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Decriminalisation of Politics in India

KARAN CHOUDHARY[1]

ABSTRACT

Criminalization of politics is a vital topic to be discussed in any democratic platform. This issue is on focus every now and then. The Government and the governance system's credibility is questioned. Sometimes the government loses its legitimacy and authenticity due to the involvement of persons with criminal backgrounds. The frequency with which alleged or convicted criminals manage to gain public office threatens the ideals and the functioning of the Indian democracy. The members of the legislature are expected and directed to represent vicariously the aspirations and concerns of the people whom they represent. Hence it is important for the legislature of a representative democracy to be a true reflection of the aspirations and dreams of the people and also to be fair, honest and accountable to the people they represent. But nowadays India is witnessing a crisis of empathy, quality, fairness, equality etc. amongst all the chosen MPs or MLAs. Not only is there a serious question of propriety lying over the fairness of electoral procedure followed, an even greater concern lies in the kind of people who are entering the polity of India. India stands witness to an alarmingly high number of people with criminal background who have polluted Indian polity. Several government-appointed Commissions have already made clear recommendations for electoral reforms, but the political will to implement these recommendations in letter and spirit is lacking. We have allowed criminalisation in politics to go completely unchecked. The numbers are appalling. In the Lok Sabha, 139 of the 539 members elected in 2019 had been charged with serious criminal offences such as murder, rape and dacoity. This paper discusses about the meaning of criminalisation of politics, reasons for criminalisation, consequences of criminalisation and the role of legislations and judiciary in decriminalisation of politics in India.

Keywords: *Criminalisation, Decriminalisation, Politics, Legislations and Judiciary.*

I. INTRODUCTION

Apart from terrorism, the most serious problem being faced by the Indian democracy is criminalization of politics. At times, the concern has been expressed against this obnoxious cancerous growth proving lethal to electoral politics in the country. Purity and sanctity of

[1] Author is a student at National University of Study and Research in Law, Ranchi (Jharkhand), India.

 [ISSN 2581-5369]

electoral process, sin qua non for a sound system of governance appears to have become a forgotten thing in view of the entry of a large number of criminals in the supreme legislative bodies at central and state level. Sri G.V.C Krishnamurthy, the election commissioner (as he then was) has pointed out that almost forty members facing criminal charges were the members of the Eleventh Lok Sabha and seven hundred members of similar background were in the state legislatures.

Criminalization of politics has greatly vitiated the socio-political fabric of our country. Elections in the world's largest democracy have been attracting an ever-larger number of criminal elements and this trend is discernible across all political parties. It is ironical that while Indian citizens have the power to change their government democratically, they have not been able to stem the criminalization of politics and the consequent erosion of civil liberties. Despite all the agitation of the civil society over this issue, political parties tend to succumb to the temptation of enlisting the support of criminal elements and accord primacy to their "winnability" factor and electoral clout.

Even the political parties out of the glamour of political power and consequent benefits do not hesitate in giving tickets to the criminals and do not object to their use in winning the elections. Thus, politicization of criminals needs to be checked by all means at disposal.

(A) REVIEW OF LITERATURE

The following are some of the important selected works done by the different legal experts and jurists.

M. P. Jain in his book in his book "Indian Constitutional Law" Eastern Law Company, 2008 has made a very brief statement about the problem of criminalization of Indian politics in context to a person's right to freedom of speech and expression. In his book he has attempted to draw the attention to the relation between criminalization of politics and freedom of speech and expression and how the problem of criminalization of politics violates a person's right to freedom of speech and expression and thereby weakens the democratic edifice of the country. He has also made a very brief analysis of the various case laws relating to criminalization of Indian politics in relation to freedom of speech and expression.

V. Bhaskara Rao in his book "General Elections in India" Uppal Publishing House, New Delhi 1987 which is an edited version of various articles on election issues in India has highlighted the use of money power in the Indian politics and how it affects the free and fair poll process. Money power has perhaps been the biggest factor which vitiates free election in our country and it also in many ways responsible for growth of criminalization of politics.

 [ISSN 2581-5369]

Money power casts a sinister shadow on our elections, the truth which cannot be denied.

P.D.T Achary in his book "Law of Elections" Bharat Law House, 2004, has presented a picture of elections and of various laws relating to elections. According to him, elections to be meaningful have to be free and fair. In a large country like India where thousands of candidates and a large number of political parties and electorate are involved in the process of elections, the machinery responsible to conduct the elections has a great responsibility to conduct free and fair elections.

Analysing the importance of the problem of electoral malpractices and criminalisation of politics in India Justice Arun Madan, Judge , Rajasthan High Court, in his Article "Electoral Reforms: Standards in Political Life" has said that democracy is based on the 'Will' of the people, however expression of such 'Will' must conform to the Rule of Law. But the 'will' of the people has been undermined by money and muscle power. Due to criminalisation of politics money and muscle power dominate the politics of India.

(B) RESEARCH QUESTIONS

- What are the Reasons and Consequences of criminalisation of politics in India?
- What are the Legislative measures available to prevent criminalisation of politics?
- What are the various efforts made by judiciary to decriminalise the politics?

II. CRIMINALISATION OF POLITICS

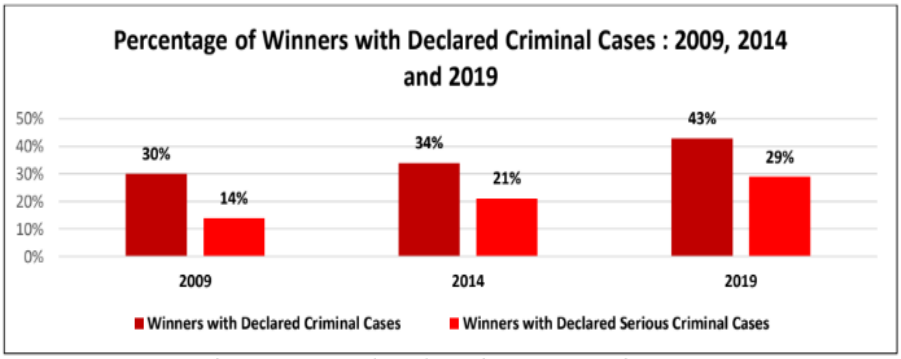
Man, as selfish by nature inclined towards competition to have power. Gradually it led to cut throat competition amongst vested interests in power struggle. This turned existing political system into a hotbed which gave rise to political rivalry. To achieve their goal in this power, struggle the politicians indulged in various criminal activities. The criminals help politicians in various ways. As a candidate, they win the seat. The intimidation of voters, proxy voting, booth capturing are the devices which are carried on by them. The use of money or muscle power and the totally unacceptable practices offend the very foundations of our socio-economic order. In the past, though criminals usually worked behind the scene but now apart from extending indirect help contest the elections and also become ministers. As per the statistics collected by Association of Democratic Rights and National Election Watch resourced from records of Election Commission of India, the horrible position of criminals in the present-day political system (2009-2019) is depicted below.

1. The total numbers of M. P. s and M. L. A. s from different political parties is 4,807, out of which 1,460(30%) and 688(14%) are involved in serious offences. They are believed

to be hardened criminals and "history-sheeters" (those whose history of crimes is recorded in police stations for quick reference when any crime takes place) facing charges of murder, rape and armed robbery.

2. Out of total 543 M. P. s of Lok Sabha 162(30%) have criminal records and 75 (14%) are involved in serious crime. Out of total 4032 numbers of M. L. A. s in the country 1258(31%) have criminal records since the time of their nomination for election and 15% are involved in serious criminal cases.

3. Out of the 58 candidates for 2014 Rajya Sabha Election in February (for 16 states) whose self-sworn information in their affidavits have been analysed, 14 candidates (24%) have declared criminal cases against them. Out of the 14 candidates who have declared criminal cases, 2 have declared serious criminal cases. These include charges of murder, kidnapping and crime against women. Shiv Sena candidate, Dhoot Rajkumar Nandlal from Maharashtra had declared charges of murder, kidnapping and crime against woman[2].



आलेख: 2009, 2014, 2019 में सांसदों द्वारा घोषित आपराधिक मामलों का प्रतिशत

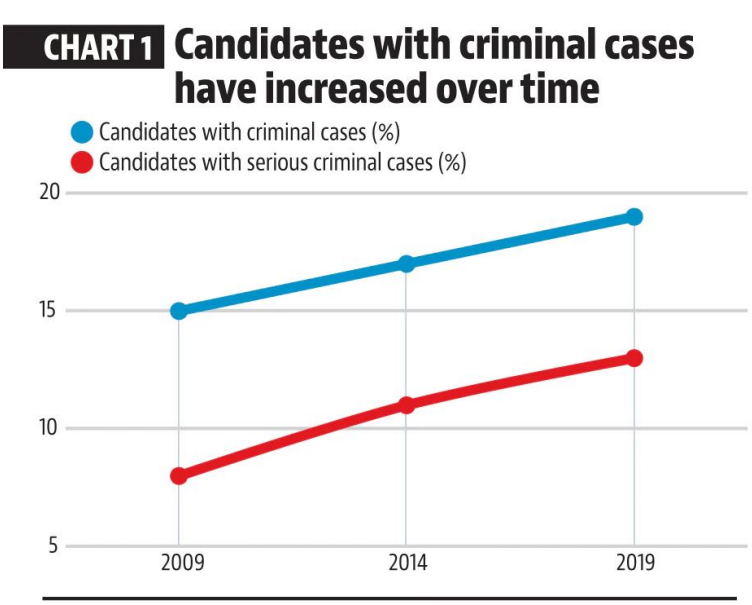
4. Winners with Declared Criminal Cases Out of the 539 Winners analysed in Lok Sabha **2019**, 233 (43%) Winners have declared criminal cases against themselves. Out of 542 Winners analysed during Lok Sabha elections in 2014, 185(34%) Winners had declared criminal cases against themselves. Out of 543 Winners analysed during Lok Sabha elections in 2009, 162 (30%) Winners had declared criminal cases against themselves. There is an increase of 44% in the number of MPs with declared. Winners with Serious Criminal Cases: 159 (29%) Winners in Lok Sabha **2019** Elections have declared serious criminal cases including cases related to rape, murder, attempt to murder, kidnapping, crimes against women etc. Out of 542 Winners analysed during Lok Sabha elections in 2014, 112(21%) Winners had declared serious criminal cases against themselves. Out of 543 Winners analysed during

[2]Report of Association of Democratic Rights and National Election Watch.

 [ISSN 2581-5369]

Lok Sabha elections in 2009, 76(14%) Winners had declared serious criminal cases against themselves.

5. There is an increase of 109% in the number of MPs with declared serious criminal cases in 2019.



Almost all legislators are, however, believed to be engaged in some kind of corruption. In fact, a legislator routinely embarks on his legislative career by signing a false affidavit claiming to have spent much less money on his election than he has actually done.

It is only natural that, they would want to make at least 10 times of money backed during their five years in parliament. This, indeed, is the source of the criminalization of Indian polity". As an honest politician one can no longer think of entering into the election fray. Businessmen and industrial houses, too, would not support an honest person as he (or an occasional she) would be useless for them once in parliament. In fact, he may even become an obstruction for them.

III. CONSEQUENCES

The major impact is that the law-breakers get elected as law-makers. According to Election Commission, about 40% of members elected to Lok Sabha are facing criminal charges in court of law. This makes the Parliament less efficient in enacting necessary laws for the effective administration of country. The Parliament loses its credibility and the Council of Ministers loses its legitimacy to administer the country. Political patronage and a 'culture of adjournment' collude to prevent speedy trials against elected representatives. Public prosecution is often ineffective and coloured by vested interests. All in all, the system is wired to push for a favourable outcome for an accused elected representative. It also leads to increased circulation of unaccounted money or black money during and after elections, diluting the probity in public life. The increased levels of corruption in public life weakens the state institutions including the bureaucracy, the executive, the legislature and the judiciary. Further, it introduces a culture of violence in the society and sets a bad precedence

 [ISSN 2581-5369]

for the youth to follow.

IV. LEGISLATIVE MEASURES TO PREVENT CRIMINALISATION OF POLITICS

Chapter IX A of Indian Penal Code deals with offences relating to elections. It comprises of nine sections. It defines and provides punishment for offences, such as bribery, undue influence and personation at elections[3] etc. The maximum punishment for the offence of bribery is one year's imprisonment of either description or fine or both but bribery by treating is punishable only with fine. Similarly, the maximum punishment for undue influence or personation at an election is one year's imprisonment of either description or fine or both[4]. Sec. 171 G provides the punishment of fine for false statement in connection with elections and for illegal payment in connection with an election. Sec 171 H provides the punishment of fine up to Rs.500. According to Sec 171 E, if there is failure to keep election accounts, the offender shall be punished with fine not exceeding Rs.500. Thus, in IPC, provisions have been made to check election evils but nominal punishments have been provided and interest is not taken in prosecution of election offenders. These provisions have failed to check criminalization of politics.

Sec. 8 of the Representation of People Act, 1951 appears more deterrent as it provides disqualification on conviction of certain offences. Sec. 8(1) provides that a person convicted of an offence specified therein and sentenced to imprisonment for not less than six months shall be disqualified from the date of such conviction. S. 8(2) provides that a person convicted for the contravention of certain law mentioned in it[5] and sentenced to imprisonment for not less than six months shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.

However, the disqualification under sub-sections (1), (2) and (3) shall not take effect in case of a person who on the date of the conviction is a member of parliament or state legislature until three months have elapsed from that date or if within that period an appeal or application for revision is brought in respect of the conviction or the sentence until that appeal or application is disposed by the court[6].

[3] These three offences have been defined by SS 171B, 171C and 171D, IPC respectively.
[4] Ss. 171E, 171F and 171G, IPC, 1860.
[5] (a) Any Law Providing for the Prevention of the Hoarding or Profiteering.
(b) Any Law Relating to the Adulteration of Foods or Drugs.
(c) Any Provisions of the Dowry Prohibition Act, 1961.
(d) Any Provisions of the Commission of Sati (Prevention) Act, 1987.
[6] S.8 (4). RPA.

 [ISSN 2581-5369]

Sec. 8(4) of the Representation of People Act, accords benefit to a sitting Member of Parliament or legislative assembly if convicted for criminal offence. According to it, in respect of such member, no disqualification shall take effect until three months have elapsed from the date of conviction or if within that period appeal or application for revision is brought in respect of conviction or sentence until that appeal or application is disposed of by the court. The controversial issue is whether the benefit of this provision continues even after the dissolution of the house. There have been instances where the members taking advantage of this provision contested the subsequent election in spite of the faction by the court during the tenure of the house. The Supreme Court considered this unethical aspect also in Prabhakaran case[7]. The court considered the structural position of S. 8(4) and justifications for its retention. It held that "Subsection 4 would cease to apply no sooner the house is dissolved or the person has ceased to be a member of that house." Generally speaking, the purpose sought to be achieved by enacting disqualification on conviction for certain offences is to prevent persons with criminal background from entering into politics and the house a powerful wing of governance. Persons with criminal background do pollute the process of election as they do not have many a hold barred and have no reservation from indulging into criminality to win success at an election.

V. JUDICIAL EFFORTS TO DECRIMINALISE THE POLITICS

The courts are well aware of the problem of criminalization of politics but the politics is an area where courts do not want to be involved actively. In ***Deepak Ganpat Rao Salunke V state of Maharashtra***[8]. The Deputy Chief Minister of Government of Maharashtra in a public meeting made the statement that if Republican Party of India (RPI) supported the Shivesena BJP alliance in the Parliamentary Election he would see that a member of RPI was made Deputy Chief Minister of the State. It was held that the above statement did not amount bribery as defined under section 171 B as the offer was made not to an individual but to RPI with the condition that it should support BJP-Shivsena alliance in the election. Thus, seeking support of a political party in lieu of some share in the political power does not amount gratification under S. 171-B of the Penal Code.

In ***Raj Deb V Gangadhar Mohapatra***[9] a candidate professed that he was Chalant Vishnu and representative of Lord Jagannath himself and if any one who did not vote for him would be sinner against the Lord and the Hindu religion. It was held that this kind of propaganda would

[7] Prabhakaran V P, Jayarajan. AIR 2006 Mad. 17.
[8] (1999) Cr LJ 1224 (S.C.).
[9] AIR 1964 Ori. 1.

 [ISSN 2581-5369]

amount to an offence under S. 171 F read with S 171C.

The remedies provided in IPC have not proved to be effective because once the election is over, everything is forgotten. On the other hand, convictional disqualification for candidature appears more effective. However, judicial interpretation of S. 8(3) R.P. Act has not been very satisfactory. An order of remission does not wipe out the conviction[10]. For actual disqualification, what is necessary is the actual sentence by the court[11]. It is not within the power of the appellate court to suspend the sentence; it can only suspend the execution of the sentence pending the appeal. The suspension of the execution of the sentence (imprisonment of not less than two year) does not remove the disqualification, when a lower court convicts an accused and sentences him, the presumption that accused is innocent comes to an end[12].

In ***T.R. Balu V S. Purushthoman***[13] it was alleged in the election petition that the returned candidate had a bigamous marriage and it was admitted by him through an affidavit submitted at the time of filing the nominations. Hence, his election should be declared void. Madras High Court upheld the election on the ground that the returned candidate was never prosecuted nor found guilty or punished for it.

There has been controversy with regard to the beginning of disqualification on the ground of conviction. A person convicted for an offence is disqualified for being a candidate in an election. Section 8 of the R.P. Act sets different standards for different offences. According to Sec. 8(3) a person convicted of any offence and sentenced to imprisonment for not less than two years (other than the offences referred to in Sec. 8(1) and (2)) shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.

In ***K. Prabhakaran V P. Jayarajan***[14] the Court considered various issues. It considered the question whether for attracting disqualification under S. 8(3) the sentence of imprisonment for not less than two years must be in respect of a single offence or the aggregate period of two years of imprisonment for different offences. The respondent was found guilty of offences and sentenced to undergo imprisonment. For any offence, he was not awarded imprisonment for a period exceeding two years but the sentences were directed to run consecutively and, in this way, the total period of imprisonment came to two years and five months. On appeal, the session court directed the execution of the sentence of imprisonment

[10]Sarat Chandra V Khagendra Nath. AIR 1961 SC 334.
[11] Dewan V K. Election Law, 23-24.
[12] Kapur B R. V State of T.N. AIR 2001 SC 3435.
[13] AIR 2006 Mad. 17.
[14] AIR 2005 SC 688.

 [ISSN 2581-5369]

to be suspended and the respondent be released on bail during the hearing of the bail. During this period, he filed his nomination paper for contesting election from a legislative assembly seat. During the scrutiny, the appellant objected on the ground that the respondent was convicted and sentenced to imprisonment for a period exceeding two years. The objection was overruled and nomination was accepted by returning officer on the ground that although respondent was convicted of many offences but he was not sentenced to for any offence for a period not less than two years. The High Court also took the similar view but the Supreme Court by majority took the different view[15]. Chief justice Lohati speaking for the majority held that the use of the adjective "any" with "offence" did not mean that the sentence of imprisonment for not less than two years must be in respect of a single offence. The court emphasized that the purpose of enacting S. 8(3) was to prevent criminalization of politics[16]. By adopting purposive interpretation of S. 8(3), the Court ruled that its applicability would be decided on the basis of the total term of imprisonment for which the person has been sentenced.

The court also considered the question of the effect of acquittal by the appellate court on disqualification. It may be recalled that the Supreme Court in ***Vidyacharan Shukla V Purushottam Lal***[17] had taken a strange view V.C. Shukla was convicted and sentenced to imprisonment exceeding two years by the Sessions Court on the date of filing nomination but the returning officer unlawfully accepted his nomination paper. He also won the election although conviction and sentence both were effective. The defeated candidate filed an election petition and by the time when it came before the High Court, the M P High Court allowed the criminal appeal of Shukla setting aside the conviction and sentence. While deciding the election petition in favour of the returned candidate, the court referred to ***Mannilal V Parmailal***[18] and held that the acquittal had the effect of retrospectively wiping out the disqualification as completely and effectively as if it had never existed. However, ***Vidyacharan Shukla case***[19] which had the effect of validating the unlawful action of the returning officer and encouraging criminalization of politics was overruled by Prabhakaran. The Supreme Court observed:

Whether a candidate is qualified or not qualified or disqualified for being chosen to fill the

[15] The bench consisted of Chief Justice Lohati and Justices Patil S V, Srikrishna B N, Mathur G P, Balkrishnan K C. Majority judgment was delivered by Justice R.C. Lohati whereas Justice K.C. Balkrishnan wrote dissenting opinion.
[16] Supra note 16 at 705.
[17] (1981) 2 SCC 84.
[18] (1970) 2 SCC 462.
[19] Vidya Charan Shukla Vs Purshottam Lal Kaushik,1981 SCR (2) 637.

 [ISSN 2581-5369]

seat has to be determined by reference to the date for the scrutiny of nomination. The returning officer cannot postpone his decision nor make it conditional upon what may happen subsequent to that date[20]. It is submitted that the view taken in the instant case is correct and would be helpful in checking the criminalization of politics.

Sec. 8(4) of the Representation of peoples Act accords benefit to a sitting Member of Parliament or legislative assembly if convicted for criminal offence. According to it, in respect of such member, no disqualification shall take effect until three months have elapsed from the date of conviction or if within that period appeal or application for revision is brought in respect of conviction or sentence until that appeal or application is disposed of by the court. The controversial issue is whether the benefit of this provision continues even after the dissolution of the house. There have been instances where the members taking advantage of this provision contested the subsequent election in spite of the faction by the court during the tenure of the house. The Supreme Court considered the unethical aspect also in Prabhakaran case. The court considered the structural position of S. 8(4) and justifications for its retention. It held that "Subsection 4 would cease to apply no sooner the house is dissolved or the person has ceased to be a member of that house[21]." Thus, it is another effort of the Court to strictly check the criminalization of politics.

SUPREME COURT'S MEASURES

In 2002, Supreme Court gave a historic ruling in ***Union of India (UOI) vs. Association for Democratic Reforms***[22] that every candidate, contesting an election to the Parliament, State Legislatures or Municipal Corporation, has to declare their criminal records, financial records and educational qualifications. In 2005, the Supreme Court in ***Ramesh Dalal vs. Union of India***[23] held that a sitting Member of Parliament (MP) or Member of State Legislature (MLA) shall also be subject to disqualification from contesting elections if he is convicted and sentenced to not less than 2 years of imprisonment by a court of law. In 2013, in ***Lily Thomas vs. Union of India***[24], the Supreme Court held that Section 8(4) of The Representation of the People Act, 1951 is unconstitutional which allows MPs and MLAs who are convicted to continue in office till an appeal against such conviction is disposed of. In 2013 in ***People's Union for Civil Liberties vs. Union of India***[25] case Supreme Court asked Election Commission to provide 'none of the above' choice to voters to exercise their right to

[20] Mannilal V Parmai Lal, (1970) 2 SCC 462.
[21] AIR 2005 SC 688.
[22] Union of India (UOI) vs. Association for Democratic Reforms: AIR 2001 Delhi 126.
[23] 1988 SCR (2)1011.
[24] AIR 2013 SC 1650.
[25] AIR 2013 SC 568.

 [ISSN 2581-5369]

express no confidence against all candidates in fray.

In 2018, ***Public Interest Foundation vs Union of India***[26] case In its petition filed, the petitioner Public Interest Foundation had essentially sought guidelines or framework to deal with the menace of criminalisation of politics and had demanded that those charged with serious offences be debarred from contesting elections.

The ruling was delivered by a five-judge constitution bench of the Supreme Court, which was chaired by Chief Justice Dipak Misra and comprised Justices RF Nariman, AM Khanwilkar, DY Chandrachud and Indu Malhotra. The constitution bench held that candidates cannot be disqualified merely because charges have been framed against them in a criminal case. The bench also directed the legislature to consider framing a law to ensure decriminalisation of politics.

Noting the steady rise in criminalisation of politics in India, the bench issued the following directions for curbing the same:

- All candidates seeking to contest elections must declare their past criminal charges/ records.
- Political parties must also display the full details of the criminal charges faced by their candidates on their official website.
- Parliament must make a law to ensure candidates with criminal records don't enter public life or take part in law-making.
- The Election Commission also must ensure that candidates clearly specify the details of their pending cases or criminal past at the time of filing their nominations in bold letters.
- Political parties should also issue a declaration and give wide publicity in electronic media about the criminal past of the candidates.

In 2018 ***Lok Prahari vs Election Commission Of India***[27] The Supreme Court marks an important addition to electoral reform jurisprudence in India. In this case, the Court issued directions for the institution of a permanent mechanism for the periodical monitoring of increase in assets of MPs/MLAs that is disproportionate to their known sources of income. This monitoring body is then required to publish the information, and recommend suitable action. The decision paves a way for future constitutional interventions in India's political

[26] (2019) 3 SCC 244.
[27] 2018 SC 4675.

 [ISSN 2581-5369]

party funding regime, including the scheme of electoral bonds.

In 2019 ***V. Abdullah Sait vs. The Chief Election Commissioner of India and Ors***.[28] Writ Petition filed for direction to Respondent authorities to take action against Respondents for violation of model code of conduct and to disqualify by them from contesting polls - Whether Petitioner made out case for issuance of direction to disqualify Respondents from contesting polls - Held, First Information Report has been registered against Respondents - Thereafter direction to take action on representation could not be granted - Disqualification could not ordered by Court when there was no conviction - Writ Petition dismissed.

In the five-and-a-half months since special fast track courts were set up in Delhi to hear cases involving sitting MPs and MLAs, legislators of the ruling Aam Aadmi Party have been discharged or acquitted in 19 out of 22 cases filed by security agencies.

VI. ELECTION COMMISSION'S MEASURES AND RECOMMENDATIONS

Election Commission of India has consistently undertaken certain electoral reforms which it could take on its own as well as at the direction of Supreme Court. In 1997, Election Commission directed all the Returning Officers (ROs) to reject the nomination papers of any candidate who stands convicted on the day of filing the nomination papers even if his sentence is suspended. Election Commission has also made the following recommendations to the Union Government to be made into law in the form of electoral reforms for the decriminalization of politics: -

- If a person is accused of a serious crime (that is, where the law prescribes a punishment of not less than 5 years for the alleged crime) and if a court of law has framed criminal charges against the accused, then it shall be regarded as a reasonable ground for the disqualification of accused from contesting elections. The Election Commission is of the opinion that framing the criminal charges by a court means that the court prima facie believes that the accused might have been involved in the alleged crime.
- If a person is found guilty by a Commission of Inquiry then he shall be disqualified from contesting elections.
- The FPTP electoral system shall be replaced by the 2-ballot system under which a candidate is declared elected from a territorial constituency on the basis of majority principle. In a multi-cornered contest if no candidate attains more than 50% of valid votes polled, then the 2 candidates who obtained the largest number of valid votes

[28] MANU TN 1549 2019.

 [ISSN 2581-5369]

polled alone shall be allowed to contest the next round of elections. This system would make it difficult for a criminal to get elected.

- Right to recall - It confers the power on the registered voters in a constituency to recall their elected representatives from the house on the ground of non-performance. It could empower the people at grassroot level. The elected representative could be made truly accountable to the people. In such scenario, political parties will be forced to nominate eligible and desirable candidates to contest elections because of the fear of removal of elected representative. However, for such system to work high level of political maturity is required on the part of voters.
- State funding of elections - It means government extending financial assistance to the political parties to contest elections in part or in full, in kind or in cash. The objective could be to control or eliminate the outside pressure over government policies and functioning by vested interests by funding political parties and candidates during elections. It could help in controlling the flow of unaccounted money and muscle power of criminals during elections and corruption in public life.

VII. CONCLUSION

The entry of criminals in election politics must be restricted at any cost. If it is not checked, it will erode the system totally. The dearth of talented persons in politics may collapse the country internally as well as externally. Actually, the roots of the problem lie in the political system of the country. There is lack of political will to combat the problem. The political parties also do not believe in higher ethical norms. They should unitedly make efforts to prevent criminalization of politics. The IPC and the RP Act both should be suitably amended. For every electoral offence, the minimum punishment should not be less than two years. In the RP Act, care should be taken to ensure that even suspects should not make entry into politics. The candidate should be asked to furnish detailed information in respect of civil and criminal matters against him on affidavit. And, if the information furnished make out a criminal case, he should be disqualified irrespective of the fact that he was not prosecuted and/or punished by a court of law. However, implementation of the existing legal provisions and decisions with regard to electoral reforms should be strictly followed. There is need for legislation to regulate party funds, distribution and expenditure during non- election and election times. Maintenance, audit and publication of regular accounts by the political parties should be available for open inspection. There is also a need of setting up special courts for trying the cases of criminalization of politics. Keeping in view the ever-deteriorating standards of politics, it would be more desirable to try all cases of politicians by special

 [ISSN 2581-5369]

courts. It will help maintain sanctity and purity of elections.

(A) FINDINGS

1. A number of commissions and committees such as, the Law Commission of India, Election Commission, and Vohra Committee etc. have examined the issue of criminalization of politics and recommended various reforms but the menace is increasing day by day.
2. The parliament has taken efforts by amending the laws, such as, IPC and the RP Act but the exercise has proved futile.
3. The Supreme Court of India has also made efforts to check the evil but the problem remains unabated. The Court has in unequivocal terms wants to prevent criminalization of politics. It says, those who break the law should not be allowed to make the law.

(B) SUGGESTIONS

1. State funding of elections as there is no transparency in funding of political parties, therefore sometimes even black money finds its way to win elections. A well-functioning democracy requires vibrant political parties and competitive elections. State funding of elections, been supported by various committees like Indrajit Gupta Committee and 2nd ARC. It creates level playing field and allows public spirited people to contest elections and thereby ensures equality of opportunities. It can break the political-corporate nexus, thereby ending rent seeking and crony capitalism. The election would focus more on issues rather than on raising funds through illegitimate means. i.e. focus on Development Politics. Therefore, it is expected to infuse probity in political system.
2. Maintenance, audit and publication of regular accounts by the political parties should be available for open inspection.
3. Stricter implementation of anti-corruption laws.
4. The IPC and the RP Act both should be suitably amended. For every electoral offence, the minimum punishment should not be less than two years.
5. Election Commission should be given more power, when dealing with Corruption cases.
6. Political will – Parties should refuse tickets to candidates with criminal backgrounds.
7. Inner party democracy needs to be improved.
8. More than 12 Fast track courts-should be established for dealing with cases of serious charges.

 [ISSN 2581-5369]

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