



Wrongful Prosecution in India

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Why in News

A petition has been filed in the Supreme Court highlighting the **need for the government to frame guidelines for compensating victims of wrongful prosecution** by the police or authorities.

The petition said the government had not bothered to implement the recommendations made by **the Law Commission of India in its 277th report on the miscarriage of justice in 2018.**

Wrongful Prosecution

- It refers to the cases where the accused was not guilty of the offence, and the police and/or prosecution engaged in some form of misconduct in investigating and/or prosecuting the person.
- **The International Covenant on Civil and Political Rights (ICCPR)**, which is ratified by India creates an obligation on the State parties to enact a law to compensate the victims of such miscarriage of justice.

Key Points

- **Wrongful Prosecution in India:**
 - India has no effective statutory/legal Mechanism for the wrongful prosecutions due to police and prosecutorial misconduct which has resulted in a pandemic of false cases.

Due to no fear of being prosecuted by courts and growing tendency to frame innocents for ulterior motives, there has been an unprecedented surge in filing of false cases.
 - The petition said **innocents fell victim to the malice of the authorities** who used the **criminal justice system** to settle scores.
 - It has not only **destroyed the social fabric** of the nation but also affected the **over-burdened judiciary** with alarming pendency of **over 40 million cases.**

- **Judicial Pronouncement About Wrongful Prosecution:**
 - Earlier in May, 2017 the **Delhi High Court** in the case of ***Babloo Chauhan vs. State Govt. of NCT of Delhi***, expressed grave concern about the state of innocent persons being wrongfully prosecuted.
 - It also asked the Law Commission to undertake a comprehensive examination of the issue and make a recommendation to the Government of India.
- **Recommendations of the Law Commission of India - 277th Report:**
 - Recommended **amendments to the Code of Criminal Procedure, 1973 (CrPC)**, to give compensation in cases of miscarriage of justice resulting in wrongful prosecution of persons.
 - Miscarriage of justice refers to wrongful or malicious prosecution, regardless of whether it leads to conviction or detention.
 - Designation of **special courts in each district** for adjudicating upon the claims of compensation for wrongful prosecution.
 - The **claim for compensation** can be brought by the accused person so injured; or by any agent duly authorized by the said accused person; or where the accused person died after the termination of the wrongful prosecution, by all or any of the heirs or legal representatives of the deceased.
 - **Guiding principles** to be followed by the Court while determining the amount of compensation. These include **seriousness of the offence, severity of punishment, length of detention, damage to health, harm to reputation, and loss of opportunities**.
 - Compensation under this framework will include **both pecuniary** (monetary) **and non-pecuniary assistance** (form of services such as counselling, mental health services, vocational/employment skills development, and such other similar services).

Source: TH