

DE JURE NEXUS LAW JOURNAL

Author:

Nikita Singh

Symbiosis Law School, Noida

2nd Year, BBA LL.B.

**CRIMINAL ATTACK ON JUDICIAL OFFICERS- CRITICAL
ANALYSIS**

ABSTRACT

This article is a critical analysis of the criminal attacks, its danger, and its impact on judicial officers as well as on Judiciary. Judiciary is the most vital organ of the Indian government. It keeps a check and balance on the other two organs, that is, legislature and executive. The judiciary must function smoothly and independently for ensuring justice in the society. For this, the judges must not be under any kind of undue influence or pressure. If they are under pressure, they won't be able to give a rational judgment and will set a bad example of justice in the minds of people. These irrational judgments lower the dignity of Judiciary in the country. Judges are not fully secured and criminal attacks on them often happen especially in the cases wherein some political or high-profile name has been involved. These high-profile people use their position and try their level best to malign the justice system and reverse the decision by bribing or attacking the judges. Unfortunately, this is the new trend developing in our country. The criminal attacks can be kidnapping, extortion, murdering, etc of the judges or their family members. The State has a significant role to play in this situation. The State must ensure the safety of judges from any threat and in case of any incident, the state must give orders to the probe agencies and crime control branches like CBI, IB, CID, etc to look into the matter and resolve it. State also needs to implement threat management programs for ensuring the safety of Judiciary.

INTRODUCTION

Judiciary's primary function is to ensure social, economic, political justice and maintain rule of law in the country. Justice has the highest importance in the Constitution of India. Justice can be ensured if the Judiciary works smoothly without any interference of other organs of the government (legislature and executive). The main obstacle that comes in the way of proper functioning of judiciary is some legislature, executives, high profile people's malicious acts, bribing, non-transparency and partiality. These can be overcome by good

policies of the State and reduction of the interference of people in the matters of Judiciary. In the absence of adequate protection, judges will give less strong verdicts and it will lead to eroding the public trust in the judiciary.

Recently, on 30 July 2021 the mysterious death of Dhanbad judge has raised a lot of questions on the security of judges. The Supreme Court took suo moto cognizance on this incident. The suo moto case has been titled "In Re: Safeguarding courts and protecting judges". Supreme Court handed over the case for a CBI investigation but CBI was found out to be negligent and was not paying any heed to this issue. Herein, it is observed that only the judges who have critical cases in hand are being attacked. After this issue, a plea was filed to grant 'X security' to all the judicial officials and advocates.¹ The Central and State governments need to issue guidelines for the protection of judicial officers and advocates so that the process of justice can function smoothly.

KEYWORDS

Judiciary, Democracy, State, Justice, Investigation Agencies

FACTORS AFFECTING CRIMINAL ATTACKS ON JUDICIAL OFFICERS

The factor that affects the most is cases, activities, etc that the judge or any other officer is dealing with. Some people who can be considered as social evil doesn't want that judge or any advocate to continue with the same. Those people try to bribe them, give life threat to them or to their families. The maximum number of incidents occur when the officers get out of the courtroom and heads to the house because in the courtroom, the attacker is not powerful. Judges are targeted for attack because in the eyes of attacker, judges and other judicial officers can represent the justice machinery which the attacker doesn't want.

Social media also has a great role to play in these criminal attacks nowadays. The attacker gets almost all the information required for attacking. The incredible buildup of social media and web-based communication that has the capability of broader range of accessing the information.² Judges are not physically attacked but also attacked mentally, economically and socially. Social media handles like Twitter, Instagram, Facebook, Whatsapp etc can be used as an effective means to spread hatred for the judges and defaming them in the way the attacker wishes. Judges have no security in the physical as well as social world.

HOW CRIMINAL ATTACKS ARE AFFECTING JUDICIARY SYSTEM

The criminal attacks have a severe impact on the whole judiciary system. The country gets encircled in the question's sphere. People start questioning about the cost that judges as well as the common people have to pay for ensuring justice, why the government not making any rules or guidelines to ensure the safety of judicial officers, how can citizens hope for justice if the judges are not safe and impartial, how long will a democracy work in such an

¹ Available at <https://www.ndtv.com/india-news/plea-in-supreme-court-seeks-x-category-security-for-all-judicial-officers-2501533>, 8 August 2021, 8:25 PM

² Available at <https://www.abajournal.com/web/article/attack-on-judges-family-puts-judicial-security-center-stage>, August 9, 2021 12:26PM

environment? These questions need to be answered for the proper functioning and development of the country. Criminal attacks by high profile names, police officers, etc creates havoc in the society and it need to be stopped.

From the apprehensions of these attacks, Judges try to avoid any political comments, discussion about cases wherein high profile names have been involved. In these circumstances, ensuring justice is a big task for the country. Judicial officers must be protected and secured. If we look into the ratio of number of judges working in High Court and vacant seats for judges in High Court, it is 60:40 in July 2021. This is worrisome ratio as there are many cases pending before the High Court. In district and subordinate courts the vacant seats are 5,000 in 2019. These huge numbers of vacant seats are worrisome and on above of that these criminal attacks discourage people to look forward for judiciary. People don't easily opt for judiciary because of the threats and attacks happening with the judicial officers. Government need to be responsible and should ensure safety to all judicial officers and advocates.

ROLE OF VARIOUS PROBE AGENCIES IN THE ISSUE

Probe agencies are agencies that investigate in the criminal or other matters of public interest. Various probe agencies of central level are CBI, IB, CID, etc. These are central level agencies and are of the highest standard but the irony is that these agencies are unable to solve some of the issues of high public importance. There are several criminal incidents that shook the nation as a whole and their perpetrators have not been caught yet even though the case was handed over to the central probe agencies. CBI is the main investigating body of government of India and it represents India at INTERPOL. If we look into the details of the CBI's unsolved cases, these includes Aarushi Talwar's murder case, Sunanda Pushkar's murder case, Rizwanur Rehman's case and more. All these listed cases shook the nation very severely. After several years of investigation, CBI was not able to found out the main culprits. From these unsolved matters, the faith over the probe agencies by the people is reducing. Justice has to come a long way if these investigation agencies will not function properly. There have been several cases which were mishandled by CBI and was condemned.

In the recent case of death of Dhanbad judge, Supreme Court slammed CBI, IB for not taking action against the attacks on judges. These bureaus are not helping the judiciary and their attitude is not good. The CJJ also slammed the state as it is the state's failure and negligence to provide enough security to the people and asked the state to provide the reports explaining what securities they are giving to judicial officers.

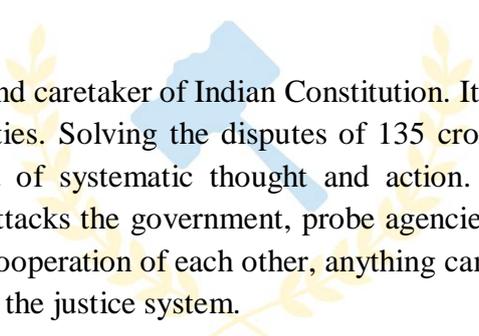
CONCLUSION

Judiciary's objective is to ensure rule of law and legal security for individuals. Legal security can be defined as security of private individuals and legal entities from criminal attacks on life, health, freedom, integrity and property.³ Government is responsible for the

³ Available at <https://www.government.se/government-policy/judicial-system/objectives/>, 15 August 2021 05:16 PM

malfunctioning in the judiciary and in the country. It is very important for a government to prevent crimes and provide security to the people in a democratic country. Any kind of attack on judicial officers has a risk of maligning the judiciary system, corruption, biasedness, malfunctioning, non- assurance of justice, etc. It is the State's duty to keep all the organs of government protected and well functioned. There is a need of strategic and systematic policies of legislation with the evolving social conditions. The State should make policies to provide 'X' security to all the judicial officers and advocates and extra security to the judges or advocates who are dealing with critical matters. Threat management programs for judicial officers should also be initiated by the government. In the critical matters, the government should highly ensure the proper functioning of all the judiciary, probe agencies, etc so that justice can be ensured and the faith of people in the judiciary system and government can be maintained. The punishment for the attackers should be of the nature that they don't dare to do crime next time.

Judiciary is the interpreter and caretaker of Indian Constitution. It is the reason for the smooth functioning of Indian societies. Solving the disputes of 135 crores plus population is not a easy task. It requires a lot of systematic thought and action. For protecting the judicial officers from the criminal attacks the government, probe agencies and judiciary have to take rational steps together. By cooperation of each other, anything can be achieved. This will lead to development of India and the justice system.



De Jure Nexus

LAW JOURNAL