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Acid Attack: A Legal Analysis

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ABSTRACT

Acid attack, also known as vitriolic, is a form of violence against women; it is defined as the act of pouring acid intentionally on the body of the victim to mutilate, torment or kill. Most of the acid attack cases occur due to refusal to marriage or a rejection of romance, a marker of how prevalent male egoism and patriarchy are in society. Other reasons for acid attacks include malice and jealousy. This paper describes the practical consequence of the acid attack on the body, i.e., mutilation & health complications caused by the burnt & mind, i.e., post-traumatic stress disorder of the victim as well as loss of social & economic life, i.e., isolation, negative comments, chances of marriage reduces, unable to find jobs, abandoned by the family members which leads to an emotional breakdown.

This paper deals with the legal framework of acid attacks; the Criminal (Amendment) Act, 2013 inserted Sections 326A & 326B in The Indian Penal Code for the victims of such attacks. Acid attacks are treated as one of the cruellest crimes as it causes long-lasting suffering to the victim. As acid melts flesh and even the bones of a person, it causes unprecedented pain to the survivor and leaves her disfigured, as well as giving permanent disabilities such as blindness loss of hearing.

The paper tracks how the courts in India have dealt with the issue of acid attacks. In some cases, the accused has been guilty of murder, as the mens rea of the attacker has been considered to be an intention to kill the victim. However, the amount of compensation has been mere.

I. INTRODUCTION

In recent times, India has witnessed an alarming rise in acid attacks, especially on women. An acid attack is a form of heinous assault involving the act of throwing acid onto the body of another person, usually a woman, with the motive of disfiguring, harming, torturing or killing. It can also be stated as gender-based violence against women. Acid attack is a form of the torturous, cruel, inhuman act which makes the life of the victim downcast.

According to the National Commission of India acid attack is “any act of throwing acid or using acid in any form on the victim with the intention of or with the knowledge that such person is likely to cause the other person permanent or partial damage or deformity or

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disfiguration to any part of the body of such person”.

A study revealed that most acid attack cases occur due to refusal to marriage or a rejection of romance, a marker of how prevalent male egoism and patriarchy are in society. Other reasons for acid attacks include malice and jealousy.

The effortless availability of inexpensive acid makes the delinquent use it as an ideal weapon against women. Usually, Hydrochloric acid, Nitric acid and Sulphuric acid are used to cause an assault. These acids cause severe burning of the face and melt bones; victims lose their eyesight ability to hear. Under severability of burns, victims lose their lives too. The delinquent carries out the attack by first obtaining acid, carrying it on him and then stalking the victim before executing the act.

Moreover, an acid attack has an enduring consequence on the life of the acid attack survivor who faces torture, permanent damage, etc., for the rest of her life. Acid attack survivors usually feel worthless, afraid and social outcasts because of their appearance. They sometimes become too traumatized and self-conscious to walk out of their house and carry out simple tasks. Even if they are willing to live a normal life, society might not treat them as a normal human being given their appearance and disabilities after the attack.

II. ACID ATTACKS AND THEIR CONSEQUENCES

“Any act of throwing acid or using acid in any form on the victim with the intention of or with the knowledge that such person is likely to cause the other person permanent or partial damage or deformity or disfiguration to any part of the body of such person” is known as an acid attack or vitriolic and has been a form of violence against women known to be committed throughout history, there has been an abrupt rise in the cases reported in recent years.

Acid attacks are treated as one of the cruellest crimes as it causes long-lasting suffering to the victim. As acid melts flesh and even the bones of a person, it causes unprecedented pain to the survivor and leaves her disfigured, as well as giving permanent disabilities such as blindness loss of hearing. Victims face lifetime physical consequences which require surgical treatment, psychological consequences which require depth intervention from psychologists and counsellors and social and economic consequences.²

Consequences of acid attack:

1. Physical Consequences - The acid melts the flesh and even the bones of the victim.

The deepness of injury totally depends on the solidity of the acid and the duration of its

² Priyanka, Acid Attack: "Is this your way to show your love", 4, Law Mantra

contact with the body.

2. When thrown on the victim's face, the acid rapidly devours into the ears, eyes, nose and mouth and eyelids and lips may burn completely. The nose sometimes melts, closing the nostrils. The acid tears down the eyes, resulting in blindness. Skin and bones on the skull, forehead, cheeks, and chin melt. When the acid is splashed on the neck, chest, back, arms and legs, it burns everything it touches. The consequential danger for the victim is breathing failure.
3. Inhalation of acid vapours can create breathing problems in two ways:
 - By causing a poisonous reaction in the lungs
 - By swelling the neck, which constricts the airway and strangles the victim

When the burns from the acid attack heal, thick scars are formed, which pull the skin very tight and cause mutilation. E.g., the chin becomes welded to the chest, the mouth may not open, the ears may shrivel up, and the nostril may close.

4. **Psychological Consequences** - The victims of the attack face a lot of mental health issues after the act. The victim undergoes traumatic changes in the way they feel and think. Psychological trauma is caused by the terror victims suffer during the attack and the disfigurement that they suffer after the attack. Victims suffer psychological symptoms such as anxiety, depression, nightmare, headaches, weakness, difficulty in concentrating etc. They feel ashamed, worried and lonely.
5. Victims suffer severe psychological symptoms forever or for years because they are reminded about their physical appearance daily. The feeling of being unwanted lack of worthiness may continue to destroy them every day.³
6. **Social and Economic Consequences** - Acid attack leaves the survivor impaired in some way, rendering them dependent on their family for everyday activities, such as eating and running chores. They face a lifetime of prejudice from society. These dependencies are increased because acid attack survivors are not able to find work due to physical impairment. Acid attack survivors are embarrassed that people may stare and laugh at them; thus, they baulk at leaving their homes, fearing a dreadful reaction from the outside world. Victims who are not married are not likely to get married, and victims who have got serious disabilities because of the attack, like blindness, will not

³ Meghna Bajpai and Sugandha Singh, Acid Attack: A burning issue in India, 3, Galgotias Journal of Legal Studies (2015)

find jobs and earn a living.⁴

III. LEGAL FRAMEWORK OF ACID ATTACK

Unfortunately, in India, there was no separate legislation to deal with acid attacks before the passing of The Criminal Law (Amendment) Act, 2013. The offence was registered under Section 307, 320, 322, 325 and 326 of The Indian Penal Code (IPC).

Section 307 - Attempt to murder - Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life or to such punishment as is hereinbefore mentioned. Attempts by life convicts - When any person offending under this Section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death.⁵

Section 320 - Grievous hurt - The following kinds of hurt only are designated as "grievous":

Firstly- 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 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.⁶

Section 322 - Voluntarily causing grievous hurt - Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said to "voluntarily to cause grievous hurt."

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 to know he to be likely to cause

⁴ "The Inclusion of Acid Attacks as Specific Offences in The Indian Penal Code and a law for Compensation for Victims of Crime", <https://lawcommissionofindia.nic.in/reports/report226.pdf> (last visited Sep. 18, 2021)

⁵ The Indian Penal Code, 1860, s 307, No. 45, Acts of Parliament, 1860 (India).

⁶ The Indian Penal Code, 1860, s 320, No. 45, Acts of Parliament, 1860 (India).

grievous hurt of one kind; he actually causes grievous hurt of another kind.⁷

Section 325 - Punishment for voluntarily causing grievous hurt - Whoever, except in the case provided for by Section 335 (Voluntarily causing grievous hurt on provocation), 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 fine.⁸

On 2nd April 2013, The Indian Penal Code was amended with the passing of The Criminal Law (Amendment) Act, 2013. The amendment resulted in the insertion of Section 326A and 326B specifically for dealing with acid violence.

Section 326A - 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 victim.⁹

Section 326B - 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 fine.¹⁰

Compensation for Acid Attack:

Section 357B - The compensation payable by the State Government under Section 357A shall be in addition to the payment of fine to the victim under Section 326A or Section 376D of The Indian Penal Code.¹¹

The compensation can be awarded under the following heads -

⁷ The Indian Penal Code, 1860, s 322, No. 45, Acts of Parliament, 1860 (India).

⁸ The Indian Penal Code, 1860, s 325, No. 45, Acts of Parliament, 1860 (India).

⁹ The Indian Penal Code, 1860, s 326A, No. 45, Acts of Parliament, 1860 (India).

¹⁰ The Indian Penal Code, 1860, s 326B, No. 45, Acts of Parliament, 1860 (India).

¹¹ The Code of Criminal Procedure, 1973, s 357B, No. 2, Acts of Parliament, 1974 (India).

- Expenses incurred or to be incurred as a result of the victim's injury or death;¹²
- Financial loss or damages incurred by the victim as a result of total or partial disability affecting the victim's amplitude to work;
- Financial loss or damages incurred by the dependants as a result of the victim's death;
- Pain and suffering;¹³

IV. CASES RELATING TO THE ACID ATTACK IN INDIA

Jalahalli Police Station vs. Joseph Rodrigues¹⁴

Acid was thrown on a girl named Hasina for refusing the job offer. The attack affected her physical appearance, i.e., it changed the colour and appearance of her face and left her blind. The accused was convicted under Section 307 of The Indian Penal Code and sentenced to life imprisonment and a compensation of Rs. 2,00,000/- in addition to the fine of Rs. 3,00,00 was paid by the accused to Hasina's parents.

Syed Shafiq Ahmed vs. State of Maharashtra¹⁵

The reason behind the acid attack was the enmity of the husband with his wife. The attack caused disfiguration of the face and loss of vision of the right eye of a wife. The accused was charged under Section 324 and 326 of The Indian Penal Code and was awarded Rs. 5,000 and 3 years imprisonment.

Awadhesh Roy vs. State of Jharkhand¹⁶

The victim was standing with her friend at a Bus Stop in Dhanbad.¹⁷ The accused threw acid over her face and head because the accused had a photograph of the victim and was blackmailing her, but she refused to accept his demands. The victim suffered injuries on the left side of her eye, neck and chest. The accused was registered under Section 307, 324 and 326 of The Indian Penal Code and was charged and convicted under Section 324 of The Indian Penal Code and was sentenced to rigorous imprisonment for 3 years.

¹² Legal Service India, <https://www.legalserviceindia.com/legal/article-196-the-most-grievous-assault-acid-attack-is-common-in-india-why.html> (last visited Sep. 17, 2021)

¹³ Diganth Raj Sehgal, The Criminal Law (Amendment) Act, 2013 in the light of acid attacks, iPleaders, (Sep. 19, 2021, 3:00pm), <https://blog.iplayers.in/criminal-law-amendment-act-2013-light-acid-attacks/#Introduction>

¹⁴ *Jalahalli Police Station vs. Joseph Rodrigues*, (2006) S.C.C. OnLine Kar 494 (India)

¹⁵ *Syed Shafiq Ahmed vs. State of Maharashtra*, 2002 CriLJ 1403

¹⁶ *Awadhesh Roy vs. State of Jharkhand*, Cr. Appeal No. 38/2001

¹⁷ Sanskriti Sinha, An Analysis of the Legal Regime against Acid Attack Offences: Emphasis on Indian Legislative Approach, 3, *INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES* 848, 848-861 (2020)

Ravada Sasikala vs. State of Andhra Pradesh & Anr.¹⁸

The victim was at her native place Sompuram. At that time, the elder brother of the accused sent a marriage proposal alliance between the victim and accused, for which the victim's family denied. Thus, to take revenge for the rejection, the accused trespassed into her house and threw acid over her head. The court held the accused guilty of the offence u/s 326 and 448 of The Indian Penal Code and awarded the punishment of rigorous punishment for 1 year and a fine of Rs. 5,000 u/s 326 and Rs. 1,000 u/s 448 of The Indian Penal Code.

Gulab Sahibal Shaikh vs. State of Maharashtra¹⁹

Acid was thrown on the victim and her two and a half-year-old baby by her brother-in-law for being unable to provide maintenance to her husband's second wife. The victim suffered burns on the left side of her body due to the acid, and both she and her baby lost eyesight. Later, the victim couldn't survive due to the shock of burns. The brother-in-law was found guilty and awarded punishment u/s 302 of The Indian Penal Code, where he has been sentenced to life imprisonment and a fine of Rs. 1,000, but his sentences were reduced to a fine of Rs. 3,000 and 1 year of imprisonment under the application of Section 326 of The Indian Penal Code. The court failed to provide compensation to the baby who suffered injuries.

Ram Charittar & Anr. vs. State of Uttar Pradesh²⁰

In this case, the husband wanted to kill his wife and daughters to acquire possession of the property, being the sole heir after their deaths. He threw acid and the deceased suffered major burns on her face and neck. The reason behind the death was the shock of burn injuries. The accused was held guilty u/s 302 with Section 34 and was sentenced to life imprisonment without compensation.

V. CONCLUSION

An acid attack has an enduring consequence on the life of an acid attack survivor who faces permanent damage for the rest of her life. Acid attack survivors face physical, psychological, social & economic outcasts. The effectiveness of any legislation is determined by its successful implementation. The strictness of law is of no use unless it is properly implemented. The Criminal Law (Amendment) Act, 2013 has brought favourable changes in the laws against acid violence. Before the Criminal Law Amendment Act, 2013 took place, there was no provision of strict punishment to punish the offender & either nil or compensation of mere amount was

¹⁸ Ravada Sasikala vs. State of Andhra Pradesh & Anr. 2017 Cr.L.R 276(SC)

¹⁹ Gulab Sahibal Shaikh vs. State of Maharashtra, (1998) Bom C.R. (Cri) (India)

²⁰ Ram Charittar & Anr. vs. State of Uttar Pradesh (2007) 9 S.C.C. 76 (India)

given to the victim.

Section 326A & 326B of The Indian Penal Code are sufficient to cover all injuries under acid attack violence, but the Legislature should consider other aspects which could assist the existing ones for proper justice of acid attack offences.

1. Strict punishment shall be awarded to the person assisting in the delivery of acidic substances which has done so with the mens rea.
2. The sale of acid shall be monitored & in case of non-performance by the sub-divisional magistrates & investigative officers; strict punishment shall be taken.
3. At District & State Levels, Acid Regulation Committees shall be established. The District Level Committee shall perform the monitoring sale, export, import and production of the acids in the market, whereas The State Level Committee shall look into the functioning of the District Level Committee.
4. If the buyer does not provide the correct Identity Proof & produces false or fake documents at the time of purchasing acid, he shall be awarded strict punishment.

Section 357A of The Code of Criminal Procedure, 1973 states that monetary compensation schemes shall be provided by the state governments in addition to the fine provided under Section 326A of The Indian Penal Code, 1860 to the victim. The current provisions regarding acid attack offences are extremely curbed when it comes to the quantum of damages in view of the nature of the crime.
