

LAW ON FALSE ACCUSATIONS: NEED OF THE HOUR

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False accusations have been an issue since ages and its history can be traced out even in the Indian story literature, Buddhist, Jain and Hindu. These are evidences of false accusations which led to tremendous anxiety. The most widely recorded stories of false accusations were of theft and the suitable punishment for this offence during those times was death. Besides theft, adultery also contributed to false accusations and the punishment was equally severe. According to a Buddhist *sutta*, any person who wandered around during the night hours was falsely accused of either theft or adultery. The commentary states that it was likely for any person who roamed about at night would be falsely accused of a crime.³

The Dharmasastras clearly quoted that it was the duty of the king to punish the offender and that the king would go to hell in case he punished an innocent. Gautama and Manu have expressed their own views about the king's responsibility in punishing a criminal. While Gautama felt the king would assume his sin by not killing the thief, Manu, on the other hand, warned the king of the dire consequences he would have to face if he punishes a person who did not deserve to be punished.⁴

This system of punishing a person who is falsely accused has been viewed to be largely dependent on its human administrators. The kings often acted rashly and punished an innocent whenever he was brought before them, which clearly indicates the kings were very different from the impartial and ideal judges of the Dharmasutras. A number of examples of cases wherein

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³ *Dighanikaya*, Singāla Sutta, vikālacariyāya cha adinava, paragraph 249 in the online Tipitaka, www.tipitaka.org

⁴ Dharmasutras: *The Law Codes of Ancient India*, translated by Patrick Olivelle, Oxford: Oxford University Press, 1999, p. 100. Manu 8.128, *adandyan dandayan rājā dandyamscaivūpy adandayan / ayaśo mahadāpnoti narakam caiva gacchati*, p. 951, Mānava-Dharma Sastra, edited with commentaries, Vishvanath Narayan Mandlik, Mumbai: Ganpat Krishnaji Press, 1886.

innocents who have been falsely accused of various offences were punished have been cited in different sources.

In the 11th century, Saivite Somadeva in his famous collection of anecdotes entitled, *Kathasaritsagara*, highlights how an innocent merchant named Samudrasūra, was falsely punished following a false accusation of theft. He was accused of stealing a precious necklace which belonged to the princess of Kalasapura. The reality behind the necklace was that Samudrasūra found it at the sea while he was travelling to Kalaspura. The king's men recognized the necklace with Samudrasura and immediately took him to the king. In spite of explaining the king about how he found the necklace, the king refused to believe him and ordered for death sentence of the poor merchant.⁵

Kathāsaritsāgara is another story where the king awards death penalty to the father of his arch enemy named Srīdatta. His father had visited a new city and while taking bath in a tank, he had picked up a piece of cloth that was floating in the water and without realizing that there was a necklace wrapped up in it. Had he been careful about it, he would not have been mistaken as a thief. This human error had led to the false accusation and the wicked king had punished him with death. Thus, this story is another evidence which alludes to human fallibility.⁶

To highlight another example, Sudraka's most famous courtroom scene from *The Little Clay Cart*, *Mrecha katika*, act 9 which is in Sanskrit literature, also gives room for false accusation. However, in this case, the king and his court were held responsible.⁷ This play highlights how a person named Sakara falsely accused Carudatta who was a wealthy man once upon a time and the lover of courtesan Vasantasena. Sakara loved Vasantasena too but she rejected him and chose Carudatta. In a fit of rage and temper, Sakara tried to strangle her and abandoned her body in an unknown place and later he publicly accused Carudatta of her murder.⁸ Later, he proves himself

⁵ *Kathāsaritsāgara*, Delhi: Motilal Banarsidas 1970, LIV, verses 97-135, p. 273.97

⁶ *Kathāsaritsāgara*, x.62.

⁷ For an overview of judicial proceedings in early India see Mahesh Kumar Sharan Court Procedure in Ancient India, on the basis of Dharmasāstra Literature, New Delhi: Abhinav Publications, 1978. Court proceedings are described in detail in texts such as the *Brhaspatismṛti* and the *Nāradaśmṛti, vyavahārikānda*.

⁸ The play tells us that there are two types of trials, one based on the testimony of witnesses and the other based on physical evidence, *vākyānusāra* and *arthānusāra*, p. 410 in *The Little Clay Cart*, Diwakar Acharya, Clay Sanskrit Series, New York: New York University Press, 2009.

to be innocent and warns the audience that the court is a dangerous place.⁹ In this play, Carudatta strives hard to protest and prove his innocence. He strongly affirms that neither did he nor did his family ever commit a wrong. He questions the court stating that ‘if he is to be suspected for a crime, then why should he even live?’ This drew the attention of the masses when he highlighted that the king and his magistrate are responsible for this miscarriage of justice. He blames the king for punishing all those innocent people who have been falsely accused of a crime which they have never committed. He terms the king *avimrśyakāri*¹⁰ and accuses him and his counsel for killing a number of innocent people.¹¹

Samaraiccakaha is another story which cites an example of a person who is falsely accused and who does not speak in self defense just to save his friend who actually had committed theft. It is a story of two friends namely Cakkadeva, who is honest and pious; and Jannadeva who is wicked. Jannadeva steals some of the objects from a merchant’s house and stores the stolen goods at Cakkadeva’s house without informing him about the same. Cakkadeva in good faith agreed to store the goods with him. When the king ordered for a thorough investigation, the stolen goods were discovered from Cakkadeva’s house and the king ordered Cakkadeva to be expelled from the city. Although he was not guilty of the same, he was expelled from the city for being honest and helpful towards his dear friend.

These stories primarily focus on revealing the anxiety about the judicial system and the extent to which it is fair and also highlights the fear of unjust punishment. These stories clearly show how justice system was weighted against the poor and the marginalized. However, it also throws light on the fact that no individual is spared even if it was a falsely accused case.

An accusation is said to be ‘unsubstantiated’ or ‘unfounded’, when the evidence is inadequate to ascertain whether the said accusation is true or false. Based on the corroborating evidences, the accusations which are tested to be false can be categorized as- an allegation which is wholly false

⁹ This view would be echoed in a famous novel of the early 20th century that has many court cases, *Six Acres and a Third*, by Fakir Mohan Senapati,. The novel has been translated by Rabi Shankar Mishra, Satya P. Mohanty, Jatindra K. Nayak, and Paul St-Pierre, Berkeley: University of California Press, 2005.

¹⁰ One who acts without careful thought.

¹¹ *The Little Clay Cart*, p. 448. 30 I suspect that the text should read *slāghyam maraṇam bhavet* and not *aslāghyam*, in othe would be better to die than to defend himself against such a preposterous charge. The same *aslāghya*, however, is also to be found in the edition of Rangacharya B. Raddi, Bombay: Nir Press, 1909, p.285. See also *The Little Clay Cart*, translated by Diwakar Acharya, Clay Sanskrit York: New York University Press, 2009, p. 440.

wherein the alleged events have not taken place at all, an allegation in which the alleged events have occurred but were committed by an individual who is not accused and instead the innocent has been accused, and an allegation in which the events which have occurred are combined with the other events which have not occurred and hence, the accused is false alleged to have committed an offence which he has not.

False accusations can be made for different offences. The prominent of which are rape, child abuse, sexual harassment, workplace bullying, mobbing, stalking, defamation, false imprisonment, etc.

Rape is an offence for which there is a stringent punishment for the offender. Therefore, there are instances where innocents are falsely accused of rape when no rape has occurred. As per the Uniform Crime Report of Federal Bureau of Investigation of the United States, in the year 2007, out of 87,618 registered cases of rape, 4,400 cases were unfounded and hence were cases where the accusation was false.^{12 13} In India, according to the investigation report of the Delhi Commission of Women (DCW), between April 2013 and July 2014, among the cases registered under rape category, 53.2% of these cases were found to be false. This indicates that out of the total number of rape complaints which were about 2,753 cases, only 1,287 were discovered to be true while 1,464 cases were found to be false.¹⁴

The recent cases and trends of false accusation cases in India have highlighted the growing concerns over false accusations. In the month of October, 1994, Mariam Rashida, a Maldivian woman was arrested on the charges of overstaying her visa which consequently led to the arrest of D. Sasikumaran, K. Chandrashekhar, S.K. Sharma, Fauziyya Hassan and Nambi Narayan, Director of Cryogenics Division at Indian Space Research Organization¹⁵. Prior to Rashida's arrest, S. Vijayan, The Inspector who dealt with foreigners, had allegedly approached her for sexual favours and consequently arrested her because she turned down his request and he decided to frame charges against her for the offence of Espionage. The Police Department

¹² Federal Bureau of Investigation (2012) Uniform Crime Reporting (UCR) Program's master files

¹³ Federal Bureau of Investigation (2010) A word about UCR data. Uniform Crime Reports. Federal Bureau of Investigation Criminal Justice Information Services Division Crime Statistics Management Unit

¹⁴ <https://www.indiatoday.in/india/north/story/false-rape-cases-in-delhi-delhi-commission-of-women-233222-2014-12-29> visited as on 12.06.2019

¹⁵ The Indian Space Research Organization is the Space Agency of the Government of India headquartered at Bengaluru.

alleged that Narayanan and Sasikumaran had been trapped in a sex racket involving the Maldivians and gave them confidential documents of ISRO¹⁶. The Intelligence Bureau (IB)¹⁷ played a disputable role in leading the Kerala Police Department down the espionage route. Later in the month of April, 1996, the Central Bureau of Investigation (CBI)¹⁸ submitted a report¹⁹ before the Kerala Court stating that the charges of espionage against the accused are false and there was no appropriate evidence to back the charges. The CBI made it clear that it was a false case and yet the case dragged on because of the compromising relationship with Kerala politics. In June, 1996, the Kerala government decided to re-investigate the case by the State Police Department. Consequently, the Supreme Court dismissed²⁰ the challenge of the Government. In the Month of September, 2014, the Supreme Court awarded²¹ Rs. 50 Lakh compensation to Nambi Narayan for being subjected to cruelty in the ISRO Spy Case.

The Officials of the Kerala State Police Department were involved in making false accusations against the accused in this case. Both, the Supreme Court and Kerala High Court awarded compensation to Nambi Narayan but they failed to award punishment to these officials under Section 211²² of The Indian Penal Code, 1860 which punishes persons who make false charges with intent to injure others. Thus, the Judiciary failed to set a strong precedent in awarding a stringent punishment in cases relating to False Accusations. One of the Key Contentions in the Orders of the Case is that how can compensation do justice to restore the reputation of a person and had the Judiciary been successful in awarding punishment to the State Police Officials, only then it would restore the reputation of the accused indicating that Police Officials are guilty.

In another very recent yet significant case, on April 19, 2019, Ranjan Gogoi²³, the Chief Justice of India was alleged to have sexually harassed a former woman court officer and therefore

¹⁶ Ibid.

¹⁷ Intelligence Bureau is an internal Intelligence Agency of the Government of India headquartered at New Delhi.

¹⁸ Central Bureau of Investigation is the premier Investigative agency of the Government of India headquartered at New Delhi.

¹⁹ Dipak Misra, Judgement, Supreme Court of India (May 13, 2019, 6:46 PM)

https://www.sci.gov.in/supremecourt/2015/19295/19295_2015_Judgement_14-Sep-2018.pdf

²⁰ K Chandrasekhar v. State of Kerala and others, (1998) 5 SCC 223 (India).

²¹ Supra note 17.

²² Indian Penal Code, 45, Acts of Parliament, 1860 (India).

²³ [Justice Ranjan Gogoi sworn in as Chief Justice of India](#). *The Indian Express*. 3 October 2018

submitted²⁴ evidences substantiating her charges and also wrote a letter to 22 Supreme Court Judges. Consequently, the Supreme Court constituted a three Judge Bench²⁵ to hear the matter. The Three- Judge Bench appointed²⁶ retired Justice A.K. Patnaik to conduct an inquiry into the matter. An In-House Panel was also appointed to submit a report on the Sexual Harassment allegations and the committee submitted its report to the Supreme Court and also uploaded a notice²⁷ stating that the Committee has found no substance in the allegations made by the Complainant in the Complaint dated 19.04.2019.

The Court failed to punish the women in this case who wrongly accused the Chief Justice of India on charges of Sexual Harassment in spite being proven guilty for the Offence of False Accusation under Section 211²⁸ of the Indian Penal Code which prescribes punishment for the same. It is the duty of the Judiciary to punish people who are guilty in committing an offence and therefore the Judiciary failed to set a strong precedent in punishing those who are guilty of False Accusation.

Over the years, there was a record increase in the number of False Accusation cases in India. There have been number of instances in many cases where the Judiciary failed to punish the False Accusers. Further, according to a report²⁹ of Delhi Commission for Women, 53% of the rape cases reported in Delhi in the year 2014 were false and in majority of the cases punishment was not awarded in these cases for which the classic example is that of the Indian Space Research Organization Spy Case³⁰ and the Chief Justice of India's Sexual Harassment Case³¹ and in both these cases punishments were not awarded to the False Accusers despite being proven guilty. Section 211³² of the Indian Penal Code, 1860 deals with the punishment for the

²⁴ Sruthi Sagar Yamunan & Supriya Sharma, Chief Justice of India sexually harassed me, says former SC staffer in affidavit to 22 judges, Future Group(May 13, 2019, 7:30 PM), <https://scroll.in/article/920678/chief-justice-of-india-sexually-harassed-me-says-former-sc-staffer-in-affidavit-to-22-judges>.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Samanwaya Rautaray, No Substance in Sexual Harassment Charge against CJI: In-House Panel, The Economic Times(May 13, 2019, 7:35PM),<https://economictimes.indiatimes.com/news/politics-and-nation/sc-in-house-inquiry-panel-dismisses-sexual-harassment-complaint-against-cji-ranjan-gogoi/articleshow/69202615.cms?from=mdr>.

²⁸ Supra note 17.

²⁹ Joanna Jolly, Does India have a problem with false rape claims?, British Broadcasting Corporation(May 14, 2019, 9:03 PM), <https://www.bbc.com/news/magazine-38796457>.

³⁰ Supra note 17

³¹ Supra note 21.

³² Supra note 20.

offence of False Accusation and also it is to be noted that there is a dire need to revamp the law relating to False Accusations and enact a separate statute dealing with False Accusations due to the record increase in the number of False Accusation cases. Therefore, the argument that there should be a separate statute for False Accusations can be substantiated with the example of the enactment of Nirbhaya Act³³ which provides stringent punishment for the people convicted in rape cases.

³³ Nirbhaya Act, 13, Acts of Parliament, 2013 (India).