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A Legal Analysis of Acid Attacks in India

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ABSTRACT

Despite of taking actions and making laws against the offence of acid attack, India is one of the countries in the world that witnesses the highest case of acid attacks. It is not gender based, but now a days It becomes the gender-based crime. We call acid attack as heinous crime which is usually committed against the women with the intention to take revenge, kill her or any other reason could be. According to a study, it states that 78% of the acid attacks in which FIR (complaints) has been filed is due to the refusal of marriage or a rejection of romance. Most of the common acid which has been using by the accused is Sulphuric acid, nitric acid and hydrochloric acid. There are many everlasting sequels of acid throwing which consists of permanent scaring of face or body, blindness as well as socio-economic and psychological intricacy. Now there has been Amendment in criminal laws and supreme court of India has also passed guidelines for making the criminal laws stricter.

In 2013, criminal law (Amendment) Act has been passed. But the survey says that the cases has been increasing day by day. This article deals with the terrible effects that acid attacks have on the victims in all the spheres as well as examines the contemporary laws governing acid attacks.

Keywords: *acid attacks, gender based, refusal of marriage, heinous crime psychological intricacy, terrible effects*

I. INTRODUCTION

Women are the backbone of the families and communities. They provide care, support, and nurturing to their families and are essential for the development of the society. They put their efforts and cares towards the family and still the inhuman person treats her like an object. As we are talking here about women only as the maximum cases of attacks has been filed against women only. There are several forms of violence against women when they try to raise their voice against the unjust and patriarchal thoughts or men uses her for their sexual satisfaction she is dodged by different means; either by acid, physical abuse or by burning her to death. This

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act is the torture to the victim's mental condition and body. When we talk about the mental condition of the victim then we find that most of the survivor went through the depression and anxiety not only due to their scars rather the societal discrimination and the drainage of the family's wealth. In addition to the medical treatment, victim fail to report to the police due to their trust issue over the administrative system because a sense of hopelessness arises in the mind of the victim.

In India, the acid attacks occur mostly on women just for the sake of taking revenge when they start raising their voice against the unjust towards themselves. There is a sharp rise in vitriolage cases in India in last few years as dictated by National Crime Record Bureau (NCRB), as per its report women are not only the sufferer of sexual abuse rather all types of crimes are more in against of women. The report also states that, in present days 19 metropolitan cities reported highest number of acid attacks.

Nowadays, the women are empowering and they are raising in every sector so the victims start standing for themselves. The NGOs and Foundations starts working for the victims and even the victims work for them. Now the society is changing, the laws has been amended, the accused has been punished and victims are getting justice.

II. FACTORS RESPONSIBLE FOR ATTACKS

The Law Commission of India in its 226th report gives the data that the majority of acid attacks victims are women: -

1. Particularly when the young women reject the proposals of marriage, denying dowry etc. and the attackers cannot bear the fact that he has been rejected then they try to destroy the body, reputation and beauty of the woman or victim¹.
2. Sometimes Acid attacks happen due to the religious conflicts. We find that when the person, (both male and female) when they refuse to convert their religion then this crime has been committed against them.
3. Land or property related dispute, when the dispute arises between one party to another in taking the revenge then they throw acid on another.
4. When the dispute arises between the members of family, then taking the revenge the accused uses acid for this
5. Refusal of sexual or romantic advances

¹ Law Commission of India, *Proposal for Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and a Law for Compensation for Victims of Crime*, Report No. 226 (2009).

“Acid attacks are used as a weapon to silence and control women by destroying what is constructed as the primary constituent of her identity.²”

As we have already discussed above that there are many reasons that are responsible for the scars that has been caused by the acid, the only and one thing that is the biggest reason for this inhuman act is to revenge. As the most of the cases has been reported against women so there are many articles in which it states that how acid is used by men on women as a mark of their masculinity and superiority over them and to “keep women in their place.”³

Alternatively, it can be said that acid attacks are used by as a medium to establish their masculinity and control over them and to keep them always in state of fear.

III. EFFECTS

Acid has destructive effect on the human body, often permanently blinding the victim. The aftermath being the inability to do many everyday tasks such as working and even mothering is rendered extremely difficult if not impossible.

According to the reports, there is a high survival rate amongst victims of the acid attacks. The victim is faced with physical, mental as well as financial challenges.

A. Physical Effect

Acid not only burns the skin rather it penetrates two layers of skin: the fat and the muscle. Even sometimes it dissolves the bone. The effect of injury totally depends upon the strength of the acid.

When the accused threw the acid on the face of the victim, firstly it burns the eyes, nose, ears and lips completely. The report says that sometimes the acid dissolves the skull and creates the breathing problem, wherever the splashes or drips of acid comes onto the body or thing it burs everything. It leaves the scars on the body and the victim hides pain behind the smile.

B. Psychological Effect

As we have already discussed that how acid harms the body and because of this it gives or leaves the trauma for the survivors.

The victim feels conscious about their face and their appearance, they feel ashamed to live the life with the burnt faces. The victims have been reported high level of anxiety, and depression

² *Supra* note 1.

³ Afroza Anwary, *Acid Violence and Medical Care in Bangladesh: Women's Activism as Care Work*, 17 GENDER & SOC'Y 305, 306 (2003).

due to their looks as their beauty has burnt by the accused so they have lowered self-esteem⁴. The society starts discarded them because of their looks and creates the difference between the outer beauty and inner beauty.

C. Social and Economic Effect

Acid attacks usually leave the victims handicapped in some way. They face a lifetime of discrimination from the whole society. In some cases, even the family leaves the victim with this discriminatory act and make them realised that they are handicapped. we found in some cases that when the victim is married and went through the acid attack then the result of this is that another spouse gives them divorce. And the person who is unmarried and went from this heinous act then the chances to marry becomes less.

When we talk about the economic effect then it can be easily understandable that for the survival, the victim vacant their bank to gain their previous smile and beauty. The survivor puts their money in transforming their burnt face through the plastic surgery.

Due to their scars, they have to suffer with the act of discrimination and then they are unable to earn food and money for themselves⁵.

IV. LAWS ON ACID ATTACKS AND COMPARATIVE STUDY: IPC V. BNS

In India, on many occasions some incidents of acid attacks capture the headlines of the Indian media, there was no as such separate legislation to deal with the acid attacks before the passing of the Criminal Law (Amendment) Act, 2013.

The offence registered under sections 320, 322, 325, 326 and 307 of the Indian Penal Code (I.P.C) but now 117,117(2), 116, 118 and 109 of The Bharatiya Nyaya Sanhita, 2023 (B.N.S).

A. Section 116: Grievous Hurt⁶

The following kinds of hurt only are designated as “grievous”, namely: —

- (a) Emasculation;
- (b) Permanent privation of the sight of either eye;
- (c) Permanent privation of the hearing of either ear;
- (d) Privation of any member or joint;

⁴ Rosenberg Self-Esteem Scale.

⁵ *Id.*

⁶ The Bharatiya Nyaya Sanhita, 2023, No. 45, Acts of Parliament, 2023, § 116 (India) (formerly the Indian Penal Code, 1860, § 320).

- (e) Destruction or permanent impairing of the powers of any member or joint;
- (f) Permanent disfiguration of the head or face;
- (g) Fracture or dislocation of a bone or tooth;
- (h) Any hurt which endangers life or which causes the sufferer to be during the space of fifteen days in severe bodily pain, or unable to follow his ordinary pursuits.

Under BNS Section 116, the concept of Grievous Hurt remains almost identical. The legislature intentionally preserved the ingoing classification because courts have relied upon these categories for decades.

This continuity shows that the legislature did not intend to dilute protection against serious bodily injuries. The judicial precedents interpreting “grievous hurt” under IPC are still likely to guide interpretation under BNS.

B. Section 117: Voluntarily Causing Grievous Hurt⁷

(1) 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 “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 knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

(2) Whoever, except in the case provided for by sub-section (2) of section 122, 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.

Comparative Observation

Section 322 of IPC punished a person who intentionally caused grievous hurt with the knowledge and having intention.

Section 117 of BNS substantially reproduce this principle.

The IPC used older colonial drafting terminology. The BNS adopts comparatively simpler and modern wording while preserving the same mens rea requirements.

⁷ The Bharatiya Nyaya Sanhita, 2023, No. 45, Acts of Parliament, 2023, § 117(1) (India) (formerly the Indian Penal Code, 1860, § 322).

⁸ The Bharatiya Nyaya Sanhita, 2023, No. 45, Acts of Parliament, 2023, § 117(2) (India) (formerly the Indian Penal Code, 1860, § 325).

C. Section 109: Attempt to Murder⁹

(1) 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.

(2) When any person offending under sub-section (1) is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death or with imprisonment for life, which shall mean the remainder of that person's natural life.

Section 307 IPC punished acts done with:

- Intention or knowledge to cause death,
- Where the act amounted to attempt towards murder.

Section 109 Of BNS substantially remains the same for the same offence.

The important comparative change under this section

The BNS emphasizes aggravated violent conduct and modern criminal patterns and has classified the gravity of the crime with its punishment.

D. Section 397: Treatment of Victims¹⁰

All hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under section 64, section 65, section 66, section 67, section 68, section 70, section 71 or sub-section (1) of section 124 of the Bharatiya Nyaya Sanhita, 2023 or under sections 4, 6, 8 or section 10 of the Protection of Children from Sexual Offences Act, 2012, and shall immediately inform the police of such incident.

V. LATEST CASES OF ACID ATTACKS

A. Laxmi v. Union of India¹¹

After being attacked with acid when she was roughly fifteen years old, Laxmi filed the PIL. She worked as a salesperson for a bookseller part-time to support her parents, who were raised in a

⁹ The Bharatiya Nyaya Sanhita, 2023, No. 45, Acts of Parliament, 2023, § 109 (India) (formerly the Indian Penal Code, 1860, § 307).

¹⁰ The Bharatiya Nagarik Suraksha Sanhita, 2023, No. 46, Acts of Parliament, 2023, § 397 (India).

¹¹ *Laxmi v. Union of India*, (2014) 4 SCC 427 (India).

middle-class home. On April 22, 2005, she received a visit from two acquaintances who bathed her in acid. A crowd gathered when they heard her screams, but nobody tried to help her.

She was then taken to the "Ram Manohar Lohiya Hospital," where she was given medical attention. The girl had about 25% acid blisters on her face, chest, eyes, and wrist, according to the medical report. Upon regaining consciousness, she informed the authorities that Naeem Khan (Guddu) and Rakhi were accountable for the act when she refused the proposal of Guddu. So, in taking of revenge, they poured acid on her face.

She can never look the way she used to but she still be an inspiration for several women who are the victim of the acid attacks. After that she went from the medical treatment where she utilised approximately Rs. 2.5 lakhs in the plastic surgery to like she used to be.

After that there were so many of PIL has been filed before the court after that the Supreme Court heard that case and Supreme Court delivered the historic decision regarding the regulations on sale of acid.

Now in present scenario she is the director of Chhanv Foundation, an NGO dedicated to help the survivors of the act of acid. Laxmi received international women of Courage award by First Lady Michelle Obama¹² in 2014. She was also chosen as the NDTV Indian of the year¹³.

B. Gulab Sahiblal Shaikh v. State of Maharashtra¹⁴

In this case, the accused has doubt in his mind about the character of his wife and due to this he inserted Mercuric Chloride in her vagina because of renal failure his wife died. The accused was charged and convicted under section 302 and 307 IPC (103 and 107 of BNS,2023)

C. Marepally Venkata Sree Nagesh v. State of Andhra Pradesh¹⁵

In this case, the husband wants to give divorce but his wife refuses him as he was involved in the extra marital affair, in aggression the accused poured acid on her face. Due to the attack, woman faced multiple scars on her face and on other body parts too that leads to her death. The accused was charged and convicted under section 302 of the IPC (now section 103 of the BNS,2023).

D. Ram Charittar v. State of Uttar Pradesh

In this case, a nurse and a compounder conspired and poured a mixture of acid and the kerosene over a doctor of the same hospital in course of taking revenge as that doctor has committed rape

¹² *Biographies of 2014 Award Winners*, U.S. DEPARTMENT OF STATE, <https://www.state.gov>.

¹³ Sangeeta Barooah Pisharoty, *Tea with Laxmi*, THE HINDU.

¹⁴ *Gulab Sahiblal Shaikh v. State of Maharashtra*, 1998 Bom. C.R. (Cri.) (India).

¹⁵ *Marepally Venkata Sree Nagesh v. State of Andhra Pradesh*, 2002 Cri. L.J. 3625 (India).

of the nurse. The doctor died due to the 100% of the burnt injuries. Both the nurse and the compounder were charged under section 302 and 109 of the IPC(103 and 49 of the BNS, 2023) but they both were acquitted due to the lack of the evidence.

VI. OTHER SURVIVORS OF ACID ATTACKS¹⁶

A. Anupama

Anupama smiles warmly at people, though she generally covers it up with a scarf and big sunglasses. However, these accoutrements conceal a painful past that started when she was just 13 years old, Anupama's sister and her were followed by a stalker who was twelve years older than her. The stalker would often throw objects at them to get their attention. Anupama told her family that she was tired of the man's persistent pestering, and her brother went to the man's residence to make sure he stopped. Regretfully, this served as a trigger for a much worse situation. The man was so enraged by it that one evening he broke into the sisters' bedroom and threw acid on both of them. But unfortunately, Anupama's chest, face and all were burnt with this.

B. Mamta

Mamta is an optimistic, brilliant woman. Even when she speaks gently of her difficult journey thus far, there is a certain brightness in her eyes. She was pressured to marry a man who eventually proved to be physically and mentally abusive when she was 21 years old, and that is when her ordeal started. Additionally, she wanted to end the pregnancy when she found out she was expecting her first kid since she believed she owed it to the unborn child to keep him safe. Despite her objections, she was forced to give birth to him by her husband's pressure. When her husband demanded money from Mamta and her family locked her out of their marital house, things only got worse. Her husband had been manipulating Mamta and her family. And in the aggression, he poured acid on her.

C. Haseena Hussain

Haseena Hussain suffered with the incident of acid attack that left her blind. However, she triumphed and is now transforming the lives of other victims of this kind. Haseena still remembers a horrifying event that occurred more than ten years ago, but she made the decision to have a happier life.

She now provides all of her family's income in addition to serving as an example for other abuse and violence victims on how to live better lives. The accused Joseph Rodriguez, the ex-boss of

¹⁶ MEER FOUNDATION, *Survivor Stories*, <https://meerfoundation.org/stories>.

the victim threw 1.5 litres of the sulphuric acid on the Haseena when she decided to quit the job. She remembered the thing "He wanted to marry me and he was my boss." I declined his offer and quit his position. Following that, a few other workers also quit, and he suffered significant losses. I didn't want to collaborate with him once more, despite his attempts to get me to rejoin. Haseena vividly recalls the incident:

"This infuriated and enraged him, and one day he came to my new office and poured acid on me, changing my life forever." This is the landmark case where the compensation of Rs. 2,00,000 in addition to the Trial Court fine of Rs. 3,00,000 was paid to the Haseena Hussain.

VII. CONCLUSION

The aim of the law is to protect the people, delivered the justice and punish the inhuman activities. The value of law increases when they are properly implemented. The Criminal Law (Amendment) Act, 2013 has brought some positive changes in the laws against the acid attack and provides the relief to the victim by providing them the medical assistance and as the law has been amended so not it provides the strict punishment to the criminals. Prior to Act, no provision of the IPC or any Act provides the punishment as well as the compensation to the survivor. According to the reports, India is the one of the countries where the cases of acid attacks have in large number and the judicial system is overloaded with the cases of the acid attack.

After the amendments and forming the new law, there has been restrictions over the regulations of sales of the acid. And now the judicial system is following the proper method to provide the justice.
