and face may be

	impaired. Eating can be difficult.
Chin	Scarred and deformed. The scars may run downward, welding the chin to the neck or chest.
Neck	Often badly damaged. It may have a thick cord of scarred flesh running down from the chin to the upper chest, or a wide, heavily-scarred area on one side of the neck. Victim may be unable to extend the neck, or the head may constantly lean to one side.
Chest	Often badly scarred. The chest may have narrow lines of scars or wide patches of scars from acid splashes or drips. In girls and young women, the development of their breasts may be stopped, or their breasts may be destroyed completely
Shoulder	May be badly scarred, especially around the underarm, which may limit the victim's arm movement. In some cases, one or both of the victim's upper arms may be stuck like glue to the sides of their body

Source: Law Commission of India Report, 2009; LICADHO, 2003.

Some of the cases that garnered the media attention bringing acid attacks in the public eye include acid throwing on a 19 year old girl from Karnataka named Haseena Hussain in the year 1999 and got sixty five percent burns (Khan, 2013). Her boss threw acid on her as she spurned his sexual advances. She filed a case in Karnataka court which gave a landmark judgment and ordered state to provide compensation for survivors and their rehabilitation³. In another case of 2001, Chennamma Deve Gowda, wife of former minister H.D Deve Gowda was attacked by her nephew, which created a widespread interest in the issue. She sustained forty percent burns (ASFI, n.d.). Laxmi, filed a writ petition for acid sale regulation in 2006. She was attacked by one Naim Khan and on a crowded place, in the capital city of India, New Delhi. Her petition also asked for changes in criminal procedure court, Indian Penal code and Indian Evidence Act (ibid). Sonali Mukherjee's case brought the limelight on acid attack cases when she asked in court for euthanasia in July, 2012. Acid was thrown on her by the eve teasers in 2003 against whom she stood up as she was being harassed by them for more than two years (ibid). The above cases

³ <http://www.indlii.org/LinkDetail.aspx?Id=68> accessed on 7th April, 2014.

reportedly made public and court aware of this ghastly crime. At present various organizations whose specific focus on this issue like Campaign and Struggle against acid attack on women, Karnataka; Stop Acid Attacks based in Delhi are fighting for the justice of the survivors and various other established non-governmental organizations such as Beti and individual social activists like Prof. Abhay Chawla along with youth in their capacity are creating awareness among masses. Public interest litigation (PIL) for the medical and economic rehabilitation of the acid attack survivors will be filed by Stop Acid Attacks campaign. Medical treatment forms the basis for these survivors and in India it is still to be formalized though Supreme Court has passed certain directions. In the following studies we will see how acid attacks are being taken into account in medical practice in other countries.

1.2 Acid Attacks and Medical Practice: Global Scenario

Mannan et al. (2006) have conducted a worldwide survey of acid attacks and have recorded 771 cases of chemical assault in the last forty years. They used medline database to extract papers on chemical assaults. Of the extracted studies eleven studies took place in developing countries, and thirteen studies from developed countries. In their paper they have described the incidence of acid attacks in various countries. According to the authors, Jamaica has the highest number of chemical assaults that is 236 in a single study that they have reviewed over a 10-year period; Uganda has the highest proportion of chemical assault as a cause of burn admission] (17% of all burns admissions). In a study by Achebe and Akpuaka (Nigeria), the eight cases reported by them were due to assault. Bangladesh is foremost in reporting chemical assaults and as mentioned in a study, maximum percentage (approximately 145 cases) from 158 chemical burn admissions had been assaulted with acid. The motives for acid attacks varied from financial and domestic disputes (Taiwan) to rejection of romantic advances (Bangladesh). Faga et al. (2000), an Italian medical team, in response to a magazine article published on acid attacks in Bangladesh went there and assisted with an organization named 'Narripokkho'. In assessment of the acid assault victims they recorded that the reasons behind it were refusal of a lover, other causes were punishment and business competition.

The lesions involved the skin, muscles, tendons, articular capsules and other deeper organs. The site of the lesions was mostly the face, but also neck, scalp, thorax and dorso, upper and lower limbs and hands. Even injury in eyeballs, eyelids, nose, lips, ears, breasts and genital area was

observed. While evaluating the wounds of survivors, dark coloured, hard, unresponsive eschars were found in recent wounds; granulating surfaces were seen in few week old lesions; in the long lasting scars anatomical mutilations were observed due to contracture effects. In their suggestions, authors suggested to use skin expanders along with microsurgical procedures and local and composite flaps. In another study by Bari et al. (2001), conducted in Dhaka Medical Centre, Bangladesh, described common sites for acid throwing include face, neck and upper part of the body. They described and performed the treatment of acid burns in two ways depending on the presentation of burn wound (without colonization of bacteria) and the other was where wounds were infected. For the former treatment, burn eschar was excised with a diathermy knife or scalpel and wound was covered with a split-thickness autoskin graft particularly on the eyelids and lips. In the latter, during the course of cleaning and dressing desloughing was performed as and when granulation tissue was formed skin graft was applied. In some patients, complications like ectropion of the eyelid, distortion of the angle of the mouth, post-burn contractures, hypertrophic scars, and keloids developed during follow up.

In Uganda, J. Asaria et al. (2004) conducted a study on acid assault admitted at New Mulago Hospital from March 2001 to September 2002. The major reasons cited for acid attacks were vehicle or house robbery and some for marital discord. They also identified the sites for attack as face, head and neck, chest and upper limbs. Eyes were commonly injured leading to complete or partial blindness. Skin grafting was done on most of the patients. Major complications faced by the surgeons were development of cervical and axillary contractures, ectropion, nostril stenosis, microstomia and others.

Karundasa et al. (2010) conducted a retrospective study from January 1, 2008 to June 2009 in the Burns and Reconstructive Surgery Unit at National Hospital of Sri Lanka. The commonly involved areas were face, chest and upper limbs for acid assaults. Surgeons have also described the application of tangential excision and split skin grafting. The authors have also identified the same complications as stated in the above studies and need of scar revision surgery. They have also identified the pattern of burns similar to Faga et al. The important point made by the authors is the use of formic acid for acid assaults as it is more readily available. Many other studies in different parts of the world has been done on chemical injury via acid in assaults such as Tahir et al. (2012), Theodorou et al. (2011), Hafezi et al. (2011), Razek (2006) in Nigeria, Cologne, Iran

and special case of genitalia in Saudi Arabia respectively. All of the studies talk about the complications for acid attack survivors and multidisciplinary management of these cases. Survivor needs to undergo a number of surgeries as a procedure for medical treatment. Due to destruction of eyes, ears, nose, lips and other facial features, surgeries are required for their reconstruction (though not to the level of accuracy but a resemblance to what was before).

1.3 Objectives of the Study

- ❖ To understand the identity crisis faced by the acid attack survivor during the transition of her body from ‘normal’ to ‘reconstructed normal’.
- ❖ To explore the social history of reconstructive surgery as a medical procedure.
- ❖ To study the shaping of the surgical procedure in the context of acid attack in India through medical, legal, and public discourses.
- ❖ To understand the social negotiations over the ‘reconstructed normal’ body of the acid attack survivor.

1.4 Significance of the Study

Acid attacks are becoming a routine as par with rapes. The diversification of violence against women has led to the conceptualization of the present work. No prior academic research has been done on this issue which is now being the most dreadful and disheartening of violence.

1.5 Research Methods

To undergo the following research, methods can be broadly categorized into two phases though they overlap each other. Dividing the methods in two phases gives more detailed description at two levels: firstly, structuring of the professionals through the language used and explained in various tools such as books in the syllabus and understanding of the problem through their view and application of that knowledge in the case of acid attack survivors; secondly, to understand how this medically ‘reconstructed’ body of the survivors is being perceived at various sites of interaction.

Phase I includes review of literature available on chemical burns and surgery required for acid attack survivors in various books which are prescribed at undergraduate level of professional courses and various articles published in this context as well as medical records of the survivors.

Foucault in Birth of the Clinic has described how it was the need of ‘clinical gaze’ and language that is “to be seen and to be spoken” for the manifestation of clinical medicine (ibid, 1973: 95). The knowledge of medicine was recorded for the theoretical convergence so as to have some kind of certainty in the field (ibid). With the advent of recording events, individual bodies became cases and found their identity as patient in the medical history. Since medical treatment becomes the prominent part in the lives of acid attack survivors so as their medical records. They are always instructed to bring their records for appointments, for the history of treatment so as to chart down further course of action.

The proposed work is going to explore how reconstructive surgery is shaped by disfigured body of acid attack survivors through textual analysis which includes academic papers, journals, medical and nursing textbooks, hospital’s policy documents and prescriptions of the survivors. Extensive interviews with surgeons will be conducted to know about reconstructive surgery being overshadowed by cosmetic surgery; the collaboration of terminology of plastic surgery, RS and cosmetic surgery; RS for acid attack survivors; development of skin and tissue banks and so on.

Hypothesis

To achieve the above said objectives, the following research hypotheses are formulated:

1. Acid attacks are gender-based violence.
2. The existing Laws and rules relating to acid attacks on Women are insufficient to deal with such problems.

Research Problem

- Firstly, whether or not specifically or raising the conditions of victims by judicial reforms and with antagonistic services or arduous the criminal for victim satisfaction?
- Second, interference of women victimization particularly in acid attack.
- Thirdly, Victims ought to live their entire life once the tragic incident?

- How far mindset of society towards acid attack victims can be changed by judicial reforms and awareness towards preventing the root cause of this crime?

CHAPTER 2

REVIEW OF LITERATURES

The violence of acid attack is not just a human rights or legal question; but is a medical emergency as well. Rabindra Nath Karmakar authored book 'Forensic Medicine and Toxicology: Theory, Oral & Practical' (2006) is a book written prior to the Criminal Law (Amendment) Act 2013. Along with the medical factors; this book beautifully narrates India's legal stand on acid attack prior to 2013. The author narrates the medico legal importance of vitriolage in three groups. (a) Under the first heading the author mentions that permanent disfigurement of head and face constitutes a grievous hurt. (b) Secondly permanent loss of sight of either of the eyes also constitutes grievous hurt. (c) Under the third category permanent impairment of function of any member or joint also constitutes an offence of grievous hurt. Further this book also highlights the motives behind or the factors that contributes to the brutal violence of acid throwing as hatred, jealousy, rivalry, enmity, revenge, destructive use during riots etc. Being from the medical background, the author exhaustively categorises the effects of vitriolage as (a) disfiguration of head and face/whole body. (b) contractures, scar formation, restriction of the movement of joints, (c) destroying of garment, (d) permanent loss of sight (e) evidence of splashing or spilling or pouring of acid/other things on the body (f) extensive involvement may even lead to death. The author also mentions about the treatment or first aid that should be provided to the victim immediately after the attack. The author mentions the need of washing of the burn parts with water and application of antiseptic ointments to prevent secondary infections. The need to take special care of eyes by washing with plain water and application of liquid paraffin is also duly mentioned in this book. While the medical perspectives of such attack is briefly but exhaustively discussed by the author; the legal portion of this book stands outdated in the light of the recent amendment.

Everything that comes into being must have a cause. Acid attacks too can be categorised under certain common causes and factors. The reasons of a person behaving in a particular way differs from country to country, the surrounding environment and the overall environment a person is brought up into. The next literature thus focuses on a comparative study on the reasons and motives behind acid attack cases in four different countries. 'It was Like Burning in Hell' (2009)

is Jane Welsh, Department of Anthropology, University of North Carolina, Chapel Hill authored master's thesis. This work is a comparative exploration of motives and causes of acid attack violence in countries like Bangladesh, Pakistan, India and Cambodia. Exploring the major factors that contributes to the violence of acid throwing, several high profile cases in Cambodia, Bangladesh and India are also been referred by the young author. This comparative work also highlights the role played by government as well as non-governmental organisations in supporting the victims and their families. However, the author further views that the initiatives of these organisations are insufficient to address the financial difficulties that victims undergo at the time of treatment. Families that aren't financially much stable are left with no other alternative, but to compromise with victim's treatment. The success story of NGOs advocating for social, medical and legal reforms is quiet impressive, but there still is a long way to go. The scope of this research work is quiet broad and hence in a few parts of it lack of availability or access to relevant and reliable literatures can be observed. While explaining the Indian scenario on acid attacks Haseena Hussain's case is referred by the author, but the landmark judgment of Laxmi's case finds no mention in the entire thesis. However, this work is a comprehensive and well written research that ends with a set of recommendations for potential interventions and further research on this domain.

Another literature reviewed by the researcher is the 226th Report of the Law Commission of India on 'The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and a Law for Compensation for Victims of Crime' (2009). The 226th Report of the Law Commission of India not only looks into the technicalities of legal provisions, but at the same time effectively deals with the consequences and after care necessary for the rehabilitation of the victim. This Report is divided into six parts. The first part of this report introduces the cruel and deliberate act of acid attack with a brief overview on the consequences and reasons of such attack. Further this chapter also highlights the legal provisions applicable to such crimes. In its second chapter, the Report provides the statistical overview and detailed analysis of the consequences of such attack. The third chapter relates to cases on acid attack that have been registered under different sections of the Indian Penal Code. In the fourth chapter a comparative study on the laws of Bangladesh, Cambodia, Uganda, Jamaica, United Kingdom is made. The fifth chapter of this report on compensation for the victim highlights a few important cases on compensation to the victims of acid attacks. The last and the final part of this report, i.e. conclusion and recommendations

propose the inclusion of new provisions on Indian criminal laws to consider acid attacks as a standalone crime.

Nehaluddin Ahmad in the article 'Acid Attacks on Women: An Appraisal of the Indian Legal Response' (2011) puts light on the evil practice of acid attack that is prevalent in many South Asian countries. The intentional throwing or pouring of acid with a motive of defacing or killing a person is used as a brutal way of taking revenge. Though this act can be and is in reality committed against persons irrespective of sex, age or other such classifications; it is mostly committed against women who are in the prime of their youth. With a short and beautiful starting describing the causes of such attack the author proceeds to the main arguments. Highlighting the physical as well as psychological consequences of such attack, the author also covers the insufficiency of the law to give justice to the victims and the possible steps that can be taken to strengthen the law to deal with such attacks. The author also points out the gender aspect of the violence of acid attack. Before concluding this article with a set of suggestions; this work also lists down the major factors that in the author's opinion are contributing to the growth of acid attack cases.

The psychological consequences and trauma faced by victims in crimes like molestation, rape, acid throwing is grave. It is very difficult for the victims to depict the incident, lodge a complaint and fight for justice. Complications to this difficult situation are further added with police, family and society's wrong attitude and way of handling such victims. Lack of skill in dealing with sensitive issues like acid throwing often results in secondary victimization and aggravates the trauma of the sufferer. Parvathi Menon and Sanjay Vashistha authored 'Vitriolage & India- The Modern Weapon of Revenge' (2013) is a well written piece of article that covers almost all aspects of the brutal violence of acid throwing as a weapon of revenge. Starting with the tragic incident of Laxmi's life the authors proceed to highlight a few relevant statistics on the issue. The common reasons of acid violence and the post attack evil consequences that the victims and their families undergo are also been exhaustively discussed in this work. Moving to the legal scenario with respect to acid attack, the authors highlights India's obligation under the 1993 Declaration on the Elimination of Violence against Women. This article comprehensively deals with India's legal stand on acid violence pre and post Criminal Law (Amendment) Act of 2013. Two of the most important issues raised by the authors in this article are 'role of police in

the investigation of acid attacks’ and ‘judiciary’s role in prosecuting the perpetrators of acid attack’. This article is concluded after a short mention of acid violence in other South Asian countries (Bangladesh, Pakistan and Cambodia in particular). Though this article is a successful attempt in giving a holistic approach on the brutal act of acid throwing, the major role played by Civil Society Organizations is nowhere been appreciated by the authors. However, the inadequacy of compensation provided to the victims is not just highlighted, but is strongly criticised in this article.

Another report reviewed by the researcher is the ‘Report of the Committee on Amendments to Criminal Law’ (2013). Reviewing this literature is significant as the outcry of public after the Delhi gang rape case and the resulting outcome in the form of Justice Verma Committee Report are the only reasons behind declaring acid attacks as a standalone offence in India. The Verma Committee Report mentions acid attacks as the most heinous form of violence. Referring to the 226th Report of the Law Commission of India, Verma Committee admits that though acid attacks can be committed against any man or woman; it has a specific gender dimension in India. Some of the vital reasons of acid attack like rejection of sexual advances or marriage proposals, alleged adultery and domestic violence are also mentioned in the report. The Verma Committee Report rightly points out that attackers target the face of the women as they are conscious that self-worth and self-esteem of a woman often lies in her face; and hence the dismemberment of the face or the body will cause a permanent psychological damage to the victim. Acknowledging the research already done by the Law Commission of India in its 226th Report; the Verma Committee proposes and succeeds to bring the long awaited amendments to Criminal Law.

Law is a dynamic process; that develops with time and civilization of humanity. Amendments play a vital role in addressing legal gaps and making them more suitable and relevant. The ‘Criminal Law (Amendment) Act’ (2013), one of the most significant amendments to the Criminal Laws of India is also reviewed for better understanding the scope and ambit of the newly inserted criminal law provisions. After the terrifying gang rape incident of December 16, 2012 and the resulting protests and rallies it was realised that violence against women demands stringent legal provisions. According to the report prepared by Justice Verma Committee on

Amendments to Criminal Law⁴ the most awaited amendment to the Indian Penal Code took place that made acid attacks a standalone offence. Under the Criminal Law (Amendment) Act 2013, a new clause was inserted in Section 100 of the Indian Penal Code. Under this newly added clause, an act of throwing acid or even an attempt to throw or administer acid which may be reasonable to cause the apprehension that grievous hurt will otherwise be the consequence of such act. Under the provisions of Section 166A, the criminal consequences to be faced by a public servant in case he fails to record any information given to him under Section 154(1) of the Code of Criminal Procedure, 1973 in relation to a cognizable offence punishable under the provisions of Section 326A and 326B of the Indian Penal Code are specifically provided. Other two important provision inserted by the Criminal Law (Amendment) Act in the Indian Penal Code are Section 326A and Section 326B. The Criminal Law (Amendment) Act 2013 holds much significant in relation to imposing criminal consequences on the perpetrators of acid violence.

Laws and regulations play a vital role in controlling deviant behaviours of members of a society. Crimes like acid attacks affect not only the person concerned, but have a tendency of disturbing the smooth functioning of the society. The next literature reviewed by the author looks into the effectiveness of the laws that addresses the crime of acid attack. Kundan Srivastava authored article 'Weak Laws against Acid Attacks on Women in India- Shameful state for Women Organization' (2014) starts with a definition of the term 'acid attack' in the words of the author. The author considers marriage and family related issues, rejection, male honour etc. to the vital reasons that results into the brutal violence of acid attack. It is also pointed out that poor interpersonal relationships and domestic intolerance towards women also contributes greatly towards commission of violence against women. This article also describes the causes and consequences of acid attack in a precise way. This article also narrates how the cheap and easy availability of acid is aggravating the whole situation and putting the victims in a state of terrible physical and psychological challenges. As the name suggests, the author in this article shows that the laws regulating the crime of acid attack are weak and the situation is further complicated by poor implementation of legal provisions and guidelines issued by the Courts.

⁴ Justice Verma Committee on Amendments to Criminal Law was constituted by Government of India Notification No. SO (3003)E, dated December 23, 2012 with Justice J.S. Verma (retd.) as the Chairman and Justice Leila Seth (retd) and Gopal Subramaniam as members.

Vanita Awasthi and Rohit Kumar Gupta author article 'A Socio-Legal Study of Acid Attacks on Women in India' (2015) starts with a brief description of the brutal violence that acid attack survivor Laxmi Saa experienced. After defining what constitutes an acid attack; the authors provides some statistical data on the issue. They also point out that incidents of crimes against women often goes unreported and hence the little statistics that is available has a tendency of under representing the actual picture of the problem. The author further views that in general, culprits choose market places or public roads to attack the victim. They rely on moving motor cycles as it is the easiest medium of escape. The causes and consequences of acid attack are clearly explained in this work with the use of diagrams and citation of relevant statistics. Physical, psychological and socio-economic consequences that victims and their families experience are also narrated in a beautiful way. The authors of this article, further, explain India's legal framework on acid attack and the role of police in the investigation of cases of brutal violence of acid throwing. Though this article provides a clear picture on the causes, consequences, statistics and laws on this violence; some of the important aspects like role of judiciary and initiatives taken by the Civil Society Organizations are not covered in the scope. This article is concluded with a proposal for concentration on value based education and enactment of new laws as the best way of to eliminate acid attacks from India.

Chinmaya Kumar and Hiranmaya Nanda authored research paper 'Acid Attack and Women in India: A Critical Analysis' (2015) starts with a brief overview on the issue of acid attack. This introductory part also points out how the increasing rate of crimes and discovery of new ways of committing them is a big concern for the society. In this paper, the significant recommendations put forward by the 226th Report of the Law Commission of India and the amendments brought by the Criminal Law (Amendment) Act 2013 are outlined. The newly inserted provisions of criminal law that were brought under operation by the Criminal Law (Amendment) Act 2013 are discussed in this paper in a detailed manner. The scope of this paper is mostly confined to the legal matters only. However, the title of this paper tends to show a wider picture and it is difficult to infer that the scope of this paper excludes the international framework, role of civil societies, consequences of the offence and ways to address the evil effects of the violence.

Aishwarya Deb and Prithwish Roy Chowdhury authored 'A Fate Worse than Death: A Critical Exploration of Acid Attack Violence in India' (2015) starts with a thought provoking quotation

of acid attack survivor Laxmi. This quotation beautifully portrays how acid attack brings a complete change in the victims' life. Laxmi's statement also portrays how society blames victims; rather than showing empathy for such attacks. The introductory part of this article considers 'social stigmatization' and 'leniency of laws in punishing perpetrators' as a major reason of why many such violent incidents go unreported. Looking at the gender dimension of such attacks the authors narrates that most of the reported acid attacks have been committed on women as a weapon of dominating them by showing masculinity and superiority. The long continuing strong patriarchal culture of India is blamed as the main reason why female section has to face such atrocious attacks. The authors of this article discussing the legal provisions and developments on acid attack questions whether the present punishment and compensation is enough considering the lifelong impact of the attack on the survivors. After completing the prescribed term of imprisonment the perpetrators will be free and will live a normal life. However, the victims and their families will have to live with the trauma for their entire lifetime. A part of this article, entirely dedicated on the story of bravehearts is very inspiring. The stories on how survivors continued to live their dreams and inspired their fellow survivors to do the same are really appreciable. Though this work has certain limitations as the authors have abstained from discussing the international perspective and policies on acid attack, role of Civil Society Organizations at international or national levels etc., this work has its own weightage.

CHAPTER 3

ACID ATTACKS: HISTORICAL BACKGROUND

In the ancient Greek times, vitriol (a hybrid of sulphuric acid) was used to purify gold and fabricate imitation precious metals. In the 18th century, vitriol was also used by the ancient Sumerians, Romans, Persians, Arabs, and Indians from the second century AD to until the late medieval writings. Vitriol appeared in Europe during the 16th century, and a recorded case of an acid attack occurred in 17th century France under the rule of King Louis XIV. Many reports suggest vitriolic attacks were in vogue during the late nineteenth century in the United Kingdom and Europe⁵.

Sulfuric acid, was first manufactured on an industrial scale in England in the 1740s, and people began using it for violent purposes in Western Europe and the United States once it became easily obtainable (It was sold as a bleach and a cleaning agent). By the 1830s, a magazine, Glasgow periodical, of United Kingdom editorialized. The crime of throwing vitriol has, grieved to say, become so common in this part of the country, as to become almost a stain on the national character. In addition to being favored as a weapon in labor clashes, sulfuric acid was a common weapon in domestic disputes. For instance, in 1865, the New York Times reported that a jealous husband was arrested for disfiguring his wife with acid after threatening to spoil her figure.

A —wave of vitriolage occurred, particularly in France, where in 1879, 16 cases of vitriol attacks went before the Court; and from 1888 to 1890 there were 83 reported cases (Hartman 240; Guillaud 149). The rhetorical and theatrical term *La Vitrioleuse* was coined, and their violent acts were widely reported in the popular press as —crimes of passion, perpetrated predominantly by women against other women, and —fuelled by jealousy, vengeance or madness and provoked by betrayal or disappointment. *La Vitrioleuses* intentions were to disfigure the individual facial features of their disloyal mate or female rival, therefore robbing him or her of the possibility of further amorous or sexual activity (Harris 238). The crime of vitriolage produced widespread cultural myths about these women's based crimes and the

⁵ Available at: <http://www.endvawnow.org/en/articles/731-defining-honourcrimes-andhonour-killings.html>, (visited on October 15, 2016).

responses to it (which) presumed that the victim had participated in creating the conditions that inevitably spilled over into violence⁶.

In other 19th and early 20th century cases, women threw acid on the men who impregnated them outside of marriage, on former lovers who spurned them, or on their husbands' mistresses. Throwing vitriol was a way not only of causing someone immense pain, but also of rendering him or her unattractive, which goes partway toward explaining its use in sexually charged disputes. (A strong base, such as lye, can also blind and disfigure a victim)⁷.

On October 17, 1915 acid was fatally thrown on Prince Leopold Clement of Saxe-Coburg and Gotha, heir to the House of Kohary, by his distraught mistress, Camilla Rybicka, who then killed herself. Sensationalizing such incidents made for lucrative newspaper sales⁸.

In the past there were not so many incidences of acid attacks, but now the number of acid attacks has been increasing continuously. The use of acid as a weapon began to rise in many developing nations, specifically those in South Asia. The first recorded acid attacks occurred in Bangladesh in 1967 and Cambodia in 1993. Since then, research has witnessed an increase in the amount and severity of acid attacks in South Asia.

India has long been witness to incidents of acid violence and available records show the earliest acid attack was reported to have taken place in 1920, according to the Acid Survivors Foundation (ASFI) in India. The attack was in the Bombay Presidency of British India where Ali Mohammed Farag threw sulfuric acid in the face of Abdullah Mohammed Jabli on September 6, 1920. It has been a widely prevalent phenomenon and has been increasing at an alarming rate.

In the **case Hazara Singh v. The State**⁹ Hazara Singh poured acid on his wife under a strong delusion of the faithlessness of his wife. The facts of the case are that: Hazara Singh married his wife Anant Kaur deceased something like 35 years back. She was one of the daughters of Lal Singh, whose one other daughter, younger to the deceased, was named Durga Devi, who was married to Badri Nath. Lal Singh is living in Nawan Kot of Amritsar. The appellant was also

⁶ Supra note 22.

⁷ Supra note 23.

⁸ Available at: <http://paperspast.natlib.govt.nz/cgi-bin/paperspast?a=d&d=TC19160107.2.10>, (visited on August 12, 2015).

⁹ AIR 1958 P&H 104.

living in the same house but, with his deceased wife, was occupying a separate room. Badri Nath was living nearby some houses away, His wife Durga Devi died something about a year and three quarters before the occurrence of this case. She left children one of which was only aged about 5 or 6 years. The deceased was in the habit of going to the house of her brother-in-law Badri Nath to attend to the children of her deceased sister. This led the appellant into a suspicion that she was carrying on with Badri Nath. He ill-treated her on that account. He laboured under a strong delusion of the faithlessness of his deceased wife, so much so that his son Hardev Singh made an application for his mental examination in order to secure place for him in a mental home. Dr. Vidya Sagar, Superintendent of Mental Hospital at Amritsar, examined him on 22-6-1956 and he found him under a strong delusion about the disloyalty of his wife. He was of the opinion that the appellant indicated signs of insanity on account of the delusion and on account of certain information supplied about him by his son. But it appears that the appellant continued to live in his house and harboured the idea in his mind that his deceased wife was being unfaithful to him all the time. He continued ill-treating her. She complained of her ill-treatment to her father Lal Singh and in spite of the latter's efforts her lot did not improve. On the evening of 25-7-1956 the appellant again ill-treated his deceased wife, whereupon she complained to her father Lal Singh, who in his turn called to his house Badri Nath, Harbans Singh, Harbhagwan Dass and Bhag Singh, all neighbours. All of them got together to persuade the appellant not to ill-treat his wife and the appellant promised to them that he would not do so in future. The talk started at about 9 p.m. and lasted till about midnight. It was late. Harbhagwan Dass and Bhag Singh returned to their houses. Lal Singh, Badri Nath and Harbans Singh slept outside the house of Lal Singh but in the lane. The appellant and his deceased wife went in and slept in their room. It was a dark and cloudy night. At about 2 or 2-30 a.m. shrieks of Anant Kaur deceased were heard from inside the room of the appellant. They woke up Lal Singh, Badri Nath and Harbans Singh. They made for the room. Harbans Singh threw torch light inside the room and the witnesses saw that the appellant was holding his deceased wife by the neck. He, thereafter, immediately ran away passing out of the room by another door. The witnesses went inside the room and found that Anant Kaur was lying dead burnt almost all over her body by acid. Lal Singh reached Division D Police Station of Amritsar and lodged the report at 4:30 a.m.

The post-mortem examination on the dead body of Anant Kaur deceased carried out by Doctor found the forehead, face, front and sides of neck, front and side of chest, front and sides of

abdomen, external genitals, front and sides of upper half of both thighs, buttocks and hips, both upper limbs including shoulders and the whole of the back, except back of the neck, showed greyish marks of different sizes and shapes, spread all over, mostly overlapping but with small areas of healthy skin at places. The marks were of first and second degree burns with acid. At the trial the appellant denied having murdered his wife. He stated that he surrendered himself at the Amritsar Railway Police Station on 26.07.1956. He also took the position that Lal Singh and his son had implicated him falsely because they were indebted to him. He asked that he should be mentally examined. The fact that the appellant was found within a couple of hours of the occurrence with burns of similar type and caused by acid, is a strongly corroborative circumstance connecting him with the murder of his deceased wife. This circumstance along with the unimpeached evidence of the eyewitnesses proves beyond any shadow of doubt that it is the Hazara Singh who is responsible for the death of his deceased wife. He has therefore rightly been convicted under Section 302 of the Penal Code and his conviction is maintained for life term¹⁰.

State (Delhi Administration) v. Mewa Singh¹¹ Mewa Lal accused, was charged to stand trial under Section 326 Indian Penal Code for voluntarily causing grievous hurt to Miss Gita daughter of Mr. B.N. Lal by means of acid, a corrosive substance. Mewa Lal threw acid on the victims face. The liquid splashed on her face produced some redness (erythema) on the skin over a part of her face involving her upper eye-lids. There was no corrosion, of the skin or other deformity. The accused was convicted for causing hurt under Section 323 of the IPC and a meagre fine of Rs. 300 along with 15 days imprisonment was awarded. This punishment was criticised.

Bhagalpur Blinding case¹² is a horrifying case of acid violence in the history of India. The Bhagalpur blinding refers to a series of incidents in 1979 and 1980 in Bhagalpur in the state of Bihar, India when police blinded 31 under trials, by pouring acid into their eyes. The petitioner Bachcho Lal Das, who has filed these Misc. Petitions, had assumed charge as the Superintendent of the Bhagalpur Central Jail on April 19, 1979. The whole country and the Court awoke one day to the incredible fact that, in Bhagalpur, undertrial prisoners were subjected to the most inhuman torture imaginable: their eyes were pierced with needles and acid poured into them. Six

¹⁰ Ibid.

¹¹ 5 (1969) DLT 506

¹² Anil Yadav and Ors. v. State of Bihar and Anr, AIR 1982 SC 1008.

prisoners were blinded between October 1979 and May 1980 and twelve between June 11 and July 25, 1980. On October 26, 1979 a prisoner by the name of Arjun Goswami was sent to the Bhagalpur Central Jail. On November 20, 1979 he addressed an application to the Chief Judicial Magistrate, Bhagalpur, asking that an inquiry be held into the torture inflicted upon him, especially the blinding of his eyes. That application was forwarded by the petitioner to the Chief Judicial Magistrate. Later, eleven prisoners made similar complaints which were forwarded by the petitioner to the learned Sessions Judge, Bhagalpur, On July 30, 1980. The complaints made by these prisoners unquestionable demanded the most prompt and careful attention. But, instead of directing a full and proper inquiry into the allegations made by the under-trial prisoners, the learned Sessions Judge, on August 5, 1980, sent a cold and indifferent reply to the petitioner's covering letter, saying that —there is no provision in the Code of Criminal Procedure to provide a lawyer to any person for prosecuting a criminal case as a complaint¹¹ and that the petitions of the prisoners were forwarded to the Chief Judicial Magistrate, Bhagalpur, —for needful in accordance with law.

On October 9, 1980, ten blinded prisoners filed a Habeas Corpus petition in this Court (Criminal Writ Petition No. 5352 of 1980) asking that: (I) they should be produced in the Court, (2) they should be examined by a Medical Board, (3) they should be paid compensation for the damage done to their eyes and that (4) the police officers guilty of committing atrocities upon them should be suitably punished¹³.

On October 10, 1980 a Bench of this Court consisting of one of us, (the Chief Justice), and Justice A.D. Koshal passed the following order in that petition-

'We direct that the petitioners shall be examined by the Jail Doctor forthwith and a report shall be submitted to this Court expeditiously in regard to the allegation in the petition that their eyes have been damaged by certain police officers by putting acid therein.

The report shall be submitted within four weeks from today. The W.P, be listed for hearing after the report is received¹¹.

¹³ Ibid

By his letter dated October 31, 1980 the petitioner, who is respondent 2 in the Habeas Corpus petition, forwarded to this Court the report of the Jail Doctor on the condition of the eyes of the prisoners. The remaining 2 prisoners were already released and could not therefore be examined. The report of the Jail Doctor in regard to one of the prisoners, Anil Yadav, is representative of the condition of all the eight of them and may be extracted here.¹⁴

- (1) Presence of old burn scar around both the eyelids of both the eyes and on left cheek.
- (2) Collapse of both the eye balls.
- (3) Perception of light and projection of rays absent in both the eyes.
- (4) Eye sight of both the eyes lost.

The cause is perforation of eye balls by burn with some corrosive substance and puncture by some sharp and pointed weapon.

From the records of Jail Hospital it is known that he was admitted in Jail Hospital on 8.7.1980 for acid burn injury of both the eyes. On December 1, 1980, the Court (the Chief Justice and Chinnappa Reddy, J.), while directing that the prisoners be brought to Delhi the following week and be examined at the Dr. Rajendra Prasad ophthalmic institute, New Delhi, passed the following order-

‘The report of the doctor which we had called for by our order dated October 10, 1980 shows that eight out of the ten petitioners before us have lost their eye-sight totally or partially. The report submitted by Dr. K.S. Roy in each individual case shows that-

- (i) most of the petitioners are suffering from collapse of one or both of the eye-balls;
- (ii) the sight of one or both of their eyes is lost;
- (iii) there is perforation of their eye-balls by burn with a corrosive substance and that
- (iv) their eyes have been punctured by some sharp and pointed weapon.

The remaining two petitioners have been released and therefore no report could be sent regarding them. The report of the doctor will shock the conscience of mankind. There has been the most flagrant violation of the safeguards provided by Articles 19 and 21 of the Constitution. There is

¹⁴ Ibid.

nothing that the Court can do to restore the physical damage, which seems irreparable. But the offenders must at all events be brought to book, at least in the hope that such brutal atrocities will not be committed again.

Barati v. State of U.P.¹⁵. the appellant and his companions were charged-with an offence under Section 302 Indian Penal Code for causing the death of the deceased by pouring acid on him when he was sleeping on his cot on the night of the occurrence. After recording the first information report the police sub-inspector recorded the statement of the deceased and at the dispensary the doctor recorded the statement of the deceased, in both of which he stated that the appellant poured acid over his body and caused injuries to him. The deceased succumbed to his injuries. Dr. N. Verma who performed the post mortem examination on the body of Lekhai found the following injuries on the body corrosive burns area. There were marks of acid, on the left side of the face, in front and both sides of the neck, in front of the chest and in front, up and back side of the shoulders ; upper side and in-front of the right arm and in front and in several places of the other arm. In front and outer side of right thigh and in front inside of left shoulder, in front and down part of the right leg and both sides of the back. The marks on account of pouring of acid existed on the left side of the-face, and also existed on both sides of the chest, abdomen, and shoulders, the inner part of the skin and flesh of front of the chest, neck, side and several places became discolored by the action of acid. Injuries were on account of corrosion burns which were upto III, IV, V degree. On internal inspection the brain and thin skin cover were found to be congested. The same was the condition of the lungs, larynx, trachea and bones. The heart was full of blood, while the stomach was empty. Death, in the opinion of the doctor, was due to shock as a result of the pouring of acid. The injuries were sufficient to cause death in the ordinary course of nature. The case of the prosecution is that it was Barati accused who poured acid over Lekhai deceased as a result of which Lekhai died. Disbelieving the prosecution evidence the trial Court acquitted him. The High Court on the other hand accepted the evidence of all the prosecution witnesses and convicted and sentenced the appellant to life imprisonment but acquitted the remaining two accused. In appeal to this Court it was contended that the High Court should not have reversed the judgment of the trial Court and the evidence relied upon by the High Court was not satisfactory. Dismissing the appeal, the Court held that the approach of

¹⁵ 1974 AIR 839, 1974 SCR (3) 570

the trial Court was clearly unreasonable and the High Court was fully justified in setting aside the acquittal of the appellant.

Ravinder Singh v. State of Haryana¹⁶

On July 30, 1968, Bimla, a hale and hearty young girl (19), indeed, by her right, legitimate wife of the accused, Ravinder Singh (23), accompanied on a rail journey her husband, who, after enjoying two months' furlough at home, returned to his Air Force Station at Sirsa without her and without the least concern. She was found next morning nearby a wayside distant railway station with acid burns on her face and on other parts of the body with multiple injuries, incapacitated by the shock and affliction, to tell her gruesome story to the few persons who came by her. The only unchallenged thing was that she was pronounced dead in a hospital on July 31 1968, at 8.45 P.M. the accused who was married to Bimla was employed in the Air Force Department at Sirsa. During his stay at Sirsa, when his wife was not there, he developed intimacy with a girl, Balbir Kaur, who was insisting on marriage, which however, the appellant posing to be a bachelor was putting off holding out hopes to her. The appellant and the Jasbir Inder Singh (approver) who was his friend, went on two months leave. When the appellant and the approver went to bring Bimla back from her father's house at Komal, the appellant asked his wife that she should agree to a divorce, but she would not. The appellant used to say that he would finish his wife one day. On July, 29-1968 Bhanu Prakash cousin of the appellant went to the house of the appellant. On the same day the approver also returned from Lucknow. On July 30, the accused told the approver in the presence of Bhanu Prakash Singh that he would kill his wife that day. He replied that he had brought acid with him and it would help in expediting her death. On July 30, 1969, the appellant, his wife Bimla, his brother Satinder Kumar, the approver and Bhanu Prakash Singh left for Sirsa by train from Sasni Railway Station which is at a distance of four or five miles from Komri. After leaving Sasni at 12 Noon, they arrived at Delhi Railway Station at 6.30 P.M. and changed for Bhatinda Railway Station. They reached Rewari Railway Station at about 10.30 P.M. At Rewari their bogie was attached to the train bound for Sirsa-Bhatinda. When the train left Rewari at 2.15 A.M. on July 31, 1968, there was no other passenger in the compartment except the above five persons. The train stopped for some time at the next Railway Station. When it again started the accused threw his wife Bimla on the floor, of the compartment by

¹⁶ AIR 1975 SC 856.

catching hold of her by the neck. When she fell down in the compartment the approver caught hold of her by the feet and Bhanu Prakash Singh —threw acid in her mouth. Satinder Kumar did not take any part. The accused removed the pazebs from her feet and gold jumkas from her cars. The accused threw Bimla from the running train in between the first and the second railway stations beyond Rewari. Some acid drops fell on the hands of the accused and Bhanu Prakash Singh and on their pants and on the accused's shirt. When the train reached Bhiwani the accused got down for purchasing two tickets for Bhanu Prakash Singh and Satinder Kumar, but the Ticket Collector. Raghbir Singh (PW 29) detained him and he missed the train. Three of the aforesaid company reached Sirsa at 9.00 A.M. on July 31, 1968. When asked about the accused, the approver told Bansi Lal (PW 25) and Yudhishter Kumar (P26) that the accused had missed the train at Bhiwani and would be coming the next train. The accused arrived at Sirsa at 1.30 P.M. on July 31 Bhanu Prakash Singh left for Aligarh in the evening of August 1. The accused and the approver resumed their duties at the Air Force Station on August 2, 1968. Bimla who had been thrown from the running train was picked up, semi conscious, by Udmi (PW 10) and another person from a railway track between Jatusana and Kosli Railway Stations, and taken to Railway Hospital, Rewari, where Doctor (Miss) K. Dass (PW 3) and Miss V. K. Sharma, Nurse (PW 2) 454 attended upon her. She could speak out a little before Miss Sharma, gave her name as Bimla wife of the accused and daughter of Narain Singh, and indicated that she was traveling with her husband by train. She was later sent to the Civil Hospital, Rewari, where she was received by Dr. Manocha (PW 1). She was not in a position to make a statement at the Civil Hospital and she expired at 8.45 P.M. on July 31, 1968. It was held that acid was poured on women by her husband for refusing to give him divorce. The husband was involved in extra-marital affair. The accused was charged and convicted under Section 302.

In *Devanand v. The State*¹⁷, a man threw acid on his estranged wife because she refused to cohabit with him. The wife suffered permanent disfigurement and loss of one eye. The accused was convicted under Section 307 and was imprisoned for 7 years.

*State of Madhya Pradesh v. Jhaddu and Ors*¹⁸, decided on 12 September, 1990, In this case a representation to the Chief Justice of the Court from the students of the A.P. Agricultural

¹⁷ (1987) 1 Crimes 314

¹⁸ JT 1990 (4) SC 57: 1990 (2) SCALE 515.

University is registered as a petition under Article 226 of the Constitution of India. Representation, inter alia, brought to the notice of the Court an incident which occurred on 13.09.1996. A final year B.Sc., (Agrl.) student - Ms. Anuradha, the second petitioner, was subjected to attack allegedly by one N. Srinivas Reddy, a student in Veterinary Science College of 1990 batch by some acid and she suffered extensive and deep burn injuries on her face and other parts of her body.

State of U.P. v. Smt Aqueela and others¹⁹, in this case acid was poured by a mother and son duo over the victims due to personal enmity. One of the victims suffered from multiple acid burns on the whole back extending from scapular spine to iliac crest. The other victim suffered Chemical burns on the right side forehead just above medial end of right eye brow and the skin blackened. He also suffered from multiple acid burn on the lateral aspect of left upper arm and skin was blackened apart from other burns. The accused were convicted under Section 304 (punishment for culpable homicide not amounting to murder) and Sections 323/34 Indian Penal Code (punishment for voluntarily causing hurt with common intention), with imprisonment of a year and rigorous imprisonment for one year.

Thus Violence against women is a manifestation of historical unequal power relation between women and men. Women has always been dominated and discriminated in the society. In order subordinate the women various ideologies have been constructed whereby submissions to patriarchy appear in the nature of things. Even if any women tried to stand, she was tortured, humiliated. Several forms of violence are practiced against women just to dominate her. Acid violence is another such form to punish her for being a women. History is the witness, most of the cases of acid attacks are against women even in past. Women suffer even today, though they constitute more than half of the world's population.

¹⁹ 1999 Cri LJ 2754.

CHAPTER 4

ACID ATTACKS IN INDIA: LEGISLATIVE PROVISIONS

In India the incidents of acid attacks are on rise. Various Non - Governmental Organisations and Human Rights activists have raised the issues relating to relief for victims under various legislative and constitutional provisions.

On the persuasion of these NGO's and activists, the Indian Parliament has amended various legislations as well as inserted new provisions for the protection against acid attacks. The researcher would start with our basic document of the Country, i.e. Constitution of India.

4.1. Constitutional Provisions in India

Our Constitution is the basic document of a country having a special legal holiness which sets the framework and the principal functions of the organs of the Government of a State. It also declares the principles governing the operation of these organs. The Constitution aims at creating legal norms, social philosophy and economic values which are to be affected by striking synthesis, harmony and fundamental adjustment between individual rights and social interest to achieve the desired community goals²⁰.

The Constitution of India is based on the principles of liberty, equality, fraternity and justice. The provisions of the Constitution manifest great respect for human dignity, commitment to equality and non-discrimination and concern for the weaker Section in society. In India, the Constitution makers while drafting the Constitution were sensitive to the problems faced by women and made specific provisions relating to them. In various articles, not only mandates equality of the sexes but also authorizes benign discrimination in favour of women and children to make up for the backwardness which has been their age-old destiny. But categorical imperatives constitutionals

²⁰ Available at: http://shodhganga.inflibnet.ac.in/bitstream/10603/3804/10/10_chapter%204.pdf, (visited n March2, 2017).

by the Founding Fathers are not self-acting and can acquire socio-legal locomotion only by appropriate State action²¹.

The Constitution of India not only contains various provisions which provide for equal rights and opportunities for both men and women but it also contains few provisions which protects women and give her special rights. The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles²². Although Indian Constitution has no specific provisions relating to acid violence but above mentioned provisions can be utilized to afford protection to the victims.

The Preamble contains the essence of the Constitution and reflects the ideals and aims of the people. The words in the Preamble we the people of India in our Constituent Assembly adopt enact and give to ourselves the Constitution, propound the theory that the sovereignty lies in the people that the Constitution, emanates from them; that the ultimate source for the validity of and the sanction behind the Constitution is the will of the people. Thus, the source of the Constitution is traced to the people, i.e. men and women of India, irrespective of caste, community, religion or sex.

The Constitution provides equal political rights. Political empowerment of women has enshrined in preamble and has been brought by the 73rd and 74th Amendments which reserve seats for women in Gram Panchayats and Municipal bodies. Preamble of the Constitution declares India to be a Sovereign Socialist Secular Democratic Republic. The term 'Sovereign' denotes that India is subject to no external authority and that the state has power to legislate on any subject in conformity with constitutional limitations. The term 'Democratic' signifies that India has a responsible and parliamentary form of government which is accountable to an elected legislature. The term 'Republic' denotes that the head of the state is not a hereditary monarch, but an elected functionary²³.

²¹ Ibid.

²² Id, Arts. 38-39-A.

²³ Supra note.7

4.2 The Directive Principles of State Policy state that: -

‘The state shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to functions as units of self government’²⁴.

Women in Panchayat and Municipalities have been reservation provided in Article 243-D and 243-T of the Constitution of India. According to Indian Constitution 73rd Amendment Act, 1992 are well known as the Panchayati Raj and Municipalities Act, include parts IX and IX-A, with Articles 243, 243-A to 243-O and Articles 243-P to 243-ZG.

Laws to improve their condition in matters relating to wages, maternity benefits, equal remuneration and property/succession have been enacted to provide the necessary protection in these areas.

The directive principles provides that the citizens, men and women, equally (equal justice and free legal aid), have the right to an adequate means of livelihood and there should equal pay for equal work for both men and women²⁵.

The directive principles also provides for the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.

The Constitution specially provides for the women securing just and humane conditions of work and for maternity relief²⁶.

Acid violence reflects gender inequality and discrimination in society. Often acid attacks are perpetrated against women because they transgress gender norms that relegate women to subordinate positions. Acid attackers aim for a woman’s face in an attempt to destroy what many members of society consider to be one of her most important assets—her beauty. In India 72% of reported victims are female.

²⁴ The Constitution of India, Art. 40.

²⁵ Id. Art.39(d)

²⁶ Id. Art. 42.

Thus, acid attacks are clear violation of basic Human Rights. The Constitution of India contains Fundamental Rights under Part III to protect the women against such inequality and discrimination.

Part III of the Constitution consisting of Articles 12 -35 is the heart of the Constitution under which it guarantees to the people certain basic human rights and freedoms, such as, inter alia, equal protection of laws, freedom of speech and expression, freedom of worship and religion, freedom of assembly and association, freedom to move freely and to reside and settle anywhere in India, freedom to follow any occupation, trade or business, freedom of person etc²⁷.

The Constitution of India provides equality to everyone. It states that, State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India²⁸.

The Constitution of India prohibits discrimination against any citizen on the ground of sex and empowers the state to make positive discrimination in favour of women and child. Accordingly Article it prohibits gender discrimination and lifts that rigour and permits the State to positively discriminate in favour of women to make special provisions to ameliorate their social condition and provide political, economic and social justice.

Acid attack is a form of torture, cruel and inhuman and degrading treatment which violates the right to life of women. Victims face lifetime physical, social, psychological and economic consequences. It becomes difficult for the victims to work .Thus, acid attacks violates the right to life, right to employment and various other fundamental rights. Acid attacks debar the person from availing opportunities that she might avail if she didn't become an acid victim.

The Constitution of India provides that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state.No citizens shall, on grounds only of religion, race, cast, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the state.

The Constitution of India provides Right to Life to every human being. It provides that no person shall be deprived of his life or personal liberty except according to procedure established by law.

²⁷ Supra note 7.

²⁸ The Constitution of India, Art. 14.

In **Vishaka v. State of Rajasthan**²⁹, the Supreme Court, in the absence of legislation in the field of sexual harassment of working women at their place of work, formulated guidelines for their protection. In paragraph 10, the Court said:

Gender equality includes protection from sexual harassment and right to work with dignity which is a universally recognised basic human right. The common minimum requirement of this right has received global acceptance. 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 workplaces, 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 and for the formulation of guidelines to achieve this purpose.

Directive Principles of State Policy are essential in the governance of the country and provide for the welfare of the people, including women. These provisions are contained in Part IV of the Constitution. Fundamental Rights furnish to individual rights while the Directive Principles of State Policy supply to social needs. Thus, Directive principles are as important as the fundamental rights are, for the protection against acid attacks. As the fundamental rights of the acid attacks are violated, the directive principles are necessarily required to give them security for livelihood and economic security.

The State shall, in particular, direct its policy towards securing³⁰:

- a. That the citizen, men and women equally, have the right to an adequate means of livelihood;
- b. (d) That there is equal pay for equal work for both men and women;
- c. (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

²⁹ AIR 1997 SC 3011.

³⁰ The Constitution of India, Art.39.

Further, it directs the State to direct its policy towards securing that citizens, men and women, equally have the right to an adequate means of livelihood³¹.

The State is directed to secure equal pay for equal work for both men and women. The State in furtherance of this directive passed the Equal Remuneration Act, 1976 to give effect to the provision. It also directs the State not to abuse the health and strength of workers, men and women.

The State shall make provision for securing just and humane conditions of work and for maternity relief. Article 42 of the Constitution incorporates a very important provision for the benefit of Women. It directs the State to make provisions for securing just and humane conditions of work and for maternity relief. The State has implemented this directive by incorporating health provisions in the Factories Act, Maternity Benefit Act, Beedi and Cigar Workers (Conditions of Employment) Act, etc.

The State shall Endeavour to secure for the citizens a Uniform Civil Code throughout the territory of India. The State is directed to secure for citizens a Uniform Civil Code applicable throughout the territory of India. Its particular goal is towards the achievement of gender justice. Even though the State has not yet made any efforts to introduce a Uniform Civil Code in India, the judiciary has recognised the necessity of uniformity in the application of civil laws relating to marriage, succession, adoption, divorce, maintenance, etc. but as it is only a directive it cannot be enforced in a Court of law³².

Parts IV-A which consist of only one Article 51-A was added to the constitution by the 42nd Amendment, 1976. This Article specifies a code of eleven fundamental duties for citizens. This article specially states to renounce the practices against the women.

³¹ Id. Art. 39 (a)

³² Id. Art. 42.

It states that-

‘It shall be the duty of every citizen of India to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religion, linguistic, regional or sectional diversities; to renounce practices derogatory to the dignity of women³³.

Ensuring women’s social, economic and political empowerment, fulfilment of their rights, promoting their participation and leadership requires comprehensive gender-responsive measures at different levels, including through legal, policy and institutional frameworks. The 73rd Constitutional Amendment Act has given a new dimension to the process of women’s empowerment, with women panchayat members emerging in many settings as change leaders. Now progressively, many states are earmarking 50% reservation for women in panchayatiraj institutions.

4.3. Other Legislative Provisions in India

(i) Indian Penal Code, 1860: The Indian Penal Code (IPC) is a comprehensive Code intended to cover all substantive aspects of criminal law.

Injury: The word —injuryl denotes any harm whatever illegally caused to any person, in body, mind, reputation or property³⁴.

According to this definition injury has the following elements-

- (i) Causing of any harm to any person.
- (ii) Such harm should have been caused illegally.
- (iii) Harm may relate to body, mind, reputation or property.

Injury is thus given a very wide meaning and is not limited only to physical injury or pecuniary damage but extends also to injury to mind or reputation.

Life: The word —life denotes the life of a human being, unless the contrary appears from the context³⁵.

³³ Id. Art. 51A(e).

³⁴ Indian Penal Code, 1860, s.44.

³⁵ Id. s.45.

Death: The word —deathl denotes the death of a human being, unless the contrary appears from the context.

Under Indian Penal Code, before the Criminal Law Amendment Act, 2013, the crime of acid attacks was punished under the Criminal law relating to grievous hurts in Sections 320, 322, 325 and 326 of the Indian Penal Code (IPC).

Hurt: whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

Grievous Hurt.

The following kinds of hurt only are designated as grievous:-

- First: Emasculation.
- Secondly: Permanent privation of the sight of either eye.
- Thirdly: Permanent privation of the hearing of either ear,
- Fourthly: Privation of any member or joint.
- Fifthly: Destruction or permanent impairing of the powers of any member or joint
- Sixthly: Permanent disfiguration of the head or face.
- Seventhly: Fracture or dislocation of a bone or tooth.
- Eighthly: Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.

Voluntarily causing Hurt: Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said —voluntarily to cause hurt³⁶.

Explanation: A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt, if intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind. Illustration A, intending or knowing himself to be likely permanently to disfigure Z' s face, gives Z a blow which does not permanently disfigure Z' s face, but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

³⁶ Id. s.321.

Punishment for voluntarily causing hurt: Whosoever, except in the case provided for by Section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Voluntarily causing hurt by dangerous weapons or means: Whoever, except in the case provided for by Section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both³⁷.

Punishment for voluntarily causing grievous hurt: Whosoever, except in the case provided for by Section 335, voluntarily causes grievous hurt shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine³⁸.

Voluntarily causing grievous hurt by dangerous weapons or means: Whoever, except in the case provided for by Section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of office, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine³⁹.

The victim of a gruesome acid attack, Laxmi, filed a writ petition in the Supreme Court of India in May, 2006 in which the Law Commission of India was arrayed as the Respondent No. 2. Though the Law Commission pointed out to the Court that the reliefs in the petition cannot be

³⁷ Id. s.324

³⁸ Id. s.325

³⁹ Id. s.326.

prayed for from the Law Commission, but it decided to take up the matter suo moto in view of the gravity of the offence of acid attacks⁴⁰.

The Law Commission discussed the problem of acid attacks and said that since no special Section in the Indian Penal Code deals with acid attacks, the incidents are not even recorded separately. Section 326 of the Indian Penal Code, which deals with causing grievous hurt by throwing of a corrosive substance etc. is insufficient/ inadequate to deal with the issue. Firstly, the definition of grievous hurt is not broad enough to cover the various kinds of injuries which are inflicted during acid attacks. Secondly, the Section does not cover the act of administering acid. Thirdly, the Section gives a wide discretion to the courts as far as punishment is concerned. The cases on acid attacks in India show that normally inadequate punishment is awarded in these cases. Fourthly, the Section in the Indian Penal Code does not punish the intentional act of throwing of acid if no injuries occur. Lastly, the Section also does not specify who the fine should be awarded to. Therefore the Law commission recommended the insertion of a new Section 326A to the Indian Penal Code and also Section 114 in Indian Evidence Act⁴¹.

Accordingly the Criminal Law (Amendment) Bill was passed by the Lok Sabha on 19 March 2013, and by the Rajya Sabha on 21 March 2013. The Bill received Presidential assent on 2 April 2013 and came into force from 3 April 2013. Through amendment following provisions were inserted in Indian Penal Code:

Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine; Provided that such fine shall be just and reasonable to meet the medical expenses of the treatment of the victim; Provided further that any fine imposed under this Section shall be paid to the victim⁴².

⁴⁰ Burning injustice: A Rights Advocacy Manual for Lawyers, Activists and Survivors on Acid Violence in India, Human Rights Law Networ.

⁴¹ Supra 2 at 43.

⁴² Indian Penal Code, 1860, s.326A (Inserted by the Criminal Law (Amendment) Act, 2013).

Whoever throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage or deformity or burns or maiming or disfigurement or disability or grievous hurt to that person, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine⁴³.

Explanations

1. For the purposes of Section 326A and this Section acid includes any substance which has acidic or corrosive character or burning nature, that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.
2. For the purposes of Section 326A and this Section, permanent or partial damage or deformity shall not be required to be irreversible.

(ii) Indian Evidence Act, 1872

The Criminal Law (Amendment) Act 2013 proposed the insertion of following provisions in the Indian Evidence Act.

Presumptions as to Acid Attack: When the question is whether a person has committed the act of throwing acid on the woman the Court shall presume, having regard to the circumstances of the case and the statement of the victim, that such person had thrown acid on the woman⁴⁴.

(iii) The Poisons Act, 1919

The Poisons Act, 1919 deals with the importation, possession and sale of poisons. The Act empowers the State Government to make rules to regulate the possession for sale and the sale, whether wholesale or retail, of any specified poison within the whole or any part of the territories under its administration.⁴⁶ The Act deals with the import of poisonous substances into India and regulates the grant of License for the possession of some poisonous substances.⁴⁷ In addition to any other power to make rules herein before conferred the State Government may make rules generally to carry out the purposes and objects of this Act⁴⁵.

⁴³ Id. s. 326B.

⁴⁴ Indian Evidence Act, 1872, s.114B.

⁴⁵ Id. s.8.

Under this Act the powers of the State Government to regulate possession for sale and sale of any poison are-

- (1) The State Government may by rule regulate within the whole or any part of the territories under its administration the possession for sale and the sale, whether wholesale or retail, of any specified poison.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for
 - (a) the grant of licensees to possess any specified poison for sale, wholesale or retail, and fixing of the fee (if any) to be charged for such licensees ;
 - (b) the classes of persons to whom alone such licensees may be granted;
 - (c) the classes of persons to whom alone any such poison may be sold;
 - (d) the maximum quantity of any such poison which may be sold to any one person;
 - (e) the maintenance by vendors of any such poison of registers of sales, the particulars to be entered in such registers, and the inspection of the same;
 - (f) the safe custody of such poisons and the labelling of the vessels, packages or coverings in which any such poison is sold or possessed for sale; and
 - (g) the inspection and examination of any such poison when possessed for sale by any such vendor.

The Central Government may, by notification in the Official Gazette, prohibit, except under and in accordance with the conditions of a license, the importation into India across any customs frontier defined by the Central Government of any specified poison, and may by rule regulate the grant of licenses⁴⁶

The State Government may by rule regulate on the possession of any specified poison in any local area in which the use of such poison for the purpose of committing murder or mischief by poisoning cattle appears to it to be of such frequent occurrence as to render restrictions on the possession thereof desirable. In making any such rule, the State Government may direct that any breach thereof shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both, together with confiscation

⁴⁶ Id.s.3.

of the poison in respect of which the breach has been committed, and of the vessels, packages or coverings in which the same is found⁴⁷.

Presumption as to the Specified Poisons: Any substance specified as a poison in a rule made or notification issued under this Act shall be deemed to be a poison for the purposes of this Act.

Penalty for unlawful importation:

- (1) Whoever commits a breach of any rule made under Section 2, or imports without a licence into India across a customs frontier defined by the Central Government any poison the importation of which is for the time being restricted under Section 3, or breaks any condition of a licence for the importation of any poison granted to him under Section 3, shall be punishable
 - (i) on a first conviction, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and
 - (ii) on a second or subsequent conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.
- (2) Any poison in respect of which an offence has been committed under this Section, together with the vessels, packages or coverings in which the same is found, shall be liable to confiscation.

The District Magistrate, the Sub-divisional Magistrate and, in a presidency-town, the Commissioner of Police, may issue a warrant for the search of any place in which he has reason to believe or to suspect that any poison is possessed or sold in contravention of this Act or any rule thereunder, or that any poison liable to confiscation under this Act is kept or concealed. The person to whom the warrant is directed may enter and search the place in accordance therewith, and the provisions of the Code of Criminal Procedure, 1898 (5 of 1898), relating to search-warrants shall, as far as may be, be deemed to apply to the execution of the warrant⁴⁸.

. The Rule making power of Government is as follows-

⁴⁷ Id. s.4.

⁴⁸ Id. s.7.

In addition to any other power to make rules hereinbefore conferred the State Government may make rules generally to carry out the purposes and objects of this Act except Section .Every power to make rules conferred by this Act shall be subject to the condition of the rules being made after previous publication.All rules made by the Central Government] or by the State Government under this Act shall be published in the Official Gazette and on such publication shall have effect as if enacted in this Act.

Every rule made by the Central government under this Act shall be laid, as soon as a be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of any thing previously done under that rule.Every rule made by the Central government under this Act shall be laid, as soon as be after it is made, before the State Legislature⁴⁹.

4.5 Recent Amendments: The Model Poisons Possession and Sale Rules, (Notification), 2013

In exercise of the powers conferred by Section 2 and 8 of the Poison Act, (Act 12 of 1919), the Central Government makes rules for sale of specified poisons. It provides that any person, not exempted under the provisions of the Act shall sell or possess for sale any poison specified in the Schedule except under a license granted or renewed in that behalf by the licensing authority. Every person desiring for the grant of license or renewal of a license shall make a written application to the licensing authority and such application shall bear a Court fee stamp of ten rupee and provided that any application for renewal of a license which is made less than three months prior to the date of the expiry of the license shall bear a Court fee stamp of five hundred rupees⁵⁰.

⁴⁹ Ibid.

⁵⁰ Id. rule 5.5, schedule.

(iv) Code of Criminal Procedure, 1973

Information in cognizable cases: Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf⁵¹.

Provided that if the information is given by woman against whom an offence under Sections 326A, 326B, 354, 354A, 354B, 354C, 354D, 376, 376A, 376B, 376C, 376D, 376E or 509 is alleged to have been committed or attempted such information shall be recorded by a woman officer and if victim is temporarily or permanently disabled, then information shall be recorded by a police officer at the residence of the person or at a place convenient to such person in the presence of interpreter or special educator as the case may be. The recording of such information shall be video graphed. The police officer shall get statement of the person recorded through Judicial Magistrate⁵².

(v) The Protection of Human Rights Act, 1993

In pursuance of Constitutional and International mandate to protect human rights, the government of India has also passed a specific law known as the Protection of Human Rights Act, 1993 to promote fundamental human rights. This Act provides for the establishment of National Human Rights Commission⁵³, State Human Rights Commissions⁶¹ and Human Rights Courts for the better protection of Human Rights.

The main objectives of the Act is to provide for the constitution of the national and State Human rights Commissions and human Rights Courts for better protection of human rights and for matters concerned therewith or incidental thereto. Thus, it has a twin objectives to fulfil, namely,

⁵¹ Code of Criminal Procedure, 1973, s.154

⁵² This proviso was added in section 154, Cr.PC. by Criminal Law (Amendment) Act, 2013.

⁵³ The Protection of Human Rights Act, 1993, s.3

establishment of institutional structure, both Central and State levels, and to create enforcement machinery in terms of Human Rights Courts for better protection of human rights⁵⁴.

Human rights means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.⁶⁴ The acid attacks violate these human rights of the victim. So for the protection of their human rights, the acid attack victim can utilize the provisions of Protection of Human Rights Act, 1993.

The Central Government constitute a body known as the National Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to it, under this Act.⁶⁵

The Commission perform following functions, namely

- (a) inquire, in case of violation of human rights or abetment thereof; or negligence in the prevention of such violation, by a public servant.
- (b) intervene in any proceeding involving any allegation of violation of human rights pending before a Court with the approval of such Court;
- (c) visit any jail or other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, for the study of the living conditions of the inmates thereof and make recommendations thereon to the Government;
- (d) review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;
- (e) review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
- (f) study treaties and other international instruments on human rights and make recommendations for their effective implementation;

⁵⁴ Asish Kumar Das and Prasant Kumar Mohanthy, Human Rights in India, 176 (Sarup & sons, New Delhi, 2007).

(g) undertake and promote research in the field of human rights;

(h) spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;

(i) encourage the efforts of non-governmental organizations and institutions working in the field of human rights;

A State Government may constitute a body to be known as the (name of the State) Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to, a State Commission under this Act to protect the Human Rights of persons⁵⁵.

(vi) National Commission for Women Act, 1992

The National Commission for Women was set up as statutory body in January 1992 under the National Commission for Women Act, 1990 to review the Constitutional and Legal safeguards for women ; recommend remedial legislative measures ; facilitate redressal of grievances and advise the Government on all policy matters affecting women⁵⁶.

The Commission shall perform all or any of the following functions, namely:

- Investigate and examine all matters relating to the safeguards provided for women under the Constitution and other laws;
- present to the Central Government, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguard; make in such reports recommendations for the effective implementation of those safeguards for the improving the conditions of women by the Union or any state;
- review, from time to time, the exiting provisions of the Constitution and other laws affecting women and recommend amendments thereto so as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcomings in such legislations

⁵⁵ Id. s.21

⁵⁶ Available at: <http://ncw.nic.in/frmaboutus.aspx>, (visited on June 18, 2017).

- take up cases of violation of the provisions of the Constitution and of other laws relating to women with the appropriate authorities; look into complaints and take suo moto notice of matters relating to deprivation of women's rights; non-implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development; non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women, and take up the issues arising out of such matters with appropriate authorities;
- call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal; undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres and identify factors responsible for impeding their advancement, such as, lack of access to housing and basic services, inadequate support services and technologies for reducing drudgery and occupational health hazards and for increasing their productivity;
- participate and advice on the planning process of socioeconomic development of women; evaluate the progress of the development of women under the Union and any State;
- inspect or cause to be inspected a jail, remand home, women's institution or other place of custody where women are kept as prisoners or otherwise and take up with the concerned authorities for remedial action, if found necessary;
- fund litigation involving issues affecting a large body of women; make periodical reports to the Government on any matter pertaining to women and in particular various difficulties under which women toil;
- any other matter which may be referred to it by Central Government.
- The Central Government shall cause all the reports referred to in clause (b) of sub-Section (1) to be laid before each House of Parliament along with memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any such recommendations. Where any such report or any part thereof relates to any matter with which any State Government is concerned, the Commission shall forward a copy of such report or part to such State Government who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the

recommendations relating to the State and the reasons for the nonacceptance, if any, of any such recommendations.

- The Commission shall, while investigating any matter referred to in clause (a) or sub-clause (i) of clause (f) of sub-Section (1), have all the powers of a civil Court trying a suit and, in particular in respect of the following matters, namely, summoning and enforcing the attendance of any person from any part of India and examining him on oath; requiring the discovery and production of any document; receiving evidence on affidavits; requisitioning any public record or copy thereof from any Court or office; issuing commissions for the examination of witnesses and documents; and any other matter which may be prescribed

In keeping with its mandate, the Commission initiated various steps to improve the status of women and worked for their economic empowerment during the year under report. It took up the issue of child marriage, sponsored legal awareness programmes, Parivarik Mahila Lok Adalats and reviewed laws such as Dowry Prohibition Act, 1961, PNDT Act 1994, Indian Penal Code 1860 and the National Commission for Women Act, 1990 to make them more stringent and effective. It organized workshops / consultations, constituted expert committees on economic empowerment of women, conducted workshops / seminars for gender awareness and took up publicity campaign against female foeticide, violence against women etc. in order to generate awareness in the society against these social evils⁵⁷.

(vii) National Commission for Women - Draft Bill: Prevention of offences (by Acids) Act, 2008

8 The National Commission for Women in India has proposed Prevention of offences (by Acids) Act, 2008 (National Commission for Women - Draft Bill). National commission for Women suggests for setting up of National Acid Victim Assistance Board. The Bill provided for the structure and working mechanism of this Board. It provides for complete medical treatment as well as legal advice to the victims. It strongly advocates for the rehabilitation of these victims and providing them with all the financial support possible⁵⁸.

⁵⁷ Supra note. 145.

⁵⁸ Prevention of offences (by Acids) Act, 2008 (National Commission for Women

In this Bill, the statement of Object and Reasons are as such, in most cases, acid attacks permanently disfigure, debilitate and, eventually, destroy the victim, both physically and psychologically. While many attacks have resulted in slow and painful deaths, cases like that of Haseena (in April 1999) and in other cases have resulted in young women getting disfigured, maimed and confined to homes for life. They continue to battle medical complications as acid seeps into the body and harms internal organs over an extended period of time. The surgeries performed at different stages to give a person a close resemblance to their earlier looks, these operations cost the victim from minimum two lacs to several lacs of rupees. It has also been observed that there is no scope for rehabilitation for acid survivors and there is no one to provide support. Despite the fact that in most cases the victim knows the violator, the perpetrators often escape the law and are rarely brought to justice under the Code of Criminal Procedure and the Penal Code⁵⁹.

Thus on the basis of the above stated reasons, the proposed law seeks to focus on achieving the following major objectives:

- Classification of acid attack as a separate and most heinous form of offence.
- To assist the victim of acid attack by way of providing for her medical treatment services and also provide social and psychological support.

This Act applies to victims of acid attacks.

‘Acid’ shall mean and includes any substance which has the character of acidic or corrosive or burning nature that is capable of causing bodily injuries leading to scars or disfigurement or temporary or permanent disability⁶⁰.

Acid attack means any act of throwing acid or using acid in any form on the victim with the intention of or with knowledge that such person is likely to cause to the other person Permanent or partial damage or deformity or disfiguration to any part of the body of such person.

This Bill has proposed the Central Government shall constitute a body to be known as National Acid Attack Victim’s Assistance Board. The Board shall consist of a Chairperson to be

⁵⁹ Ibid.

⁶⁰ Id. s.3 (a)

appointed by the Central Government and Such number of members, as the central government may nominate, that shall include persons having knowledge of or practical experience in matters relating to criminal Law.

Representatives of NGOs or women Activists working in the field of empowerment of women and in particular providing assistance to victims of acid attack and any other interests which in the opinion of the central Government ,ought to be represented on the Board. Provided further that composition of committee shall be at least 5 members excluding the chairperson, of which at least 3 shall be women.

This Bill has also prescribed the procedure of business and term of office of the members of the board.The chairperson and members to be appointed and their qualifications shall be such as may be prescribed under the rules.The Board shall regulate its own procedure.All orders and decisions of the Board shall be authenticated by the signature of the Chairman or any other member authorised by the Board in this behalf, and all other instruments issued by the Board shall be authenticated by the signature of the Member-Secretary or any other officer of the Board authorized in like manner in this behalf.The Board shall meet at such time and place, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be provided by regulations: Save in exceptional and emergent situations the Board shall meet at least once in three months.The term shall be for 3 years, Members of the Board who are government servants would work on honorary basis and would be entitled to TA/DA as per rules applicable to them from their regular head of account. Non official Members shall be entitled to on honorarium and travel as may be prescribed by the Board⁶¹.

For the purpose of enabling it efficiently to discharge its functions, the Central Government may, subject to such rules as may be made in this behalf, appoint (whether on deputation or otherwise) such number of officers and other employees as it may consider necessary.

⁶¹ Prevention of offences (by Acids) Act, 2008, s.5.

The appropriate Government shall by notification, constitute or authorise any existing Authority/Body or any Service Provider at the State level, as the monitoring authority, which shall monitor and implement the provisions of the Act.

The Bill also explain the functions of the National Acid Attack Victim's Assistance Board. It shall, through the Monitoring authority or through any service provider, provide assistance to the victim of acid attack by way of ensuring medical treatment and other services, which shall include psychological counselling; issue directions to the monitoring authority or any service provider to arrange for legal support services to the victim; formulate and recommend to the appropriate Government rehabilitation schemes for the victim and her dependents such as medical services, employment, education, rehabilitation ,housing and other welfare measures taking into account the specific needs of the victim; recommend to the Government strategies to regulate and control the import, production, transportation, hoarding, sale, distribution of Acids;Create awareness about the means by which public can notify the board of any acid attack, develop networking strategies in coordination with NGO's and other stakeholders towards strengthening the support systems, conduct advocacy work with police and other stakeholders; recommend to the appropriate Government to notify the medical facilities and other services including provisions for shelter housing and other needs of the victim; Inquire into or constitute fact finding teams into incidents of acid violence; provide financial support, to the victim, in accordance with the procedure prescribed under the Act; take assistance of the Monitoring Authority at State level with respect to implementation of the provisions of the Act; administer the National Fund and allocate such amounts to the monitoring authority as may be considered necessary; administer the Insurance scheme or group insurance and notify the agents as may be prescribed; recommend to the government regarding applicability of any schemes; recommend to the appropriate Government any fee, tax or charge to be levied from any person, body or association or manufacturer dealing in chemicals including acids including creating a Consortium of acid and chemical manufacturers from whom the appropriate Govt. may levy license or such other fee which would be used to form a corpus fund out of which, compensation could be given to the victim on an immediate basis⁶².

Further it explains the functions of the Monitoring authority:

⁶² Id. s.8.

- (i) Either on its own or through any service provider, provide immediate assistance to the victim in the form of medical aid and other support services
- (ii) Provide financial support, to the victim, in accordance with the procedure prescribed under the Act
- (iii) Undertake a field visit and spot inquiry and take suo moto cognisance of any incident of acid attack
- (iv) Assist and advise the National Board in formulating and recommending to the appropriate Government rehabilitation mechanisms/schemes for the victim and her dependents such as medical services, employment, education, rehabilitation and other welfare measures taking into account the specific needs of the victim.

A victim, or her dependents or immediate family member or any voluntary organization espousing the cause of women/child may apply to the Board for financial and other relief in accordance with the application form as may be prescribed⁶³.

In case of death caused by or results as a consequence of acid attack, the children or other dependents of the deceased or any voluntary organization espousing the cause of women/child or service provider, may apply to the board for relief in accordance with the provisions of the Act.

Where the legal heir is a child, the application may be made on his behalf by the father or guardian or by any authorized voluntary organization; a mentally ill person within the meaning of the Mental Health Act, the Application may be made by the person with whom the victim normally resides or a duly authorized medical officer or a voluntary organization.

The Bill provides that the applicant shall submit all/any of the following documents with the application:

- (i) All the medical bills/estimated expenditure duly certified by the superintendent of the hospital or the in charge of the medical facility where the victim is under treatment or

⁶³ Id. s.10 (a).

- (ii) The death certificate of the victim/post mortem report, where a legal heir is making the application including copy of post mortem report or
- (iii) Copy of FIR/Complaint.

On the receipt of the application, the Board or the monitoring authority shall satisfy itself about the claim, make a preliminary assessment about the nature of the claim. After having been prima facie satisfied that a case of acid attack has been made out, the board shall order an interim financial relief of an amount upto Rs.5, 00,000/- within a period of thirty days from the date of receipt of the application. The payment would directly be send to the hospital where the acid attack survivor is undergoing the treatment and be utilised for the purposes of treatment to the victim⁶⁴.

Any further sum of money as approved by the Board/monitoring authority, from time to time shall be met towards the treatment of the victim, subject to a maximum of Rs 30 lakhs inclusive of the interim compensation.

Where death of the victim results The Board shall on the facts and circumstances of the case, pay a lump sum not exceeding Rs. 2,00,000/- to the legal heir preferably the children of the deceased so as to protect the best interests of the child . This would be in addition to any expenses incurred towards the treatment of the victim.

The Board shall in addition to the above, take such measures for the purposes of the rehabilitation, legal aid or any special needs of the victim in consultation with the monitoring authority or service provider. The board or the monitoring authority shall cater to the special needs and rehabilitation of such victims to an amount upto Rs 5 lakhs.

The reliefs provided under the Act shall not be subject to convictions or acquittals or whether the identity of the persons committing the crime is known or otherwise.

While conducting any home study or enquiry, the fact that the victim was at any time subjected to any act of domestic violence shall be taken into account and the question whether the legal heir is the husband or the relatives of the husband shall be determined accordingly by the Board or by the monitoring authority.

⁶⁴ Id. s.10 (f).

Further the Bill explains the powers of the Board/monitoring authority.

The National Board or the Monitoring authority, while investigating any matter referred to in clause (g) of Section 8 and Section 9(ii) have all the powers of a civil Court trying a suit and also in particular in respect of the following matters, namely-

- (a) Summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- (b) Requiring the discovery and production of any document;
- (c) Receiving evidence on affidavits;
- (d) Requisitioning any public record or copy thereof from any Court or office;
- (e) Issuing commissions for the examination of witnesses and documents;
- (f) Ordering costs in cases where there has been wilful disobedience to any order of the commission, issued under Section 11
- (g) Any income from investment of the amounts in the Fund;
- (h) Tax, fee charged from any body or association or manufacturers of chemicals and acids as formulated by the appropriate Govt.

on any ground, when such victim is brought before or approaches such facility for treatment; where such medical facility receives such a victim for treatment it shall forthwith inform the monitoring agency or the national Board and the police of the same, but shall in no manner or on any ground refuse treatment to such victim; for the purposes of treatment, the police report or the FIR shall not be relevant precondition; where such medical facility refuses treatment, on any ground the National Board shall after issue of the show cause, impose upon such facility a fine up to Rs 5 lakh⁶⁵.

. Victims of acid attack shall be deemed to be person with disability and entitled to benefits and all measures initiated by the appropriate Government Under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

⁶⁵ Id. s.16.

4.6 Scheme for relief and rehabilitation of Offences (by Acids) on women and children – National Commission for Women (29/Jan/2009)⁶⁶

The proposed law seeks to focus on achieving the following major objectives:

1. To assist the victim of acid attack by way of providing for her medical treatment services and also provide social and psychological support.
2. To arrange rehabilitation mechanisms/schemes taking into account the specific needs of the victim.

viii. Legislation on Compensation to Victims

Order to Pay Compensation⁶⁷

(1) When a Court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied-

(a) in defraying the expenses properly incurred in the prosecution;

(b) in the payment to any person of compensation for any loss or injury caused by the offence, when compensation is, in the opinion of the Court, recoverable by such person in a Civil Court;

(c) when any person is convicted of any offence for having caused the death of another person or of having abetted the commission of such an offence, in paying compensation to the persons who are, under the Fatal Accidents Act, 1855, entitled to recover damages from the person sentenced for the loss resulting to them from such death;

Compensation to the addition of fine: The compensation payable by the state government under Section 357A shall be in addition to the payment of fine under Section 326A or 376D of the Indian Penal Code⁶⁸.

⁶⁶ Available at: ncw.nic.in/PDFFiles/Scheme_ACID_Attack.pdf, (visited on January 2, 2017).

⁶⁷ Available at: ncw.nic.in/PDFFiles/Scheme_ACID_Attack.pdf, (visited on January 2, 2017).

Treatment of Victims: All hospitals public or private whether run by Central Government, State Government, local bodies or any other person shall immediately provide the first aid or medical treatment, free of cost, to the victims of any offence under Sections 326A, 376, 376A, 376B, 376C, 376D, 376E of the Indian Penal Code and shall immediately inform to the police of such incident.

While awarding the amount the compensation the Court must take into the account the nature of crime, the injury suffered, the justness of the claim for compensation, the capacity of the accused to pay and other relevant circumstances. If there are more than one accused, quantum of compensation may be divided equally unless there is considerable variation in their paying capacity. The payment may also vary depending upon the acts of each accused. Reasonable period for payment for compensation, if necessary, by installments, may also be given.

4.7 NALSA (Legal Services to Victims of Acid Attacks) Scheme, 2016

The Preamble of the Legal Services Authorities Act, 1987 emphasizes that the legal services authorities are concerned with the weaker sections of the society and imposes a duty on them to ensure that opportunities for securing justice are not denied to any citizen by reason or economic or other disabilities.

The objectives of the Scheme are as follows-⁶⁹

To strengthen legal aid and representation at the national,

- state, district and taluka levels for victims of acid attacks To enable the victims of acid attacks to get access to
- medical facilities and rehabilitative services; The ultimate objective of the Scheme is to ensure that the
- victims of acid attacks are appropriately rehabilitated in the society and live a life of dignity. Legal Representation: 108 (a) All victims of acid attacks and where the acid attack results in death, the heirs of victims of acid attacks shall

⁶⁸ Id. s.357B

⁶⁹ Ibid.

be provided legal aid on a priority basis in order to enable them to get the benefit of the Victim Compensation Scheme.

The SLSAs shall remain in touch with the concerned governmental agencies to ensure that adequate funds are always available for disbursement as compensation to victims of acid attacks and shall take up the matter with the concerned States and Union Territories for taking appropriate steps with regard to inclusion of the names of the victims of acid attacks under the disability list and thereafter to ensure that they get the benefit of all the schemes which are available for persons with disability⁷⁰.

All SLSAs shall have database of the existing Central or State Schemes, policies, regulations, policy directives concerning victims of acid attacks and the same may also be published in the form of pamphlets or booklets to be used in dissemination of information and creating awareness and shall also have database of the hospital where specialized facilities for treatment of burn victims are available.

SLSAs along with DLSAs shall conduct awareness programmes to generate awareness about the Victim Compensation Scheme and the entitlements under the same and various laws and government schemes. SLSAs, DLSAs and Taluka Legal Services Committees shall organize awareness drives to highlight that over the counter sale of acids stands prohibited. The PLVs may inform the concerned department or DLSAs if they come across any incidents of sale of acids so that appropriate action can be taken immediately.

Training and Orientation Programmes: SLSAs shall conduct training and orientation programmes for panel lawyers and PLVs to sensitize them on how to deal with cases of victims of acid attacks. SLSAs shall, in coordination with the State Judicial Academies, plan and conduct training/ sensitization programmes for Judicial Officers with a view to ensuring quick and adequate award of compensation, including interim compensation, and a fair and dignified treatment of the victims of acid attacks during trial of cases.

⁷⁰ Ibid.

Guidelines by the Hon'ble Supreme Court for the Regulation of Sale of Acid

In India though there was not specific law to regulate the sale of acid, but on July 18, 2013, India's Supreme Court has ordered federal and State governments to regulate the sale of acid in an attempt to reduce attacks on women. The Court said gave the following guidelines⁷¹.

In the States/Union Territories, where rules to regulate sale of acid and other corrosive substances are not operational, until such rules are framed and made operational, the Chief Secretaries of the concerned States/Administrators of the Union Territories shall ensure the compliance of the following directions with immediate effect:

- (i) Over the counter, sale of acid is completely prohibited unless the seller maintains a log/register recording the sale of acid which will contain the details of the person(s) to whom acid(s) is/are sold and the quantity sold. The log/register shall contain the address of the person to whom it is sold.
- (j) All sellers shall sell acid only after the buyer has shown:
- (k) a photo ID issued by the Government which also has the address of the person.
- (l) Specifies the reason/purpose for procuring acid.

The concerned SDM shall be vested with the responsibility of taking appropriate action for the breach/default/ violation of the above directions. The concerned SDM may impose fine upto 50,000 on any person who breaches above provisions.

Central Victim Compensation Fund Scheme (CVCF) Guidelines, 2015:

Following this amendment and the subsequent directions of the Supreme Court in the Acid Attack PIL, states have come up with a Victim Compensation scheme. There were wide variations from one state to another in the amount of compensation. The current central scheme is aimed at harmonizing the state schemes with a minimum fixed amount of compensation for victims of various crimes. The Central Victim Compensation Fund Scheme came into effect from 21st August 2015⁷².

The objective of setting up of Central Victim Compensation Fund Scheme are as follows:

⁷¹ **Laxmi v. Union of India & ors, (2014) 4 SCC 427.**

⁷² Available at: <http://uphome.gov.in/writereaddata/Portal/Images/CVCF.PDF>, (visited on November 12, 2016).

- To support & supplement the existing victim compensation schemes of the state governments. To reduce the disparity in the quantum of compensation
- amount fixed by various state governments. To encourage the state governments/ Union Territories to
- effectively implement the compensation schemes and continue financial support to victims of various crimes especially sexual offences including rape, acid attacks, crime against children, human trafficking etc.

The Central Victim Compensation Fund Scheme is setup with an initial corpus of Rs 200 crore that would be sanctioned by the Ministry of Finance. Out of Nirbhaya Fund which is meant for tackling crime/violence against women, one time budgetary grant of Rs.20000 crore as initial corpus fund for Central Victim Compensation Fund Scheme has been sanctioned. The fund also is open to contribution from public⁷³.

The Central Victim Compensation Fund Scheme is to be administered by and empowered committee chaired by an Additional Secretary (CS), MHA.

Essential requirements to access funds from Central Victim Compensation Fund Scheme are as follows:

The states must notify a victim compensation scheme as per the provisions of the Sec 357A of CrPC

- The quantum of compensation fixed should not be less than the amount mentioned in CVCF
- The States must pay the compensation first from their budgetary resources to eligible victims and then seek reimbursement from CVCF
- Details of the every victim compensated must be maintained electronically in the CCTNS module.

the following minimum amount of compensation is fixed by the MHA and states must also fix a similar minimum if they are to take the benefit of CVCF:

⁷³ Ibid

Table 4.1. Compensation for Injuries:

Sr. No.	Description of Injures / loss	Minimum Amount of Compensation
1	Acid attack	Rs. 3 lakhs
2	Rape	Rs. 3 lakhs
3	Physical abuse of minor	Rs. 2 laths
4	Rehabilitation of victim of Human Trafficking	Rs. 1 lakh
5	Sexual assault(Excluding rape)	Rs. 50,000/-
6	Permanent Disability(80% or more)	Rs. 2 lakhs
7	Death	Rs. 2 lakhs
8	Partial Disability (40% to 80%)	Rs. 1 lakh
9	Burns affecting greater than 25% of the body (excluding Acid Attack cases)	Rs. 2 lakhs
10	Loss of fertility	Rs. 50,000/-
11	Loss of foetus	Rs. 1.5 lakh
12	Women victims of cross border firing:	
	(a) Death or Permanent Disability (80% or more)	Rs. 2 laths
	(b) Partial Disability	Rs. 1 lakh

Note: If the victim is less than 14 years of age, the compensation shall be increased by 50% over the amount specified above.

Delhi Victims Compensation Scheme, 2011⁷⁴.

- (1) There shall be a Fund, namely, the Victim Compensation Fund from which the amount of compensation, as decided by the Delhi Legal Services Authority, shall be paid to the victims and their dependent(s) who have suffered loss or injury or require rehabilitation as a result of the crime or require rehabilitation.
- (2) The ‘_Victim Compensation Fund’ shall comprise the following:
 - (a) Budgetary allocation for which necessary provision shall be made in the Annual Budget by the Government.
 - (b) Receipt of amount of fines imposed under Section 357 of the Code of Criminal Procedure, 1973 (2 of 1974) and ordered to be deposited by the courts in the Victim Compensation Fund.
 - (c) Amount of compensation recovered from the wrongdoer/accused under clause 9 of the Scheme;
 - (d) Donations/ contributions from International/ National/ Philanthropist /Charitable Institutions/ Organizations and individuals of Delhi herein after referred to as —Divisional Commissioner.

Eligibility for Compensation: The victim or his/her dependent(s) shall be eligible for the grant of compensation after satisfying the criteria that he/she should not have been compensated for the loss or injury under any other scheme of the Central Government or the Government of National Capital Territory of Delhi⁷⁵.

The inquiry as contemplated under sub-Section (5) of Section 357A of the Code, 1973 shall be completed expeditiously and the period in no case shall exceed beyond sixty days from the receipt of the claim/petition.

After consideration of the matter, the Delhi Legal Services Authority, upon its satisfaction, shall decide the quantum of compensation to be awarded to the victim or his/her dependent (s) on the basis of loss or injury or requirement for rehabilitation, medical expenses to be incurred on

⁷⁴ Available at: <http://delhi.gov.in/wps/wcm/connect/3ba2ab004a168918a0c4b7054aa9b1b1/New+Microsoft+Office+Word+Document+%284%29.pdf?MOD=AJPERES&imod=-287399459>, (visited on March 15, 2016).

⁷⁵ Id. s.4

treatment and such incidental charges, such as funeral expenses etc. Provided that – (1) the quantum of compensation to be awarded to the victim or his/her dependent(s) shall not be less or more than what is provided in the Schedule. (2), if at a later date, compensation awarded by the Court is more than the maximum limit, the amount of compensation paid shall be adjusted.

Copy of the order of compensation passed by the Delhi Legal Services Authority under this Scheme, shall be mandatorily placed on record of the trial Court.

Method of Disbursement of Compensation: The amount of compensation so awarded shall be deposited in a Nationalized Bank or if the branch of a Nationalized Bank is not in existence, it shall be deposited in the branch of a scheduled commercial bank, in the joint or single name of the victim/dependent(s). Out of the amount so deposited, 75% (seventy five percent) of the same shall be put in a fixed deposit for a minimum period of three years and the remaining 25% (twenty five percent) shall be available for utilization and initial expenses by the victim/dependent, as the case may be⁷⁶.

In the case of a minor, 80% of the amount of compensation so awarded, shall be deposited in the fixed deposit account and shall be drawn only on attainment of the age of majority, but not before three years of the deposit. Provided that in exceptional cases, amounts may be withdrawn for educational or medical needs of the beneficiary at the discretion of the Delhi Legal Services Authority⁷⁷.

- (3) The interest on the sum shall be credited directly by the bank in the savings account of the victim/dependent(s), on monthly basis.

Medical aid to the victim: The Delhi Legal Services Authority may order for immediate first-aid facility or medical benefits or any other interim relief, as deemed appropriate, to be made available free of cost, to alleviate the suffering of the victim on the certificate of a police officer, not below the rank of the officer-in-charge of the police station, or a Magistrate of the area concerned⁷⁸.

⁷⁶ Id. s.7 (1).

⁷⁷ Id. s.7 (2).

⁷⁸ Id. s.8.

Limitation: Under the Scheme, no claim made by the victim or his/her dependent(s), under sub-Section (4) of Section 357A of the Code, shall be entertained after a period of 3 years from the date of occurrence of the crime.

Through various legislative provisions acid attack victim can claim compensation as well as punishment for the offender. According to the researcher, the Bill (Prevention of Offences (by Acids), Act, 2008) shall be converted into legislation by the Government, considering the rising rate of acid attack victims in India. The implementation of these legislative provisions should be strict so as to curb the violence of acid attacks against women.

CHAPTER 5

ACID ATTACKS AND ROLE OF INDIAN JUDICIARY

The Constitution of India provides for a single integrated judicial system with the Supreme Court at the apex, High Courts at the middle (State) level and District Courts at the local level. It also provides for an independent and powerful judicial system. Judiciary in India acts as the guardian protector of the Constitution and the fundamental rights of the people.

5.2. Role of Indian Judiciary before 2014

Prior to Criminal Law Amendment Act 2013, cases were registered under different sections of the Indian Penal Code (IPC) particularly the sections relating to hurt, grievous hurt, grievous hurt by corrosive substances and attempt to murder and murder. Besides offenders were easily let out on bail. Compensation was hardly ever awarded to the victims of acid violence and even if given was grossly inadequate. Major changes in punishment, compensation and medical treatment in cases of acid attacks were made by the decision of *Laxmi v. Union of India*⁷⁹.

Syed Shafique Ahmed v. State of Maharashtra⁸⁰.

In this case, the accused came on a motorcycle on a public road in at Kannad and voluntarily caused grievous hurt to his wife and one another person by throwing an acid on their persons causing disfiguration of the face of and loss of vision of right eye of the wife. It was alleged that the accused was accompanied by another accused by who was riding the motor cycle. In this case personal enmity with his wife was the reason behind a gruesome acid attack by the husband on his wife as well as another person. The accused was charged for the crime of hurt and grievous hurt⁴ under Indian Penal Code and was awarded Rs. 5000 as fine and 3 years imprisonment. This case shows that the punishment that is often awarded does not take into account the deliberate and gruesome nature of the attack and rests on technicalities of injuries.

⁷⁹ (2014) 4 SCC 427.

⁸⁰ 2002 Cri LJ 1403 (Bombay High Court)

In **Balu v. State Represented Inspector of Police**⁸¹, a husband who had thrown acid on his wife was ordered to pay a meagre amount of Rs. 2,000. The deceased was given in marriage to the accused as second wife. They had children, and they were living together during the relevant time. The accused had a friend by name Vaithi. He used to come to the house of the accused, and she used to have frequent chatting with him. The accused entertained suspicion that she developed illicit intimacy with him. On the fateful day there was a distressing cry coming from the house of the deceased, and it was heard a neighbour. Immediately, he went over there. At that time, the deceased was taken in an auto by some persons. He followed them in a bicycle. At that time, she was with burn injuries. The accused fled away from the place of occurrence. In hospital she informed to the Doctor that her husband poured acid on her, and she sustained burn injuries. On the very day, the accused also came to the hospital with burn injuries and was admitted by the same Doctor. The case was committed to Court of Session and necessary charge was framed, whereby the sole accused stood charged for murder⁶ under of Indian Penal Code, tried, found guilty as per the charge and awarded life imprisonment along with a fine of Rs. 2,000/-. The appeal was dismissed by the Madras High Court.

Such a meagre amount of compensation of only Rs.2, 000 cannot said to be sufficient.

Awadhesh Roy v. State of Jharkhand, Decided on June 12, 2006.⁸²

In this case before the Jharkhand High Court the victim was standing with her friend at a Bus where the accused came and poured acid over her head and face. The accused had a photograph of the victim and was blackmailing her but she refused to accede to his demands. The victim suffered burn injuries over the left side of her eye, neck and chest and had to be hospitalized. A case was registered for the crime of hurt⁸, grievous hurt⁹, attempt to murder¹⁰ under Indian Penal Code. The police investigated the case and finally submitted a chargesheet against the appellant under the aforesaid sections. The learned 2nd Additional Sessions Judge, Dhanbad held the appellant guilty the crime of hurt¹¹ and convicted and sentenced him to undergo rigorous imprisonment for three years. The appellant's conviction

⁸¹ Cri. App. 1078 of 2004 (Madras HC)

⁸² Cri.App.0568 of 2006 (Jharkhand HC)

was upheld by the Hon'ble High Court. No compensation whatsoever was awarded to the victim.

Ramesh Dey and Ors. v. State of West Bengal.⁸³

The accused Ramesh and Mrityunjay used to tease Padma in several manner. Ramesh had a grudge against Padma for her refusal to marry him. In this case the accused had made a previous abortive attempt to throw acid on the victim and succeeded on a second attempt. The accused along with two others went to the victims house and threw a bottle of acid on the victim outside her house where she, her mother, her aunt and her little son were sitting. The victim, her mother, her aunt and her son sustained injury. The victim Padma died due to extensive acid burns on the neck, chest, right alna, breasts, legs, knees and scalp. Her aunt received 25% burns and her aunt's son received 11% burns. The learned Trial Judge observed that from the evidence it was proved that on earlier occasion Ramesh teased Padma in a very uncouth manner for which Padma Mondal slapped and assaulted Ramesh. It has also been observed by the learned Trial Judge that from the evidence of witnesses it was proved that Ramesh expressed his desire to marry Padma thought the accused person was aware that he was married. The learned Trial Judge also observed that the accused persons jointly with the common intention proceeded through the road which was situated by the side of the post office and getting the scope of having no boundary wall for fencing within the post office, they got such change to go through that in such a mood as if, they were proceeding to the marriage party of Sambhu Digar and taking such scope Ramesh threw the acid aiming at Padma and, as a result, it touched the bodies of all the persons who were present there. It was observed that from the evidence that Jayanta Santra was aware of the fact about the throwing of acid and Mrityunjay was also present in that assembly. The learned Trial Judge observed that on overall assessment of the evidence on record there was no ground to disbelieve the evidence of all the witnesses. The learned Trial Judge after considering all the materials on record found no difficulty in passing the impugned judgment of conviction and sentence. The additional sessions Judge awarded imprisonment for life and a fine for Rs. 5000 for murder constituting joint liability under the Indian Penal Code. The appellants were also convicted for the crime of hurt of Indian Penal Code and sentenced to rigorous imprisonment for one

⁸³ 2007 (3) CHN 775.

year and to pay a fine of Rs. 1,000/- each in default to suffer simple imprisonment for two months. Both sentences were to run concurrently. The High Court on appeal however, set aside the conviction and sentence against the other two accused by stating that there was no evidence to show they had a common intention and their presence with the accused on the scene of the crime was not enough.

In this case the Court has just provided a fine of 5000 that is of no value for such a heinous crime.

Mahadeva Madeva Shisthu v. The State of Karnataka by its State.⁸⁴

An Anganawadi worker and resident of G.P.Mallappapuram, Kollegal Town was married to one Kyathaiah of Belakvadi Village about 18 years back and from the said wedlock; she had one son and a daughter. Later differences arose between the couple and when she was transferred to Uttamballi Village as an Anganwadi worker, she developed illicit relationship with the accused. The victim later thought that it may not be proper for her to continue the illicit relationship with the accused. Therefore, she told the accused not to continue the relationship and asked him not to visit her house. Annoyed by this, at about 9:00 a.m. on 12.4.2004, when victim was proceeding in front of Dr. Ravikumar Nursing Home in Kollegal, the accused came on a bicycle from behind and threw acid on her face, chest, back and other parts of the body. As a result, she sustained acid burns all over her body. District and Sessions Judge, Chamarajanagar convicted the accused for attempt to murder 17 under Indian Penal Code and sentencing him to undergo rigorous imprisonment for 5 years for the said offence and also to pay a fine of Rs.50,000/- in default, to undergo rigorous imprisonment for one more year. The accused made an appeal against the judgment of conviction and order of sentence passed by the District and Sessions Judge. Appeal was dismissed.

⁸⁴ Cri.App. 2273 of 2005 (Karnataka High Court), decided on October 3, 2012.

State of Karnataka by Jalahalli Police Station v. Joseph Rodrigues S/o V.Z. Rodrigues.⁸⁵

Haseena, a young girl hardly aged 20 years, who had finished computer course while studying B.Com. 1 st Year, was working in a computer office called Neha Computers of which the accused was the proprietor. Similarly the witness Bindu was also working there. After about one year eight months as the said office incurred a loss, Haseena left the same and started working at Satish Industries. It is alleged that the accused started pestering her to leave the new job and start working in the house for which he would provide a computer. This offer was rejected by Haseena. It is alleged that on a number of occasions the accused came to her house and repeated his offer. For which Haseena informed him that as she is working in Satish Industry comfortably, she does not want to leave the job. Enraged by the same, it is alleged that about 20 days prior to the incident the accused threatened her with dire consequences for not accepting his offer. According to prosecution on 20.4.1999, as usual Haseena left her house at about 8 a.m, to attend the work at Satish Industry. On that day she took a lift from one Krishna an elderly neighbour who had his Industry called Mahaveer Industries near Satish Industry. According to Haseena at about 8.25 a.m. when she was near the gate of Satish Industry, the accused came on a motorcycle holding a plastic jug and on coming near Haseena, he splashed the contents of the jug on her and went away. On falling of that liquid (now proved to be Sulfuric Acid) she received severe burn injuries on her face, eyes, neck, chest, hands and legs. She also received burn on her clothes. When she cried out due to pain, people nearby came and took her first to Healthcare Management Trust, Hospital and then to Ramaiah and lastly to Victoria Hospital. Due to the burns, her entire face was burnt and has become totally scarred, both eyes are damaged and she has lost the eyesight in both eyes, her upper lip is dissolved, apart from other injuries on her left arm, abdomen, and both the thighs. The accused was charged for attempt to murder criminal conspiracy changing evidence and providing false information²¹ and constituting joint liability for common intention²² under Indian Penal Code.

The accused was convicted for the crime of attempt to murder⁸⁶ under Indian Penal Code and sentenced to imprisonment for life. A compensation of Rs. 2,00,000/- in addition to the Trial Court fine of Rs. 3,00,000 was to be paid by the accused to Hasina's parents. This was a

⁸⁵ Decided in the Hon'ble High Court of Kerala on 22/8/2006 Available at: <https://indiankanoon.org/doc/73735/>, (visited on December 17, 2016).

⁸⁶ Supra note 10

landmark case as it was the first time that a compensation which was quite a large sum was given to the victim to meet the medical expenses including that of plastic surgeries. However, no compensation was awarded for the after effects of the attack such as loss of income etc.

Campaign and Struggle against Acid Attacks on Women (CSAAW) v. State of Karnataka & Others.⁸⁷

This petition is seeking to force the Government of Karnataka and other respondents to introduce measures in order to deal more effectively and sensitively with acid attack cases. The petition includes a systematic review of acid violence in the state and outlines major barriers to justice, medical treatment, and rehabilitation. The Public Interest Litigation seeks assurances from Government that speedy trials are introduced and police investigations are conducted thoroughly by gender sensitive officers. The PIL also seeks sufficient compensation for the victims of such brutal attacks and the payment of medical treatments and other support and rehabilitative services required.

The petitioner, CSAAW, based in Karnataka is a coalition of different women's and human rights groups including Human Rights Law Network, formed specifically to campaign against acid attacks on women and for justice to be served to its victims. CSAAW has documented numerous cases of acid attacks and reported on the massively detrimental effect these attacks have on the lives of the victims. Their research outlines the growing prevalence of acid attacks and demonstrates both the vicious nature of the attacks and the severe consequences it has for the victims, which even sometimes results in death. The venomous intent behind these attacks is clear from the fact that most attacks are directed primarily at the face and result in scarring, deformity and injuries such as blindness. Many of these debilities leaves the victims severely disabled and disfigured, isolating them and driving them underground in the face of ridicule, making it nearly impossible for them to function in society. A subsequent result of this debilitation is an acute decrease in income for the victims and their families as they are forced to give up work. Even if they recover to the extent that they are fit for employment few employers are willing to hire people with such physical deformities. Most women also find themselves abandoned by their husbands. This leaves them solely responsible for their children, which can

⁸⁷ Available at: <http://hrln.org/hrln/womens-justice-/pils-a-cases/241-campaign-andstruggle-against-acid-attacks-on-women-csaaw-vs-state-of-karnataka-aothers.html#ixzz4L5sZy9JH>, (visited on December 7, 2016).

have a huge effect on their lives and their standard of living. Furthermore, many victims are facing the problem of increased healthcare costs with essential medical treatment being required on an ongoing basis. It is often the case that medical expenses easily reach 6 Lakh. There have also been cases where the incorrect medical treatment given to acid attack victims has exacerbated their injuries, further added to their trauma, e.g. instead of using water to flush out the toxic acid, oil was used by medical personnel. In other cases vital first aid, which could prevent permanent and life threatening injuries, was not administered at all. It is imperative that medical professionals know how to treat the victims⁸⁸.

The police also often exacerbate the trauma of the victims. As with other gender-based crimes they often side with the perpetrator and attempt to intimidate and harass the victim at the behest of the accused. In one instance, the police instead of arresting the accused ransacked the beauty parlour of the victim, trespassed into her email account and commented on her private affairs. Similarly, judges overlook the seriousness of the offence and firstly allow bail to the accused when they can further intimidate the victim and secondly give extremely lenient sentences when they are ultimately found guilty. Further displaying insensitivity to the type of offence that has been perpetrated on the victim, the manner in which the judicial system functions results in the conduct of long protracted trials.

The prayer of the petitioners was that the police should conduct investigations in acid attacks correctly and thoroughly with the use of specially trained gender sensitive police officers and for the respondent to make available immediate and emergent medical facilities to all victims, where doctors and medical staff are trained on how to deal with the injuries properly. They also prayed for to arrange medical reimbursement of all medical expenses incurred by the victims, which should be given irrespective of whether treatment took place in a public or private institution; compensation to be awarded to the victims from a consortium of chemical manufacturers formed by the respondent. They further prayed for the strict control of the production, distribution and storage of toxic acids and regulate the sale of same. The petitioner also prayed the judiciary to conduct speedy trials and issue directions to process compensation and punish the perpetrators appropriately, with a minimum punishment irrespective of the injury caused similar to Scheduled Castes and Scheduled Tribes atrocities and not grant bail in similar cases.

⁸⁸ Ibid.

In this case in 2006, the Hight Court ordered a comprehensive compensation package for acid attack survivors. The Department of Women and Child Welfare and State Women's Commission have to pay acid attack survivors Rs.30, 000 and the Disabled and Senior Citizen's Department will sanction Rs. 15,000 for those who have become disabled due to an acid attack. One crore rupees has been released to assist with the medical treatment upto two lakhs per victim. The State must ensure medical treatment and free ambulance services to survivors. The State is also obligated to identify private hospitals that can provide treatment to survivors. The Court also included orders regarding employment and rehabilitation including alternate employment to the victims in the case of inability to continue with previous employment due to injuries, loans under existing schemes for self-employment ventures, and education and other facilities to dependents and children of survivors⁸⁹.

5.3. Role of Indian Judiciary after 2014

In 2014, the judiciary tried to develop a new Jurisprudence in the case of Laxmi v. Union of India³⁰. The victim of a gruesome acid attack, Laxmi, has filed a writ petition in the Supreme Court of India in May, 2006 in which the Law Commission of India has been arrayed as the Respondent No.2.

Naeem Khan v. State⁹⁰ Laxmi (15years old) was working as a sales representative at New Janta Book Depot, Khan Market and has studied up to class 8. The boy named Naeem Khan (Guddu), was employed in her neighbourhood. Laxmi's mother before marriage belonged to Muslim religion and therefore, Guddu was a regular visitor in her house. Infact, the entire family of the Guddu was acquainted and well known to Laxmi's family as they had known each other for several years. Laxmi stated the appellatant started talking about falling in love with her over the telephone and also sent few messages in this regard. The accused also placed the proposal of marriage before her family but Laxmi resisted the same because of the large gap between their ages. Thereafter, the accused started pressurizing Laxmi for marriage and to maintain telephonic ties with him which was either evaded or turned down by her. On 22.04.2005 at about 10:30 am, when she was going towards Khan Market from her house, a motorcycle stopped near her at Hanuman Road. The driver of the motorcycle was wearing black coloured helmet and had a lean

⁸⁹ Ibid.

⁹⁰ Cri. App. 980 of 2009 (Delhi HC.).

body which was similar to that of the appellant. Laxmi further stated that the pillion rider was a woman aged about 28-30 years who alighted from the motorbike and threw acid on her face as a result of which her face and chest were burnt. On Laxmi's effort to save her by raising her hands, the acid burnt her hands as well. Laxmi stated that she had seen the woman who threw acid on an earlier occasion as well with Imran, the brother of the appellant and her name was either Rakhi or Rekha. On raising alarm, she fled from the scene after sitting on the motorcycle driven by the appellant. On hearing cries, people gathered but no one offered help and later on a PCR van transported her to the hospital.

On injured Laxmi implicating the accused, the latter was arrested. A criminal case of attempt to murder was registered and the two accused, Rakhi and Guddu, were sentenced to 7 and 10 years imprisonment, respectively, by the Trial Court. Later the accused went in appeal in the Delhi High Court where the Court directed the appellant to pay a sum of Rs 3 lakhs as fine which is to be forwarded to victim Laxmi as compensation under the provision of compensation under Code of Criminal Procedure³². It was further recommended that the case of victim Laxmi be considered by the Delhi Legal Services Committee for appropriate compensation which can be paid to her on behalf of the State Government under the victim compensation scheme as applicable to the National Capital territory of Delhi. The appeal was dismissed.

After this in 2006, Laxmi filed a Public Interest Litigation in the Supreme Court urging for regulation on sale of acid. The Union of India (Petitioner no.1), Law Commission of India (Petitioner no.2) and National Commission for women (Petitioner no.3) were the three respondents in the Writ Petition. In her plea, she had sought framing of a new law or amendment to the existing criminal laws like Indian Penal Code, Indian Evidence Act and Code of Criminal Procedure for dealing with the offence, besides asking for compensation⁹¹.

Major issues in the case were:

1. An amendment to the Penal Code wherein a Section is introduced regarding acid attacks;
2. It further demanded a complete ban on sale of acid;
3. Rehabilitation Scheme for victims of acid;
4. Free medical treatment for survivors.

⁹¹ **Laxmi v. Union of India, (2014) 4 SCC 427**

Then on April 28, 2008 the Court ordered an investigation and action on the issue. The Learned Additional Solicitor General submitted that the Government of India will look into several aspects of the problem, consider the suggestion and formulate procedures to curtail and regulate the sale of acid/corrosive substances across the country. He also submitted that feasibility of making appropriate amendments to existing laws will also be considered. The Hon'ble Supreme Court on 11 February 2011 issued directions to all the State Governments to indicate what steps they have taken to allocate resources for providing compensation to victims of acid attacks under the abovementioned amendment made to Code of Criminal Procedure regarding victim compensation Scheme under Code of Criminal Procedure. It also directed that as one of the matters of concern in regard to acid attacks is the free availability of acid, the Central Government and the State Governments may also consider making appropriate provision for regulation of sale of acids so that it is not easily or readily available to offenders⁹².

In the meantime the Criminal Law Amendment was made. In this Petition, as already mentioned above that Law Commission of India has been arrayed as the Respondent No. 2.gave a major response to the petition. Though the Law Commission had pointed out to the Court that the reliefs in the petition cannot be prayed for from the Law Commission, it decided to take up the matter suo moto in view of the gravity of the offence of acid attacks and gave report for the inclusion of acid attacks as specific offences in the Indian Penal Code. According to the Commission there is no special Section in the Indian Penal Code which deals with acid attacks, the incidents are not even recorded separately. The provision of the Indian Penal Code, which deals with causing grievous hurt by throwing of a corrosive substance etc.³⁶, is inadequate to deal with the issue that if a person has thrown or administered the acid on another person a presumption should be raised against the person, who has thrown or administered the acid, that he has done so deliberately. Apart from the above, the distribution and sale of Acid should be banned except for commercial and scientific purposes. Victims of acid attacks need compensation for rehabilitation, a law should be enacted to set in place Criminal Injuries Compensation Boards at the Centre, State and District levels in our country. The committee proposed that a new provision (Hurt by Acid and intentionally throwing or administering acid) be added to the Indian Penal Code. It further proposes that for the reasons stated above, that in

⁹² Supra note 32.

cases of acid attack a presumption be incorporated in the Indian Evidence Act.⁹³ It also proposed Criminal Injuries Compensation Act is enacted as a separate Law by the government. This law should provide both interim and final monetary compensation to victims of certain acts of violence like Rape, Sexual Assault, Acid Attacks etc. and should provide for their medical and other expenses relating to rehabilitation, loss of earnings etc. It also recommends that the distribution and sale of acid be strictly regulated and the sale of Acid across shop counters be banned.

These amendments eventually came to be passed in 2013 in the Criminal Law Amendment Act 2013.

Directions / Recommendations by Hon'ble Supreme Court on Sale of Acid:

In the order dated April 16, 2013, the Court expressed its concern as tragic incidents of acid attacks continue to happen. One of the main reasons for these incidents is easy availability of acid in retail across the counter. The Court further expressed its concern as neither the Central Government nor the State Governments/Union Territories have been able to address this grave issue. On 18 July 2013, the Court after reviewing various facets, affidavits submitted by Govt and Rules framed by various state Govt suggested that the Centre and State/ UT's shall work towards making the offences under the Poisons Act, 1919 cognizable and non-bailable⁹⁴.

Supreme Court issued certain directions relating to sale of acid, which are as follows:

In the States/Union Territories, where rules to regulate sale of acid and other corrosive substances are not operational, until such rules are framed and made operational, the Chief Secretaries of the concerned States/Administrators of the Union Territories shall ensure the compliance of the following directions with immediate effect:

- (v) Over the counter, sale of acid is completely prohibited unless the seller maintains a log/register recording the sale of acid which will contain the details of the person(s) to whom acid(s) is/are sold and the quantity sold. The log/register shall contain the address of the person to whom it is sold.

⁹³ Indian Evidence Act, 1872, s.114B.

⁹⁴ Supra note 13.

- (vi) All sellers shall sell acid only after the buyer has shown:
 - (a) a photo ID issued by the Government which also has the address of the person.
 - (b) Specifies the reason/purpose for procuring acid.
- (viii) All stocks of acid must be declared by the seller with the concerned Sub-Divisional Magistrate (SDM) within 15 days. (ix) No acid shall be sold to any person who is below 18 years of age.
- (x) In case of undeclared stock of acid, it will be open to the concerned SDM to confiscate the stock and suitably impose fine on such seller up to Rs. 50,000.

The educational institutions, research laboratories, hospitals, Government Departments and the departments of Public Sector Undertakings, who are required to keep and store acid, shall follow the following guidelines:

- (iii) A register of usage of acid shall be maintained and the same shall be filed with the concerned SDM.
- (iv) A person shall be made accountable for possession and safe keeping of acid in their premises.
- (v) The acid shall be stored under the supervision of this person and there shall be compulsory checking of the students/ personnel leaving the laboratories/place of storage where acid is used.

The concerned SDM shall be vested with the responsibility of taking appropriate action for the breach/default/ violation of the above directions. The concerned SDM may impose fine upto 50,000 on any person who breaches above provisions.

During the pendency of this petition, the Code of Criminal Procedure, 1973 was amended and Section 357A was inserted by Act of 2009 which requires every State Govt, in coordination with the Central Government, to prepare a scheme for providing funds for purpose of compensation to the victims or their dependants who have suffered loss or injury as a result of crime and who require rehabilitation. The Court on July 18, 2013, said that the Court is informed that pursuant to the abovesaid provision, 17 States and 7 Union Territories have prepared ‘_Victim Compensation Scheme’. But the compensation mentioned in the scheme made by these States/UT’s is not

uniform. While the State of Bihar has provided compensation of Rs. 25,000/-in such scheme, the State of Rajasthan has provided for Rs. 2 Lakhs of compensation. In the opinion of the Court the compensation provided by most of the States/UT's are inadequate. It cannot be overlooked that acid attack victims needs to undergo a series of plastic surgeries and other corrective treatments. Having regard to this problem the Court suggested that the compensation by all the States/UT's must be enhanced to atleast Rs. 3 Lakhs as the after care and rehabilitation cost⁹⁵.

The Supreme gave major directions/ recommendations relating to acid attacks. The researcher has compiled these directions/ recommendations under the following heads

Directions / Recommendations by Hon'ble Supreme Court on compensation to acid attack victims

The acid attack victim shall be paid compensation of atleast Rs.3 lakhs by the concerned State Government/Union Territory as the after care and Rehabilitation. The Court also said that out of the compensation amount of Rs 3 lakh, Rs 1 lakh will be paid within 15 days of the occurrence of the attack being brought to the notice of the state government.The balance of Rs 2 lakh shall be paid by the state or Union Territory concerned as expeditiously as possible and positively within two months of the incident, adding that the compliance of the order has to be ensured by the Chief Secretaries of the states and administrators of the UTs respectively.

Directions / Recommendations by Hon'ble Supreme Court on Medical treatment, aftercare and rehabilitation of acid attack victims:

First aid must be administered to the victim and after stabilization, the victim/patient could be shifted to a specialized facility for further treatment, wherever required. Action may be taken against hospital/clinic for refusal to treat victims of acid attacks and other crimes in contravention of the provisions of Section 357C of the Code of Criminal Procedure, 1973. The Court further issue a direction that the State Governments/Union Territories should seriously discuss and take up the matter with all the private hospitals in their respective State/Union Territory to the effect that the private hospitals should not refuse treatment to victims of acid

⁹⁵ Ibid.

attack and that full treatment should be provided to such victims including medicines, food, bedding and reconstructive surgeries⁹⁶.

The Supreme Court also issue a direction that the hospital, where the victim of an acid attack is first treated, should give a certificate that the individual is a victim of an acid attack. This certificate may be utilized by the victim for treatment and reconstructive surgeries or any other scheme that the victim may be entitled to with the State Government or the Union Territory, as the case may be. In the event of any specific complaint against any private hospital or government hospital, the acid attack victim will, of course, be at liberty to take further action.

Directions/Recommendations by Hon'ble Supreme Court on Criminal Injuries Compensation Board-

The Supreme Court gave the directions that in case of any compensation claim made by any acid attack victim, the matter will be taken up by the District Legal Services Authority, which will include the District Judge and such other co-opted persons who the District Judge feels will be of assistance, particularly the District Magistrate, the Superintendent of Police and the Civil Surgeon or the Chief Medical Officer of that District or their nominee. This body will function as the Criminal Injuries Compensation Board for all purposes. A copy of this order be sent to learned counsel appearing for the Secretary in the Ministry of Home Affairs and the Secretary in the Ministry of Health and Family Welfare for onward transmission and compliance to the Chief Secretary or their counterparts in all the States and Union Territories. The Chief Secretary will ensure that the order is sent to all the District Magistrates and due publicity is given to the order of this Court. A copy of this order should also be sent to the Member Secretary of NALSA for onward transmission and compliance to the Member Secretary of the State Legal Services Authority in all the States and Union Territories. The Member Secretary of the State Legal Services Authority will ensure that it is forwarded to the Member Secretary of each District Legal Services Authority who will ensure that due publicity is given to the order of this Court.

The writ petition is disposed of in the above term.

⁹⁶ Ibid.

Parivartan Kendra & Anr v. U.O.I & Ors.⁹⁷

. In the writ petition, filed in public interest under Article 32 of the Constitution of India, the petitioner (Parivartan Kendra; a registered NGO) seeks to highlight the plight of the acid attack victims and the inadequacy how the compensation payable to the victims as per the orders of the **Apex Court in Laxmi v. Union of India.**⁹⁸ Petitioner also highlights the lack of a legal guarantee to free medical care, rehabilitative services or adequate compensation under the Survivor Compensation Schemes. The petitioner highlighted the plight of two dalit girls of Bihar, who were attacked around midnight of October 21, 2012 by four assailants who threw acid on the face and bodies of the girls while they were sleeping on their rooftops. It is alleged that these young assailants used to harass the elder sister on the streets, market and in the auto rickshaw while she was going to computer classes or to work. This victim wanted to be a computer engineer and used to go to college regularly and supported her family working as a daily wage worker. However, these assailants used to make sexual advances towards her, pass lewd comments, and also used to pull her dupatta. They terrorized her and her family members by roaming near her house on their motorcycles, tore the curtains of their house and told her that if she did not heed to their demands and agree to have sexual relations with them they would damage and destroy her face. In the aforesaid midnight, while both sisters were sleeping, assailants Anil Rai, Ghanshyam Rai, Badal and Raja climbed upon the roof and Anil covered the elder sister's mouth so that she could not scream and Ghanshyam and Raja held her legs so that she could not move. When Anil Rai was pouring the acid on her body and face, the acid also fell on her sister's body and burnt her arm. After the attack, these men did not make any effort to flee as they wanted to stay and enjoy the moment. As the acid started burning the girls, the girls started screaming and crying waking up their parents, who rushed to the rooftop. Upon this, the assailants fled. The victims were rushed to the Patna Medical College and Hospital. According to the petitioner, the doctors arrived only the next morning and did not give them proper treatment and the family had to buy all the medicines on their own. Thereafter, victims' family was given Rs. 2,42,000/- from the Government of Bihar for the treatment of both. It has been contended by the petitioner that till the filing of this writ petition more than Rs. 5 lakhs had already been spent on their treatment and still the victims require more treatment.

⁹⁷ 2016(1) RCR (Criminal) 336

⁹⁸ Supra note 11

The petitioner submitted that proper and adequate treatment was not given to the victims. The Patna Hospital waited for more than a month to conduct elder sister's grafting surgeries. Three grafting surgeries were performed on the elder sister. It is claimed that all these three surgeries were not performed properly and that the Hospital staff and doctors mistreated the victim and their family as they belonged to a lower caste. With the help of the petitioner-Society, the victim was transferred to Safdarjung Hospital, Delhi on April 5, 2013, where she finally received proper treatment. It has been further contended by the petitioner that the Police also arrested the four perpetrators a month after the attack in November, 2012 in response to intense pressure from social organizations and the media. On 8.2.2013, the IG of Police had made a statement in an interview that the statement of the victim would be taken for the recording of confessions and statements 48 under the Criminal Procedure Code. However, according to the petitioner, no such statement had been taken till filing of the writ petition. The victim and her family are, therefore, appalled by the treatment they have received at the hands of the Patna Hospital, the Police and the Government of Bihar.

The Court, on perusal of various contentions and evidence, find it imperative to mention that even after this Court having passed an order dated 06.02.2013 directing the Union of India and States to implement compensation payable to acid attack victims by creation of a separate fund, only 17 States have been notified of the Victim Compensation Schemes (VSC). Out of which 7 states and 4 Union territories have not initiated the VSC. Even in those States where the Scheme has been implemented a meager compensation ranging between Rs. 25,000/- to Rs. 2 lakhs is provided for medical care. And many States have not provided any compensation for rehabilitation at all. In the present case, the Govt. of Bihar has fixed a pitiable amount of Rs. 25,000/- for the victims of acid attack.

The Court said that the guidelines issued by orders in the Laxmi's case are proper, except with respect to the compensation amount. The Court just need to ensure that these guidelines are implemented properly. Keeping in view the impact of acid attack on the victim on his social, economical and personal life, the Court need to enhance the amount of compensation. The Court cannot be oblivious of the fact that the victim of acid attack requires permanent treatment for the damaged skin. The mere amount of Rs. 3 lakhs will not be of any help to such a victim. The Court is conscious of the fact that enhancement of the compensation amount will be an

additional burden on the State. But prevention of such a crime is the responsibility of the State and the liability to pay the enhanced compensation will be of the State.

The enhancement of the Compensation will act in two ways:

1. It will help the victim in rehabilitation;
2. It will also make the State to implement the guidelines properly as the State will try to comply with it in its true spirit so that the crime of acid attack can be prevented in future.

Having regard to the problems faced by the victims, this Court enhanced the compensation, stating that, —at least Rs.3 Lakhs must be paid to the victims of acid attacks by the concerned Government. Therefore, a minimum of Rs.3 Lakhs is to be awarded by the Government to each victim of acid attack. But in the abovesaid case, a minimum amount of Rs. 6 Lakhs has to be awarded to the sisters.

Further the Court said that, we are of the view that victim Chanchal deserves to be awarded a compensation more than what has been prescribed by this Court in the Laxmi's case. Though in this case the Court is not issuing any guidelines different from the guidelines issued in Laxmi's case, we should not forget that the younger sister was also injured by the acid attack. Although her degree of sufferance is not as that of the elder one, but she also requires treatment and rehabilitation. It is to be noted that this Court in Laxmi's case doesn't put a bar on the Government to award compensation limited to Rs.3 Lakhs. The State has the discretion to provide more compensation to the victim in the case of acid attack as per Laxmi's case guidelines. It is also to be noticed that this Court has not put any condition in Laxmi's case as to the degree of injuries which a victim has suffered due to acid attack. In the instant case, the victim's father has already spent more than Rs. 5 lakhs for the treatment of the victim. In consideration of the severity of the victim's injury, expenditure with regard to grafting and reconstruction surgery, physical and mental pain, etc., we are of the opinion that the victim (Chanchal) should be compensated to a tune of at least Rs. 10 Lakhs. Suffice it to say that the compensation must not only be awarded in terms of the physical injury, we have also to take note of victim's inability to lead a full life and to enjoy those amenities which is being robbed of her as a result of the acid attack. Therefore, this Court deems it proper to award a compensation of Rs. 10 lakhs and accordingly, we direct the concerned Government to compensate the victim

Chanchal to a tune of Rs. 10 Lakhs, and in light of the Judgment given in Laxmi's case we direct the concerned State Government of Bihar to compensate the main victim's sister, Sonam to a tune of Rs. 3 Lakhs. Of the Total amount of Rs. 13 Lakhs, a sum of Rs. 5 lakhs shall be paid to the victim and her family within a period of one month and the remaining sum of Rs. 8 lakhs shall be paid to the victims within a period of three months from the date of this order. Furthermore, the State shall upon itself take full responsibility for the treatment and rehabilitation of the victims of acid attack as per the Guidelines provided in Laxmi's case.

Disposing of the present writ petition, the Court additionally direct all the States and Union Territories to consider the plight of such victims and take appropriate steps with regard to inclusion of their names under the disability list.

Sapna v. Government of NCT of Delhi.

The Human Rights Law Network filed a petition to ensure compensation and free treatment for Sapna, an acid attack survivor in Delhi. Sapna, who is a girl of very young age, 20 worked in a manufacturing company at the time of the attack. On August 7, 2013 when she was traveling home from work, the accused perpetrators, Bharat and Mohinder threw acid on her, burning 10% of her face, neck, hand, and back. After the attack, Sapna received initial treatment at GTB Hospital where doctors cleaned her wounds. She has returned to the hospital multiple times for follow up treatment and medicine. However, to this day she has not had corrective surgery. GTB Hospital does not provide corrective surgery. Sapna has had corrective surgeries including skin grafting at a private hospital where she had to pay Rs. 33,021 for treatment. Although the Supreme Court directed all the State Governments and Union Territories to pay Rs. 3 lakh to acid attack survivors in Laxmi, Sapna never received compensation or financial assistance for corrective surgeries and treatment. The Delhi High Court passed the interim orders to the state to provide Sapna with Rs. 1 lakh within 15 days and the remaining Rs. 2 lakhs compensation within two months per the Supreme Court's Laxmi orders. The case is pending as the Court examines the additional issues raised in the petition and prayers.

Ayushi Dubey & Ors. v. State of U.P. & Ors⁹⁹.

Human Rights Law Network Allahabad filed this writ petition on behalf of Madhuri Prajapati, an acid attack survivor after news broke of an acid attack on November 9, 2013. Legal interns from the Allahabad Human Rights Law Network office conducted a fact-finding to submit to the Court. Machli Gao was sleeping in her Kaccha house (Mud House) with her mother when the accused, Vimal Maurya threw acid on Madhuri Prajapati and her mother Champa Prajapati. Before the attack Vimal Maurya stalked Madhuri and proposed to her. The attack came as a result of her refusal to marry him. The acid attack completely destroyed the left side of Madhuri's face. She also sustained injuries on her neck and face. Her mother has severe burn patches on the same side of the face and body. Initially, Madhuri went to the Community Health Centre (CHC) for treatment. The CHC did not have adequate facilities, so Madhuri went to the Jaunpur District Hospital for care. Again, because of inadequate facilities the District Hospital referred Madhuri to the Pragya Nursing Home Hospital at Varanasi. The major issues in the Writ Petition were that the Chief Medical Officer should constitute a team of doctors and experts to examine Madhuri and to provide free treatment and plastic surgery and to provide compensation for survivor and her mother and to reimburse the survivors for medical expenses. Other important issues were ensure that the First Information Report is lodged under Section 326(a) and 326(b) of the Criminal Law Amendment Act, 2013 and to fast track the criminal trial. The High Court ordered the state to establish a medical team of doctors and experts to examine the condition of the survivor and her mother and to make an assessment of the necessary steps for her treatment and rehabilitation. The Court also ordered the Respondents to provide treatment for Madhuri and to provide an ambulance to transport Madhuri and her mother to and from the hospital. The Court ordered the State Government to frame a victim compensation scheme under provisions of the Criminal Procedure Code.⁵² At the same time, the Court ordered the Respondents to reimburse Madhuri and her mother for their medical expenses. Additionally, the Court ordered the district judge to monitor the trial Court and to make reports to the High Court on the progress¹⁰⁰.

⁹⁹ Ibid.

¹⁰⁰ Supra note 51.

Sabana Khatun v. The State of West Bengal & Ors.

The petition was filed by Human Rights Law Network on behalf of acid attack survivor Sabana Khatun after her boyfriend's family poured acid down her throat. The petition resulted in compensation for Sabana and Pious Ahuja; an Human Rights Law Network's legal intern started an online campaign to raise funds for Sabana's rehabilitation and treatment. For three years, Sabana had a relationship with Isha Rinku Mandal. On June 23, 2012, Rinku told Sabana that he wanted to marry her and asked her to come to his house to meet his family.

Sabana was wary of meeting Rinku's family members late at night without informing her own family of the engagement, but he persisted. When she reached his house, the couple told the family about their plans and Rinku's family became furious. They pulled at her hair, held her arms and feet tightly, and forcefully opened her mouth to pour a bottle of corrosive carbolic acid down her throat. Sabana struggled to loosen the grip and eventually vomited up some acid. Rinku's family also removed Sabana's clothing and poured acid on her body. Rinku did nothing to help his girlfriend during this attack. At the hospital, the doctors inserted a pipe into Sabana's throat to cleanse her stomach. For 18 days, Sabana could not speak or eat. She was artificially fed with saline water for 20 days. She requires surgery, but her family cannot afford the expensive procedure. In the aftermath of the brutal attack, Sabana and her family live in a state of perpetual fear. They cannot leave the house and Rinku's family continues to threaten them. Sabana had to stop attending school. Her family has spent Rs. 25,000 on legal expenses and at least Rs. 50,000 on medical care.

The High Court ordered the State Government to provide Rs. 3 lakh compensation to Sabana per the Laxmi Supreme Court orders.

Anju v. State of Haryana & Ors.¹⁰¹

The petitioner, who has suffered 40%+5% burn injuries upon her body, has filed this petition for reimbursement of medical expenses, financial assistance and rehabilitation. The petitioner, aged 28 years, daughter of a small vegetable vendor, was married to Monu S/o Bajran Dass in the year 2009. The couple was blessed with a daughter in the year 2010. On 01.12.2010, at around 6.00

¹⁰¹ CWP No.21842 of 2015 (Punjab and Haryana HC).

p.m., husband of the petitioner threw acid on her face and other parts of the body. She suffered severe burn injuries. FIR was registered for Attempt to murder⁵⁶, House trespass, Criminal intimidation, Criminal Conspiracy⁵⁹ of Indian Penal Code at Police Station, Hisar. Her husband has been convicted by the Additional Sessions Judge, Hisar for under Attempt to murder House trespass⁶¹, Criminal intimidation⁶² under Indian Penal Code and was sentenced for a period of 7 years. The petitioner moved an application to the Additional Sessions Judge, Hisar for compensation in order to meet medical expenses and future treatment etc., which was referred to the District Legal Services Authority, Hisar. The said authority observed that the petitioner has already received Rs. 50,000/- from the State of Haryana and was, thus, awarded another Rs. 25,000/- besides Rs. 15,000/- towards medical expenses.

The respondents have filed reply dated 05.03.2016, in which it is categorically averred that though the petitioner is a victim of acid attack prior to the notification dated 02.05.2011 and has been availing the treatment from Sony Burn and Plastic Surgery Hospital, Hisar, which is not a government approved hospital, but relaxation has been granted by the Government by taking a sympathetic view, holding the petitioner eligible as an acid attack victim after 02.05.2011 and the hospital from where she has been taking treatment as a Government approved hospital. The respondents have also averred that the District Level Committee has forwarded the bills for medical reimbursement of `2.16 lacs, which have been approved by the competent authority and the petitioner has been asked for the bank account number so that the said amount can be deposited in her account. It is also averred that any future medical bills, if submitted by the petitioner, would be reimbursed by the department.

The acid attack is dated 01.12.2010 and the Government of Haryana formulated a scheme, namely, Relief and Rehabilitation of Women Acid Victims dated 02.05.2011 to provide ad-hoc relief, medical reimbursement and rehabilitation services to the women who are the victims of acid attacks by the Women and Child Development Department. The eligible beneficiaries, as per this scheme, are only the victims who have faced acid attack after the launching of the scheme and it would cover all girls/women acid victims residing in Haryana. In this scheme of 2011, the financial assistance was provided of an amount of `25,000/- by the concerned Deputy Commissioner/SDM as ad-hoc relief to the victim in the hospital after lodging the FIR and 100%

reimbursement of the complete medical treatment including plastic surgery, if any, provided the surgery is under taken at PGI, Rohtak/Chandigarh and AIIMS, New Delhi.

The scheme dated 02.05.2011 was amended/re -notified on 09.01.2013, in which the eligibility criteria remained the same but the financial assistance was provided are as follows:

1. An amount of Rs.25,000/- is to be provided by the concerned Deputy Commissioner/SDM as adhoc relief to the victim at the earliest after lodging the FIR which would be reimbursed from Women & Child Development Department, Haryana.
2. Where death of the victim occurs the Board shall on the facts and circumstances of the case, pay a lump sum of Rs.5,00,000/- to the legal heir (the children of the deceased if she has any so as to protect the interest of the child). This would be in addition to any expense incurred towards the treatment of the victim.
3. The 100% medical reimbursement of all treatment including plastic surgery if any is allowed to a victim of acid attack from amongst the hospitals approved by the Government of Haryana under the Category of —All disease and —Artificial Appliance. The amendments and the deletion/addition of Hospitals made by the Government from time to time would also be automatically be applicable under the scheme also. Provided the surgery is undertaken at PGI, Rohtak/Chandigarh and AIIMS, New Delhi.

The scheme dated 09.01.2013 was again modified by scheme dated 16.01.2014, in which the financial assistance was provided as as follows:

a. the victim shall be paid compensation by the concerned DC/SDM, as after care and rehabilitation cost, under the Haryana Victim Compensation Scheme of Home Department notified dated 03.04.2013. The compensation shall be made as per the following schedule:

Particular of Loss or Injury Maximum Limit of Compensation Acid attack involving, defacement, Rs.3.00 lacs loss of limb or part of body and plastic surgery.

Acid attack not involving, defacement, Rs.50,000/- loss of limb or part of body and plastic surgery Out for the amount of Rs.3.00 lacs, a sum of Rs.1.00 lakh shall be paid to

such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government) as adhoc relief to facilitate immediate medical attention and expenses in this regard. The balance sum of Rs.2 lakhs shall be paid as expeditiously as may be possible and positively within two months thereafter.

Further, the scheme dated 16.01.2014 was amended by notification dated 25.03.2016, in which besides the eligibility criteria, it is also provided that it would apply to all the victims of acid attack after 02.05.2011 —where the Acid Victim has not been finally cured and all process over such victim shall be considered due to continuing cause of action and in the rehabilitation part, the following provisions have been made:-

According to the Court doubt that the petitioner had suffered acid attack before the scheme was initially notified on 02.05.2011 as per which the petitioner was not eligible and she has taken treatment from a hospital which is also not approved by the Government. However, the respondents have relaxed the eligibility criteria, considered the petitioner eligible in terms of the scheme dated 02.05.2011 which provides that the scheme would be applicable to the acid attack victims who have faced the attack after launching of the same.

The court gave the following reliefs to the victim:

Reimbursement of Bills: The hospital from where the petitioner is taking the treatment, namely, Soni Burn and Plastic Surgery Hospital, Hisar has also been approved and the actual medical bills of Rs. 2.16/- lacs have been ordered to be reimbursed besides reimbursement of the future medical bills but insofar as the medical bills, which have not been submitted by the petitioner, cannot definitely be reimbursed.

Financial Assistance/ Compensation: Insofar as the financial assistance is concerned, it is recorded in the order of the Secretary, District Legal Services Authority, Hisar that Rs. 50,000/- have already been paid to the petitioner besides Rs. 25,000/-. The petitioner has, thus, received Rs. 75,000/- towards compensation. As per the scheme dated 16.01.2014, the persons like the petitioner would be entitled to Rs. 3,00,000/- as maximum compensation under the Haryana Victim Compensation Scheme of Home Department notified on 03.04.2013. Hence, in any case,

the petitioner is entitled to the amount of Rs. 3,00,000/- because of defacement caused by the acid attack. However, in Parivartan Kendra's case there was an acid attack on two sisters, out of whom, one suffered 28% burns on her body and 90% on her face because of which she had to undergo several surgeries and many more corrective and curative surgeries for her treatment. In that case, the Supreme Court awarded `10 lacs to the victim and Rs. 3,00,000/- to her sister who received less burn injuries than her sister/victim. Although there is no straight-jacket formula but keeping in view that fact that the present petitioner has suffered 40% burn injury on her face etc., as against the victim in Parivartan Kendra's case in which the victim was awarded compensation of Rs. 10 lacs, the Court is of the considered opinion that the petitioner in this case shall be entitled to compensation of Rs. 6,00,000/- in all, which has to be paid by the Government.

Rehabilitation: In regard to rehabilitation, it is provided in the scheme dated 25.03.2016 that a monthly financial assistance of `8,000/- would be given to the acid attack victims who would come within the definition of disability under Section 2(i) of the Persons with Disabilities (Equal Opportunities Protection of Rights of Full Participation) Act, 1995 which should be paid by the Social Justice & Empowerment Department, Haryana. It is, thus, ordered that in case the petitioner is also covered by the said definition of Section 2(i) of the aforesaid Act, then she should be given monthly financial assistance of Rs. 8,000/-. It is also ordered that if the petitioner, after having recovered, applies for allotment of fair price shop, the Food and Supply Department, Haryana shall give preference to her in that matter, as provided in the scheme dated 25.03.2016.

Renu Sharma v. Gnet of Delhi and Ors.¹⁰²

This writ petition is filed by an acid attack victim seeking compensation of at least Rs. 50 lacs. Petitioner further seeks a direction to the respondents to reimburse petitioner's medical expenses. Petitioner also seeks a direction to respondent to provide a government job of not less than a Grade II officer to either the petitioner or one of her family members. It has been averred that acid was thrown on the face of the petitioner on February 15, 2006 as the accused was asked to vacate the house of the petitioner's father. Despite undergoing various surgeries, petitioner is now completely blind and needs constant treatment. It is averred that petitioner's family has

¹⁰² Writ Petition (Civil) 2229/2016 (Delhi HC).

already spent Rs. 25 to 30 lacs on her surgeries and it is difficult for the petitioner's family to bear any further cost. Though learned counsel for petitioner admits that petitioner has been paid Rs. 3 lacs by the Delhi Legal Services Authority, he contends that the compensation is grossly inadequate. In support of his contention, he relies upon judgment of the Supreme Court in *Parivartan Kendra v. Union of India and Others*.¹⁰³ The Counsel for Govt. of NCT of Delhi handed over in the Court the proposed Delhi Victims Compensation Scheme 2015 which has been approved by the Government of NCT of Delhi but awaiting approval of the Central Government. He has drawn this Court's attention to specific provision of the Scheme which deals with interim relief to an acid attack victim which is reproduced hereinbelow-

13. Interim Relief to the Victim:

Provided further that in cases of acid attack a sum of Rs. One lakh shall be paid to the victim within 15 days of the matter being brought to the notice of DSLSA/DLSA. The order granting interim compensation shall be passed by the DSLSA/DLSA within 7 days of the matter being brought its notice and the DSLSA shall pay the compensation within 8 days of passing of order. Thereafter an additional sum of Rs.2 lakhs shall be awarded and paid to the victim as expeditiously as possible and positively within two months.

In the opinion of this Court, the State owes a duty to provide free medical treatment to acid attack victims. This Court is further of the opinion that ceiling of expenditure of Rs. 7 lacs on medical treatment may be arbitrary and unreasonable in some cases. If more than Rs. 7 lacs is spent on treatment of an acid attack victim, the respondents cannot take the stand that they would not spend more than the ceiling amount. Further, as petitioner requires medical treatment even in future on regular basis, this Court asked learned counsel for petitioner and respondents to suggest a government hospital where the petitioner would like to be treated.

Judgement: Interim orders: Keeping in view the aforesaid, the Court passes the following interim directions:

¹⁰³ 2016(1) RCR (Criminal) 336.

- (i) The Lok Nayak Jai Parkash Hospital, Delhi, is directed to provide free medical treatment to the petitioner. Cost, if any, for the petitioner's treatment at hospital shall be borne by the Govt. of NCT of Delhi.
- (ii) Govt. of NCT of Delhi is directed to provide employment to the petitioner on compassionate basis appropriate to her educational qualification as well as medical status.
- (iii) Petitioner's medical bills up till date are directed to be scrutinized by an officer appointed by Finance Secretary of Govt. of NCT of Delhi. The medical bills found to be genuine are directed to be reimbursed to the petitioner. As stated hereinabove, the ceiling of Rs. 7 lacs mentioned in Govt. of NCT of Delhi circular shall not come in the way of the State reimbursing the petitioner's medical bills —on actual basis. Also if the petitioner is entitled to any further interim relief, the same may be granted to her by the State in accordance with its policies.

Sri Behari Maiti v. The State of West Bengal & Ors.¹⁰⁴

The petitioner is a victim of acid attack and had suffered serious injuries for which he was required to undergo medical treatment including skin grafting. It has been argued on behalf of the State that the petitioner is entitled to get compensation of Rs.50,000/- in view of Victim Compensation Scheme notified on November 1, 2012. Relying on the Apex Court's decision in the case of Laxmi v. Union of India, Mr. Chatterjee, learned Counsel appearing for the petitioner, submits that compensation payable to a victim of acid attack cannot be less than of Rs.3,00,000/-

Admittedly the petitioner had suffered loss of sight in one eye as well as other extensive injuries due to acid attack. Accused persons have been convicted in the criminal case arising out of the incident of acid attack upon the petitioner. The Court, accordingly, direct that the acid attack victims shall be paid compensation of at least Rs.3 lakhs by the State Government/Union Territory concerned as the aftercare and rehabilitation cost. Of this amount, a sum of Rs.1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government/Union of Territory) to facilitate immediate medical attention and expenses in this regard. The balance sum of Rs.2 lakhs shall be paid as expeditiously as may

¹⁰⁴ Writ Petition (W) 13906/ 2016 (Calcutta HC).

be possible and positively within two months thereafter. The Chief Secretaries of the States and the Administrators of the Union Territories shall ensure compliance with the above direction.

Manjit Kaur v. State of Punjab And Ors.¹⁰⁵

In this case the petitioner, who has lost both her eyes in an acid attack, seeks for compensation and rehabilitation. The State has itself come with a reply giving the information about the notification issued on 17.6.2013 issued by the Government of Punjab, Department of Home Affairs and Justice, that a victim of acid attack in the case of disfigurement shall be given compensation of Rs. 3 lakh. There is a case where the petitioner is reported to have suffered 100% loss of vision of both the eyes. The Court directed the respondents to release compensation of Rs. 3 lakh, as provided under the Scheme.

Sri Debaprasad Halder v. The State of West Bengal & Ors¹⁰⁶,

The petitioner is a victim of acid attack and had suffered loss of sight in one eye. He was also required to undergo medical treatment including surgical procedure for repair of the wounds suffered by him. It has been argued on behalf of the State that the petitioner is entitled to get compensation of Rs. 50,000/- in view of the schedule appended to the Victim Compensation Scheme notified on November 1, 2012. Relying on the Apex Court's decision in the case of Laxmi v. Union of India & Ors, Mr. Srivastava, learned Counsel appearing for the petitioner, submits that compensation payable to a victim of acid attack cannot be less than of Rs. 3,00,000. Question which falls for decision in this writ petition is whether the petitioner is entitled to get compensation under the Victim Compensation Scheme under the Code of Criminal Procedure⁶⁸ and, if so, to what extent. Relying on Laxmi v. UOI and Sabana Katun's case, this writ petition was disposed of directing the respondent authorities more particularly, the Chief Secretary of the State of West Bengal to pay a total sum of Rs. 3,00,000/- to the writ petitioner, an acid attack victim, and out of the said amount a sum of Rs. 1,00,000/- be paid within fifteen days from the date of communication of this order and thereafter the balance amount be paid within two months thereafter as prescribed by the Apex Court in its order passed in connection with Laxmi v. Union of India & Ors. In the event the payment schedule is not

¹⁰⁵ Civil Writ Petition 4018 of 2013 (Punjab & Haryana HC)

¹⁰⁶ Available at: <https://indiankanoon.org/doc/182781456/>. (Visited on February 2, 2016)

adhered to by the respondent authorities the amount shall carry interest of 15 per cent per annum from the date of accrual of liability till the date of payment.

Death Penalty: Preeti Rathi's Case

Preeti, a nursing graduate from Delhi, had landed at Bandra terminus in Mumbai by Gareeb Rath Express where some unknown assailant threw acid on her face. The attacker patted on her shoulder from behind and as she turned, he threw acid on her face. No one could catch him despite the station being crowded and he succeeded in escaping. 23-year-old Preeti had stepped in Mumbai for the first time to join the Colaba Naval Hospital _INS Ashwini' as a staff nurse, her first job. She passed away on June 2, after battling for her life for a month. Parts of her throat and lungs had been destroyed after she accidentally swallowed the acid sloshed across her face. Her statements later published in local newspapers, though full of grief at her current plight, also emphasised the centrality of the means of livelihood to a woman's life. Even when she was battling for her life, her first thought on gaining consciousness was about her job, safety of her younger sisters and concern for her parents' health. Before slipping into coma she scribbled on a paper not to shift her to a bigger hospital as it would be expensive. That was the last conversation she had with her father, it shows her concern for her middle class parents¹⁰⁷.

Ankur Panwar was arrested a year later. The accused, Ankur Panwar, a hotel management graduate, lives next door to the Rathis in the Bhakra Beas Management Board (BBMB) Colony in New Delhi. Police officers claimed that he had confessed to have procured concentrated sulphuric acid from a workshop near his residence. He also told the police that he travelled to Mumbai in the same train as the Rathi family and attacked Preeti as she alighted at the Bandra Terminus station. After the attack —He did not go to his parents' home, but headed to the home of a cousin in Gurgaon. He lied to his parents that he had gone to Haridwar for a job interview at a hotel, said Himanshu Roy, Joint Commissioner of Police, Crime. He added Panwar was employed at a hotel in Ahmedabad at the time of the arrest¹⁰⁸.

Panwar was allegedly spotted in the CCTV footage of the Nizamuddin Railway Station. The police said he was jealous of Ms Rathi's success and frustrated by his family goading him about

¹⁰⁷ Sudha Arora, —Acid Attacks and the rhetoric of love , The Tribune, Chandigarh, 9 (June 5, 2013).

¹⁰⁸ Available at: <http://indianexpress.com/article/mumbai/cops-claim-to-crack-murdermystery-with-arrest-of-hotel-mgmt-graduate/>, (visited on March 25, 2017).

being unemployed while lauding Ms Rathi as a success. So he allegedly took the same train to Mumbai that the Rathis were on, attacked the young woman, and then boarded another train departing Mumbai.

Ankur Panwar had thrown acid at Preeti because he was jealous of her as his father often compared him with her. Ankur, who has a diploma in catering from a Bhubaneswar college, was then unemployed, while Preeti had just got a job at the Army Medical College in Colaba as a nurse. Out of jealousy and anger, Ankur decided to disfigure her and he attacked her in brutal manner by throwing acid on her. Apart from Rathi, her aunt Sunita and a passerby too sustained injuries in the attack¹⁰⁹.

In the landmark judgement on September 9, 2016, special women's Court judge A.S. Shende sentenced 25-year-old Ankur Panwar to death for a fatal acid attack on 23-year-old nurse Preeti Rathi at Bandra terminus in May 2013. The Court also imposed a fine of Rs 5000 on Panwar and directed that it be given to parents of the victim. This is the first time that a convict in India has been sentenced to death for an acid attack. India is also only the second country, after Bangladesh, to have done so. Under Bangladesh's Acid Crime Suppression Act, attackers can be sentenced to death.

'A strong message needs to be sent to the miscreants of such crimes against women that such crimes shall not be tolerated recorded a special women's Court. This crime is first of its kind in India Judge Anju S Shende, said on her last day at the City Civil and Sessions Court. —If the rising trend towards such crime is not checked at its inception, it will have monstrous effects on society, and soon it will spread widely.

In a 150-page order, the Court said, —Without a shadow of doubt, this (crime) falls in the category of the rarest of the rare case. The incident is extremely gruesome, revolting, and horrifying. This Court is not in the knowledge of any case in which a crime of this nature has been committed and the accused is sentenced, till date.

Therefore, deterrent punishment is the need of the hour. Being fully aware of the nature of the death penalty, the Court has reached the conclusion to award the death sentence to the accused.

¹⁰⁹ Available at: <http://timesofindia.indiatimes.com/city/mumbai/7-months-on-jealousneighbour-held-in-Bandra-acid-attack-case/articleshow/28970361.cms>, (visited on January 20, 2014).

Drawing a parallel with rape, the Court said, —The height of brutality in acid attacks was more than those in cases of rape. Rape destroys the soul of the victim. But she can be kept in isolation, without disclosing her identity, and can be rehabilitated. But for an acid (attack) victim, she has to move around with a destroyed body.

‘Preeti survived for 30 days because she did not know how she looked; she was blind. She had no idea of the effect of the attack on her face. Survivors of acid attacks look like aliens-their own children can get scared of them. This is the kind of effect acid has on the body, and a person cannot live without their body.

The Court then ordered, —The accused is to be hanged by neck, till he is dead, subject to the confirmation of the Bombay High Court.

Before 2014, the Courts hasnot given satisfactory punishment to the offenders or compensation to the victims. But after 2014, the Courts has started to give enhanced punishments and compensation. The Supreme Court has given various directions and strong decisions in latest cases. The mosr important directions are to regulate the sale of acids, all the public and private hospitals to provide first aid treatment free of cost to the survivor, compensation, include acid attack survivors in disability list etc. Post-Laxmi’s case, the Courts have given stricter punishments to the offenders and good amount of compensation to the victims as relief. In the landmark case of Preeti Rathi, the Court has awarded death penalty to the offender. It is an important against such a heinous crime. Therefore, to curb acid attacks on women, harsh punishment should be given to the offenders.

CHAPTER 6

Uncivilized and Heartless Crime: SC Enhances Compensation to Acid Attack Victim

Himachal Pradesh v Vijay Kumar Supreme court held about acid attack crime that a crime of this nature does not deserve any kind of clemency.

To start with, the Supreme Court which is the highest court of our nation has most recently on March 15, 2019 in an extremely laudable and landmark judgment titled State of Himachal Pradesh & Anr v Vijay Kumar alias Pappu & Anr in Criminal Appeal No(s). 753 of 2010 has minced just no words in stating clearly and convincingly about acid attack crime that a crime of this nature does not deserve any kind of clemency. It is the most uncivilized and most heartless crime and this even the top court has acknowledged for which there cannot be any justification of any kind. The Apex Court also directed the two convicts to pay Rs 1,50,000 each as compensation to acid attack victim.

First and foremost, the ball is set rolling in para 1 by penning down in this commendable and noteworthy judgment authored by Justice Ajay Rastogi for himself and Justice AM Khanwilkar that, "The challenge in this appeal is against the judgment of the Division Bench of the High Court of Himachal Pradesh at Shimla dated 24th March, 2008 filed at the instance of the State of Himachal Pradesh whereby the High Court was pleased to partially allow the appeal filed by the respondents and altered the nature of offence from one under Section 307/34 IPC to one under Section 326 IPC and reduced the sentence of 10 years rigorous imprisonment and fine of Rs. 5,000/- each to 5 years rigorous imprisonment and increased the fine to Rs. 25,000/- each and in default, to undergo further imprisonment of six months.

For the uninitiated, the background is then chalked out in para 2 wherein it is pointed out that, "In the instant case, the victim has suffered 16% burn injury which was caused due to acid attack on the darkest day of her life, i.e. on 12th July, 2004. To unfold the prosecution version in nutshell that, on 12th July, 2004 at about 9.00 a.m. PW-13 Shami Verma resident of Mashobra, who was present at BCS at Khalini-Dhalli By-Pass saw PW-5 Kumari Ishita (victim) crying with burn injuries, who had jumped into the water tank nearby. PW-13 Shami Verma took out PW-5

Kumari Ishita-victim from the tank and informed to the Police Post, New Shimla, that a girl with burn injuries was present near her residence and this information (Exhibit PR) was recorded by the Incharge of the Police Post, New Shimla, who deputed a police officer on wireless set to go to the site. PW-36 Shakuntla Sharma went to the site and shifted the victim to the hospital and recorded her statement on which a case was registered. During investigation, PW-5 Kumari Ishita (victim) stated that when she was going to college, two boys came on a scooter and threw some acid over her from a jug and run away from the spot. After investigation, challan was filed against both the accused respondents who were tried by the learned trial Court leading to their conviction which convicted them for offence under Section 307/34 IPC and sentenced them to undergo rigorous imprisonment of 10 years with a fine of Rs. 5,000/- each by judgment dated 30thNovember, 2005 which came to be challenged by them in appeal before the High Court of Himachal Pradesh.

As it turned out, para 3 then states that, "Taking note of the chemical burns caused by sulphuric acid of around 16% which is evident from the report of Dr. Piyush Kapila (PW-2), Department of Forensic Medicine, the High Court arrived at the conclusion that the offence under Section 307/34 IPC was not made out and converted the offence from Section 307/34 IPC to Section 326 IPC and sentenced them for a period of 5 years rigorous imprisonment with a fine of Rs. 25,000/- each vide impugned judgment dated 24th March, 2008.

Needless to say, para 4 then brings out that, "The accused respondents have accepted the conviction and have undergone their sentence in terms of the judgment impugned dated 24thMarch, 2008 and have deposited the fine amount of Rs. 25,000/- each as informed to this Court and were released on 9thDecember, 2008 after undergoing sentence in terms of the impugned judgment.

To be sure, it is then also brought out in para 5 that, "The main thrust of the submission of the learned counsel for the appellants is that it was a case of acid attack on innocent young victim of 19 years and learned trial Court has rightly convicted the accused respondents under Section 307/34 IPC and sentenced them to 10 years rigorous imprisonment and there was no reasonable and cogent justification for the High Court to interfere with the impugned judgment of the learned trial Court dated 30thNovember, 2005 and once they had been held guilty, their alteration of punishment is uncalled for and prayed for restoring the conviction and sentence held

by the learned trial Court dated 30thNovember, 2005. Learned counsel further submitted that if this Court is not inclined to restore the conviction and sentence passed by the learned trial Court dated 30thNovember, 2005, at least the victim is entitled for compensation admissible under the law.

On the contrary, it is then pointed out in para 6 that, "Learned counsel for the respondents has supported the judgment of the High Court dated 24thMarch, 2008 and submitted that the respondents were young at the given point of time on the date of incident dated 12th July, 2004 and looking into the chemical burns of 16% which the victim had suffered, by no stretch of imagination, it could be considered to be a case of Section 307 IPC of committing an attempt to murder. Further, in the given facts and circumstances, it was not even a case of Section 326 IPC but they have accepted the wrong which had been committed by them and after undergoing sentence in terms of the impugned judgment, both were released on 9th December, 2008 and there is no justification to restore the conviction and sentence awarded by the learned trial Court dated 30thNovember, 2005. In support of his submission, reliance is placed on the judgment of this Court in Sachin Jana and AnotherVs.State of West Bengal 2008(3) SCC 390 and submitted that it was a case where the victims suffered more than 50% burn injury caused due to acid and the conviction was under Section 307 IPC and yet this Court had reduced the sentence to 5 years rigorous imprisonment with fine of Rs. 25,000/-."

Simply put, para 7 then states that, "In this background, the question for consideration is whether the imposition of sentence by the High Court is proportionate to the crime in question and whether the victim is entitled to what has been awarded under the impugned judgment."

On the one hand, para 8 points out that, "Learned counsel for the appellants submits that by no stretch of imagination, the period undergone, can be regarded as appropriate for the offence under Section 326 IPC and definitely not when there is acid attack. She submitted that there may not be any misplaced sympathy and exhibition of unwarranted mercy to pave the path of injustice to the victim.

On the other hand, para 9 then discloses that, "Learned counsel for the respondents submitted that the incident has happened long back on 12thJuly, 2004 and by this time, the victim as well as the respondents have been living their individual lives and respondents have undergone the

sentence passed and were released on 9th December, 2008. They are leading a reformed life and after a long lapse of time, to send them to custody would tantamount to a gross injustice to them.

What's more, para 10 then envisages that, "The two-Judge Bench of this Court in Sachin Jana and another's case (supra) where the accused persons faced trial for offence under Sections 148, 323, 324 and 307 read with Section 149 IPC on account of 50% burn injury which was caused due to acid attack were convicted by the High Court for offence under Section 307/34 IPC but their custodial sentence was reduced to 5 years and a fine of Rs. 25,000/-.

The relevant extract is as under:-

"9. It is to be noted that three persons suffered injuries on account of acid poured on them. The doctor had indicated that each of the injured persons suffered more than 50% burn injury which was caused due to acid and the same was sufficient to cause death if not attended by medical aid at appropriate time.

12. When the evidence on record is analysed, it is clear that Section 307 read with Section 34 IPC has clear application. The acid burns caused disfigurement.

13. Considering the nature of dispute the custodial sentence is reduced to 5 years. However, each of the appellants is directed to pay a fine of Rs. 25,000. If the amount is deposited by the appellants within six weeks from today, out of each deposit, Rs. 10,000 shall be paid to each of the victims PWs 1, 2 and 3: in case the amount of fine imposed is not deposited, the default custodial sentence of one year each".

Going ahead, the Bench then stipulates in para 11 that, "The matter in reference to the victim suffered due to acid attack was further considered by a two-Judge Bench of this Court in Ravada Sasikala Vs. State of Andhra Pradesh and Another 2017 (4) SCC 546 where learned trial Court convicted the accused person under Section 326 and 448 IPC and sentenced him to suffer rigorous imprisonment for one year and directed to pay a fine of Rs. 5,000/-. The High Court while confirming the conviction under Section 326 IPC released the accused to the period which he had already undergone of 30 days which came to be interfered by this Court and the punishment and sentence of one year under Section 326 IPC was restored. But while doing so,

this Court also ousted the compensation which the victim may be entitled for under Section 357 and Section 357-A of the Code of Criminal Procedure, 1973 (hereinafter referred to as "CrPC")."

It is most heartening to note that it is then very rightly noted in para 12 without mincing any words that, "Indeed, it cannot be ruled out that in the present case the victim had suffered an uncivilised and heartless crime committed by the respondents and there is no room for leniency which can be conceived. A crime of this nature does not deserve any kind of clemency. This Court cannot be oblivious of the situation that the victim must have suffered an emotional distress which cannot be compensated either by sentencing the accused or by grant of any compensation."

Delving deeper, it is then held after considering all the points in para 13 that, "After going through the material on record, we are of the considered view that the accused respondents have rightly been held guilty and their conviction under Section 326 IPC and sentence for 5 years at least needs no interference but at the same time, we are disposed to address on victim compensation which may at least bring some solace to the victim for the sufferings which she had suffered."

While referring to past leading and relevant case laws, it is then held in para 14 that, "In Ankush Shivaji Gaikwad Vs.State of Maharashtra 2013 (6) SCC 770, a two-Judge Bench of this Court referred to the amended provision, 154th Law Commission Report that has devoted entire chapter of victimology, wherein the emphasis was on the victim.

Continuing in the same vein, para 15 then states that, "In Laxmi Vs. Union of India and Others 2014 (4) SCC 427, this Court observed that Section 357-A came to be inserted in the Code of Criminal Procedure, 1973 by Act 5 of 2009 w.e.f. 31st December, 2009 which, inter alia, provides for preparation of a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation. This Court further directed that acid attack victims shall be paid compensation of at least Rs 3 lakhs by the State Government/Union Territory concerned as the aftercare and rehabilitation cost.

Not stopping here, it is then held in para 16 that, "In State of M.P. Vs.Mehtaab 2015(5) SCC 197, this Court directed the compensation of Rs. 2 lakhs noticing the fact that occurrence took

place in 1997 and it observed that the said compensation was not adequate and accordingly, in addition to the said compensation to be paid by the accused, held that the State was also required to pay compensation under Section 357-A CrPC and reliance was placed on the decision in *Suresh Vs. State of Haryana 2015(3) SCC 227.*"

Moving on, it is then unfolded in para 17 that, "Victim Compensation Scheme has been considered by this Court in *State of H.P.Vs.Rampal 2015 (11) SCC 584* and this Court opined that compensation of Rs. 40,000/- was inadequate taking note of the fact that the life of young child aged 20 years was lost and taking note of the precedents observed that in the interest of justice, the accused is required to pay a sum of Rs. 1 lakh and the State to pay a sum of Rs. 3 lakhs as compensation."

Most importantly, it is then held in para 18 that, "Taking note of the precedents of which reference has been made, we consider it appropriate to observe that both the accused shall pay the additional compensation of Rs1,50,000/- (Rupees One Lakh and Fifty Thousand) each and the State of Himachal Pradesh shall pay the compensation as admissible under the Victim Compensation Scheme as in vogue to the acid victim (*Ishita Sandhu, D/o Late Shri Rikhi Ram Sandhu*) (Appellant No. 2). If the accused does not pay the additional compensation amount of Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand) each within six months, the defaulting accused shall suffer rigorous imprisonment of six months. The State shall deposit the compensation before the trial Court within three months from today and the learned trial Court, after proper identification of the victim, disburse at the earliest."

To put things in perspective, para 19 then enunciates that, "The impugned judgment of the High Court stands modified and the appeal is accordingly disposed of. Lastly, it is held in para 20 that, "Pending application(s), if any, stands disposed of."

No doubt, it is an exceptional, elegantly written and excellent judgment which will send the right, loud and clear message to one and all that acid throwing will not be taken lightly under any circumstances and the accused should be prepared not just to suffer jail sentence but also pay huge penalty as fine! No justification by accused of any kind would be able to stand scrutiny before the court! The State Government must ensure that it deposits the compensation before the Trial Court within three months and the learned trial Court after proper identification of the

victim disburse it at the earliest! It merits no reiteration that all the courts from top to bottom must always ensure that acid throwing is not taken lightly ever and accused as we see in this landmark case are made to pay heavily so that it acts as a suitable deterrent to others from indulging in such wanton and despicable acts!

CHAPTER 7

CONCLUSION AND SUGGESTIONS

Violence against women affects the women of all races, classes, religions and ethnic, groups and nationalities. Acid violence is a life threatening problem for every women. It is the most heinous form of violence against women which not only affects the physical appearance of the women but also the whole life of the victim because it haunts her psyche throughout life. The victim of acid violence have to face life time physical, social, psychological and economic consequences. The victim has to go through various medical complications which are long lasting. The victim's face is the main part of the body which the perpetrator wants to spoil. The aim of the perpetrator is to make the face of the victim ugly. The victims have to go through various painful surgeries but their medical complications never ends there. Even after surgeries, they never get their original look of the faces back. In some cases some acid attack results in blindness. Her eyesight is lost and she becomes wreck throughout life just because she is a woman. Acid does not kill the victim but it is worse than killing because the victim becomes psychologically wreck. Thus making the life of the victim, a hell. The incident makes the life of victim wretched one. The victim has to face social, psychological, social, and economic and various other problems¹¹⁰.

Violence against women is a demonstraion of historical inequality between men and women. The acid violence is related to the patriarchal society and primarily male mindset. In India the boys are brought up like a king and the girls are not given such a treatment while bringing them up. Women are ill-treated, humiliated, tortured and exploited in every possible way. The problem starts from the beginning of the life of a boy and a girl. When a male child is born, it brings happiness in Indian society but when a girl child is born, sometimes even the mother is not happy and curses herself for not giving birth to a son.it is all because of feudal mindset of the society. But sometimes the situation is even worse when the girl child is killed before birth. Female feoticides renders the girl child a victim of the gender-rooted prejudice. It means that our society gives importance to male child over female child and it results in gender inequality.Though, the amendment has been made in Indian laws that woman too has right in the property, but still it in not acceptable by over society. The people think that only a son can get spiritual benefits for

¹¹⁰ For more detail see Chapter 1 of the Study

them. The harsh example of such mindset is acid attack on Geeta and her two daughters by her own husband just because Geeta has given birth to two girls. Geeta's husband wanted a boy child because of his sick mindset that boys are assets and girls are a burden just for the want of a boy, he killed his one daughter by pouring acid on her, another daughter (Neetu) got blind in childhood due to acid and is living a painful life. Geeta herself is living with scars and pain. This sickness was not over yet. Ever after the heinous attack Geeta and Neetu are living with Geeta's husband because they need a man to support them in Indian society.

Acid attacks is prevalent over the whole world including Australia, Bangladesh, Cambodia, China, El Salvador, Ethiopia, Italy, Laos, Malaysia, Nepal, Pakistan, Sri Lanka, Thailand, Uganda, UK, USA, and Vietnam. In most of the countries the reason of such crimes are patriarchal society, refusals of a relationship or marriage proposal, dowry , marital disputes, family disputes, political rivalries, land disputes etc. There are various International conventions and treaties, such as Universal Declaration of Human Rights, 1948, International Covenant on Civil and Political Rights, 1966, International Covenant on Socio, Economic and Cultural Rights, 1966, and Convention on Elimination of all forms of Discrimination against Women, 1979 etc., which are relevant in the context of acid attacks and regulates such incidents. Various countries has made some policies , laws or rules to combat such crimes but Bangladesh is the only contry which has enacted strict policies and very purposeful laws which proved to be successful to combat such a heinous crime¹¹¹.

The Constitution of India provides various provisions for equal rights and opportunities for both men and women. It also contains special provisions which protects women and give her special rights. The provisions of the Constitution manifest great respect for human dignity, equality and non-discrimination. The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles and other headings. The Constitution grants equality to women as well as empowers the State to adopt measures provide special rights to women. Although Indian Constitution has no specific provisions relating to acid violence but above mentioned provisions provides protection against such inhuman acts.

¹¹¹ For more detail see Chapter 3 of the Study.

Till 2013 there was not any specific law in India to deal with a cases of acid attack. The cases were tried under the Section 326 which deals with grievous hurt. But this law was not sufficient as it failed to cure the crime acid attacks. Then, the 226th Law Commission of India proposed the insertion of new Section 326A and 326B into the Indian Penal Code and Section 114 in the Indian avoidance act. Section 326A lays down the punishment for acid throwing. The minimum punishment is 10 years imprisonment and may extend up to life imprisonment with fine. Section 326B makes the attempts of acid throwing punishable with the imprisonment which shall not be less than five years but which may extend to 7 years, and shall also be liable to fine.

There are numerous other statutory provisions in India under Indian Evidence Act, 1872, The Poisons Act, 1919, Code of Criminal Procedure, 1973, The Protection of Human Rights Act, 1993, Prevention of offences (by Acids) Act, 2008, NALSA(Legal Services to victims of Acid Attacks), Scheme, 2016, which can be utilized to afford protection against acid attacks¹¹².

Compensation is very important part of providing justice to the victims. So, the States have come up with a Victim Compensation scheme with variations from one state to another in the amount of compensation. The Central Victim Compensation Fund scheme is aimed at harmonizing the state schemes with a minimum fixed amount of compensation for victims of various crimes.

The Indian Judiciary acts as the guardian of the rights of the people in the country. Prior to the Criminal Law Amendment Act, 2013, the offenders of crime of acid attack were not effectively prosecuted. The cases were registered under different sections of the Indian Penal Code, particularly under Hurt, Greivous Hurt, Greivous Hurt by corrosive substances, attempt to murder and murder. Compensation given was grossly inadequate. But after the amendment the courts changed the attitude towards the crime of acid attack especially after the landmark case of Laxmi v. Union of India (2013) .Judiciary has played important role by giving various directions to the States and UT's in this case. The Court has given guidelines regarding compensation, medical treatment and many more guidelines to curb acid attacks. The most important one is the direction to regulate the sale of acid¹¹³.

¹¹² Ibid.

¹¹³ For more detail see Chapter 5 of the study.

It is observed that the problem of acid violence is so big that it forces the poor women to live in the four walls. Due to poverty the victim is not treated ontime. They have to bear pain without any medical help. The Supreme Court of India has considered the poverty and medical problems faced by acid attack victims. To provide the proper medical facilities and treatments, the SC has made directions to provide medical assistance to the victims and even the private hospitals are bound to provide free medical treatment to such victims.

Delhi, which is the capital of India, is developing in various aspects but with all such developments the crime rate is also rising. Delhi UT has reported the highest crime rate against women (184.3) compared to 56.3 at all India level during the year 2015. Again Delhi has registered the maximum number of cases murder (464) and attempt to murder (674) cases during 2015. incidents of rape were also highest in Delhi (1,893) during 2015. Delhi has witnessed highest number of cases of acid attacks among UT's. 12 cases were reported In Delhi 12 cases were reported out of 83 total cases all over India in 2011. In 2012, the number of such incidents were 8. In 2013 it raised to 15 out of 66 i.e. 23% of the total cases. The number of acid attacks were 20 in the year of 2014 and 21 in the year of 2015.

The harsh example of patriarchal society is acid attack on Geeta and her two daughters by her own husband just because Geeta has given birth to two girls. Geeta's husband wanted a boy child because of his sick mindset that boys are assets and girls are a burden just for the want of a boy, he killed his one daughter by pouring acid on her, another daughter (Neetu) got blind in childhood due to acid and is living a painful life. Geeta herself is living with scars and pain. This sickness was not over yet. Ever after the heinous attack Geeta and Neetu are living with Geeta's husband because they need a man to support them in Indian society.

It is observed that mostly in the cases of acid attacks there is young girl who is approached by a man for marriage, love, friendship etc. But when the girl denies his proposal the man because of his male ego is not able to accept the refusal. He is filled with anger because he has learnt thought his life that he is superior and all of his demands are to be met. He feels insulted. His sick mentality starts thinking —How dare her rejecting me?! He starts thinking to punish the girl. Thus with anger and the sickness of mind he pours or throws acid on the face and body of the girl. Acid is thrown with the thinking to teach the lesson to every girl that you do not have right to say 'no'. The girl have no right to challenge the superiority to a male. There are number of

examples in India in which the girl rejected boys' proposal and are suffering life time pain. Laxmi rejected marriage proposal and suffered the acid attack. Similarly Ruqayya, Madhu and many other innocent girls who rejected the marriage, love or other indecent advances and proposal were attacked with acid just for the reason that they dared to say —NO!. Thus women have no rights and respectful independent entity or position in our society. They are subjected to acid attacks for just trying to stand against inhuman approaches and behavior of men.¹²

Suggestions

Male child should be primed regarding gender equality from early life. The inequality is deep rooted in our society. It should be removed starting from the home itself. Each individual should make effort to change the patriarchal concept which allows male dominance and causes inequality. Both the female and male child should be treated equally. Parents should teach the children to respect each other in the childhood. Unnecessary demands of children should never be met. The boys should be taught to accept the rightful rejection so that they should be able to accept —NO! for something. Society should not allow the male mindset to trample upon the rights of the women in a democratic setup. The need of the hour is to create a human environment through consistent efforts of spreading awareness regarding human equality. Thus social mores need to be changed for the goodness of society. The need is to foster ethical value system and the thrust should be to make human being good and responsible citizen with human feeling.

Education is the best key to stop any kind of violence. The young boy and girl should be educated for gender equality. The boys should be taught that the girl is too human being and they are not servants who have to obey the instructions of males. Moreover, every girl should be educated. Every parent should provide education to their girl child equal to the son. It is observed that most of the cases of acid attacks occur among poor and uneducated people and even due to illiteracy, the victim sometimes never files any case. So, to improve such conditions, it is very important to educate every child. Just educating the child would not be sufficient. Even our education system also needs some changes. A proper anti-violence education programs should be made part of our elementary education system. In this program, both the girls and boys should be taught to respect each other's feelings. Human rights should be the main subject in the schools. The primary focus should be to change the sick mindset of patriarchal society in the mind of

each person. Girls should be given training to protect themselves. They should have knowledge how to fight back if somebody tries to attack her.

Nevertheless, the judiciary is playing a very active role in combating the crime against women but still following points are suggested by the researcher:

- (i) Acid attack victims should be given free legal aid to ensure they do not struggle to get justice.
- (ii) The criminal justice system needs to be stricter in its handling of acid attacks cases. The decision in cases like Preeti Rathi should be followed. Strict punishment should be given in cases of acid attacks and any kind of leniency should be avoided.
- (iii) The victims should be treated with Courtesy and dignity while appearing in the Court. The atmosphere of the Courts should be made comfortable for the victim. Victims have to face various physical problems. Their skin burns in heat so cool temperature should be provided. They may sometimes feel weaker to stand or sit for long time in the Court. Such discomfort should be avoided by providing required facilities.

Although, the Supreme Court of India has given the directions to regulate the sale of acid but it is still being sold freely. Example is the recent number of rising cases of acid attacks. Acid is used as a toilet cleaner. It is so cheap and easily available so it is used by many Indians because they cannot afford expensive cleansers. And moreover, acid is used in some factories also. The total ban of acid might not be possible but still the guidelines of regulation of acid should be followed strictly. Shopkeepers and other authorities should also co-operate by following the guidelines. Alternative cheap cleaning agents should be introduced. Quantity of sale should also be restricted. Acids should be sold only in diluted form and that too by fulfilling the requirements of rules laid down by the Supreme Court.

Protection officers should be appointed to deal with the threats and potential risks to women's safety to stop acid attacks. These officers should be appointed in every city. Their contact details should be displayed and published everywhere so that it would be easy for every woman to approach them.

The government has provided the compensation scheme for the victims. The victim has to face physical and economic problems after the attack. The expenses for their treatments are very high.

They have to go through numerous surgeries following medications. It is not possible to pay the fees of surgeries. The poor families are unable to bear the expenses. Moreover, the victims lose their jobs. She is unable to work after the attack. They become dependent on her family. The situation becomes even worse sometimes. Laxmi`s family faced very critical situation after the attack. Her father was in tension because of her daughter`s plight. He died due to heart attack. Her brother suffered from T.B which succumbed him to death. After this the life of Laxmi and her mother was very miserable. She was searching for a job. Many people promised her but no one provided her with a job. When the victim is the sole breadwinner for the family, compensation should be granted to the victim as soon as possible.

There is need to create a healthy environment of tolerance and sense of equality be infused into the young minds at the earlier stages of their bringing up.

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