



Wrongful Prosecution in India

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](#)

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