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# Violence in Respect of Judicial Attacks

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## ABSTRACT

*There are basically four parts of the system working as per the Constitution of India. Amongst them, first is the Legislative who makes the law for the benefit of the greater part of the society second is the executive, which makes sure that whatever law is passed by the Legislature in the Parliament is being executed third being the judiciary the most important where according to the law if a person's rights have been infringed he or she knocks at the door of the judiciary for providing justice to the person's in order for them to live their lives in peace. Judiciary in recent times, in contrast to the earlier times, have been infested with various attacks in the hands of the people. The most important part being is providing justice for the benefit of the people, which definitely hurts the sentiments of the other group in the eyes of whom the justice to them has not been given. Though in the past, there have been no such attacks in recent times, there has been an increase in attacks which leads us to think that the sanctity of the judgment is being questioned. On the occasion of Constitution Day, Chief Justice of India N V Ramana expressed concern over the "increasing" attacks "on the judiciary in the media, particularly social media". He said these attacks appeared to be "sponsored, synchronised... motivated and targeted", and central agencies should "effectively" deal with them. He also expressed that "An area of grave concern for the judiciary is the increasing attacks on judges. Physical attacks on judicial officers are on the rise. Then there are attacks on the judiciary in the media, particularly social media. These attacks appear to be sponsored and synchronised. The law enforcement agencies, particularly the central agencies, need to deal with such malicious attacks effectively.*

## I. INTRODUCTION

In July 2021, the murder of Dhanbad district and sessions judge Uttam Anand took place, which was caused due to him dealing with the cases of mafia killings in which he refused to grant bail to the gangsters. As a result of which, in the morning of July, he was attacked by those gangsters through an autorickshaw resulting in his murder. This totally calls upon the protection a Judge has to be given in order for him or her to function properly and think in the right mindset.

Taking a cue from February 2021, wherein Karnataka High Court gave a contempt notice to a

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72-year-old who had written a threatening letter to the registry of the High Court on the claim that he had made the decision to murder 2 erring judges part of the “highly corrupt 28 Judges of this Court and the Apex Court along with two corrupt Advocates.” and Recently the horrific incident of additional district and sessions judge being attacked while hearing the case by the policemen at Jhanjharpur in Madhubani district of Bihar. Although he was protected by the crowd of advocates, this clearly shows the thought with which the judiciary is attacked to cripple the judicial mind for it not being able to think in a judicial manner.

A bench of Chief Justice NV Ramana and Justice Surya Kant said besides CCTV, “there needs to be something effective on the ground” to prevent “terrorism and attack on judges”. While dealing with the murder case of district and sessions judge Dhanbad. It was also said that special protection should be provided for them to function fearlessly.

In order for them to function in fearless, there has to be a certain security team tasked with their protection for them to deal with the cases without any fear. We are going forward. The audit and check have to be done from time to time in order for the judges to function with a judicial mind. And also, he emphasised the fact that we must assist the judges and the institution since we are one big family.

Also, at the SC Registry Event, CJI expressed in front of the Prime Minister that the Executive and Legislature must work in tandem with the judiciary. Any deviation by the Legislature or Executive from the path prescribed by the Constitution will only lead to an additional burden on the judiciary. Laxman Rekha (of separation of powers) drawn by the Constitution is sacrosanct... but there are times when courts are compelled to pay attention to unresolved grievances in the interest of justice. The intention behind such limited judicial interventions is to nudge the executive, and not to usurp its role,” he said, adding that “attempts to project such interventions and constructive observations as the targeting of one institution by another, are totally misplaced. If encouraged, such attempts will prove to be detrimental to the health of democracy.”

The CJI said the framers of the Constitution made accountability an integral element with respect to the Legislature and Executive. “However, they consciously decided to keep the judiciary on a different pedestal. They trusted the competence of the men and women who would adorn the Bench in upholding the Constitution,” he said.

The CJI also said the huge pendency of cases, particularly in the lower judiciary, was “alarming” and batted for “a multi-pronged approach involving all the stakeholders”, including “filling up existing vacancies of judicial officers... creation of a necessary infrastructure”.

Addressing the event, Justice U U Lalit, the second most senior judge in the SC, said: “This Constitution has given us strength, character and that feeling of the building of the nation”.

Also, there have been so many physical attacks on judicial officers on the rise. Also, there are concerted campaigns against judges in print or social media when they don't give favourable orders.

Also, the spotlight was thrown on media trials by Chief Justice N V Ramana, wherein he expressed that another aspect that affects the fair functioning and independence of the judiciary is the rising number of media trials. New media tools have the enormous amplifying ability but appear to be incapable of distinguishing between right and wrong, good and bad and the real and fake. Media trials cannot be a guiding factor in deciding cases.

Imagine a world where judges are mere pawns of the people in power or a world where the judges are afraid to take the right decision because of threats to their life. This situation might become a reality if the judiciary and the judges are not protected against deterring external factors.

## **II. CASES PERTAINING TO JUDICIAL ATTACKS**

In the case of *Hari Singh Nagra v. Kapil Sibal* AIR 2010 SC<sup>2</sup>. The Supreme Court observed that the term scandalising means an attack on the credibility or character of the judges by publishing or making unwarranted and defamatory remarks about the judges. It is not necessary that the comments are directed against any specific case or any specific judge. The factor that has to be considered is whether the comments can be deemed to undermine the authority of the judiciary as a whole and whether the comments can shake the confidence of the public in the judicial system.

In the case of *Re PC Sen* AIR 1968 SC,<sup>3</sup> The Apex Court observed that if any person makes a speech or publishes any material that is false for prejudicing the minds of the public against the parties of the case or with the intent of influencing the outcome of a trial, then such an action would be deemed to be contempt of the court.

In light of the precedent laid down in *Delhi Judicial Services Association v. the State of Gujarat*,<sup>4</sup> it would amount to obstruction of the administration of justice and therefore fall under the ambit of criminal contempt. Also, the acts of assaulting a public servant and voluntarily causing him to hurt are offences that are punishable under the Indian Penal Code;

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<sup>2</sup> *Hari Singh Nagra v. Kapil Sibal* AIR 2010 SC

<sup>3</sup> *Re P.C. Sen* AIR 1968 SC

<sup>4</sup> *Delhi Judicial Services Association v. the State of Gujarat*

thus, while determining the punishment, the Court will have to read Section 12 of the Contempt of Courts Act along with Section 353 and 323 of the Indian Penal Code.

Section 353 of the Indian Penal Code states that any person who assaults a public servant and uses criminal force against such public servant with the intent of deterring or preventing the public servant from executing his legal duties shall be punishable with imprisonment that may extend to two years or with fine or both. This is a non-bailable offence.

Voluntary hurt has been defined under Section 321 of IPC as any action committed by any person with the intent of causing harm to any person. The punishment for voluntarily causing hurt has been prescribed under Section 323 of IPC as imprisonment that may extend to one year or a fine that may extend to ₹1,000 or both.

### **III. CONCLUSION**

The major purpose of the judiciary is to provide justice to the aggrieved persons, which can be achieved only when there is independence of the judiciary. If impediments are being raised in the way of justice Judiciary cannot function in the proper manner. Going further, the judiciary has to be provided with enough protection in order to function fearlessly and fairly.

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