

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 4 | Issue 2

2021

© 2021 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at submission@ijlmh.com.

Witness Protection in Indian Criminal Justice System

PIYUSH GOYAL¹ AND ADITYA AWASTHI²

ABSTRACT

In a democratic country like India crime rate is increasing at a burning speed but as far as justice is concerned, it is not equal to pace of it. A criminal case is built upon the edifice of evidence that is admissible in law for that In criminal case witness plays pivotal role in determining the final outcome. Witness are regarded as one of the most indispensable element in the criminal justice system. It is because of them that the trial finds some substance so as to arrive at a fair conclusion. The inputs provided by the witness may have direct bearing on the conviction or acquittal of an accused, hence it is desired that such witness be protected from the wrath of extraneous factors that have the capability to change his stance over a particular case. Extraneous factors in form of corruption or threats form a majority which result in turning of the witness hostile, hence it becomes rudimentary for the state to ensure protection of such witness so as not to alter the prescribed course of justice. It is a rule of law that no rights of the witness should be prejudiced by way of threats, intimidation or corruption therefore, to allow him to testify for or against the case which he had been a witness to with full liberty. In the words of Jeremy Bentham "Witnesses are eyes and ears of the Courts", hence, it becomes imperative on part of the State to provide adequate protection to the witness to ensure ideal working of the wheel of justice.

Keywords: *Witness, Protection, Hostile, Fair Trial.*

I. INTRODUCTION

Commission of a crime is a gradual process and is a culmination of set of events and series of acts. The main aim of criminal justice system is to capture and punish the offender which could be done only after the careful and proper investigation identifying the series of acts. The series at times shift away the focus of investigative machinery as the offender might have manipulated the series to cast away the criminal liability and punishment. The evidence plays a major role in this investigative process. The instrument of evidence is the media through which the

¹ Author is a student at Asian Law College, India.

² Author is a student at Asian Law College, India

evidence of facts, either disputed or required to be proved, are conveyed to the mind of the investigative agencies and the judiciary in civil as well criminal matters. The evidence before the Court or authority can be documentary evidence or oral evidence. Amongst all these evidences the present research would focus on the role and status of witnesses in the criminal justice system in India and the need for improved witness protection. The oral evidence is generally given by the witnesses, be it a victim himself, the accused or any other person having any information relating to the matter. A witness plays very important role in the criminal trials and helps the court in the administration of justice. It is by means of witnesses that both the documentary and material evidences are usually presented to the Court.

Witness are regarded as one of the most indispensable element in the criminal justice system. It is because of them that the trial finds some substance so as to arrive at a fair conclusion. The inputs provided by the witness may have direct bearing on the conviction or acquittal of an accused, hence it is desired that such witness be protected from the wrath of extraneous factors that have the capability to change his stance over a particular case. Extraneous factors in form of corruption or threats form a majority which result in turning of the witness hostile, hence it becomes rudimentary for the state to ensure protection of such witness so as not to alter the prescribed course of justice.

In *Swaran Singh v/s State of Punjab*³ the Supreme Court of India expressed deep concern about the predicament of a witness in the following words: *“A criminal case is built on the edifice of evidence, evidence that is admissible in law. A witness in a criminal trial may come from a far-off place to find the case adjourned. He has to come to the Court many times and at what cost to his own-self and his family is not difficult to fathom. It has become more or less a fashion to have a criminal case adjourned again and again till the witness tires and he gives up. It is the game of unscrupulous lawyers to get adjournments for one excuse or the other till a witness is won over or is tired. There is no protection for him. In adjourning the matter without any valid cause a Court unwittingly becomes party to miscarriage of justice. A witness is then not treated with respect in the Court. He is pushed out from the crowded courtroom by the peon. He waits for the whole day and then he finds that the matter adjourned. He has no place to sit and no place even to have a glass of water. And when he does appear in Court, he is subjected to unchecked and prolonged examination and cross examination and finds himself in a hapless situation. For all these reasons and others a person abhors becoming a witness. It is the administration of justice that suffers. Then appropriate diet money for a witness is a far cry.*

³AIR 2000 SC 2017

Here again the process of harassment starts and he decides not to get the diet money at all.”

II. MEANING AND DEFINITIONS OF WITNESS

The ordinary meaning of the term “*witness*” is a person present at some *event* and able to give information about it. The word has its origin in Old English word ‘witness’ which means ‘attestation of fact, event, and so on, from personal knowledge,’ also ‘one who so testifies,’ originally “knowledge, wit,” formed from *wit* (n.) + *-ness*⁴. To witness is to experience important events or changes, to see things happen. A witness is someone who has first-hand knowledge about a crime or dramatic event through their senses (e.g. seeing, hearing, smelling, touching) and can help certify important considerations to the crime or event. In other words, a witness is a person whose presence is necessary in order to prove a thing or incident. The word witness is nowhere defined in the Code of Criminal Procedure. But a new clause (wa) has been inserted in Section 21 introducing definition of ‘*victim*’ which also includes the guardians and legal heirs of the victim (Victim is considered to be a prime witness in a criminal trial). It is for the first time that the efforts for defining a victim in legislation have been done through this provision. Hence this is a stepping stone in recognizing legislatively the status of a victim as an important component of a trial.

Black’s Law Dictionary gives the following definition: “In the primary sense of the word, a witness is a person who has knowledge of an event. As the most direct mode of acquiring knowledge of an event is by seeing it, “witness” has acquired the sense of a person who is present at and observes a transaction⁵.”

The ***Witness Protection Scheme, 2018*** defines ‘witness’ as: “‘*Witness*’ means any person, who possesses information or document about any crime regarded by the competent authority as being material to any Criminal proceedings and who has made a statement, or who has given or agreed or is required to give evidence in relation to such proceedings.”

III. TYPES OF WITNESSES

The following could be the categorization of witnesses.

1. Eye witness- An individual who is present during the event and who observes or personally see something happen and so can give first hand description of it.

⁴Online Etymology Dictionary, available at

http://www.etymonline.com/index.php?term=witness&allowed_in_frame=0, (last visited on September 19, 2013)

⁵*Black’s Law Dictionary*, available at <http://thelawdictionary.org/witness-n/#ixzz2cm686Dz8>(last visited on September 19, 2013).

2. Chance Witness- If by coincidence or chance a person happens to be at a place of occurrence when the incident takes place. He is chance witness. The evidence given by the witness are considered to be the most reliable because they don't belong or connects to either of the party.

3. Medical Witness/Expert Witness- An expert witness ,professional witness or judicial witness who by virtue of education training skills ,or experience ,is believed to have expertise and specialized knowledge in a particular subject beyond that of the average person ,sufficient that others may officially and legally rely upon the witness specialized, such as writing expert.

4. Character Witness- A character witness is the person who testifies under oath and affirmation as to the good and reputation of another person in the community where he or she lives. The purpose of your evidence is to help the judge decide which sentence to impose.

5. Child witness- According to *Section 118* of Evidence act Any person will be competent to testify unless the court considers that they are prevented from understanding the question put to them, or from giving rational answers to those questions ,by tender year ,extreme old age ,disease, whether body or mind or any other cause of same kind.

6. Evidence Of Investigating Officers- Investigating officers plays very important role of witness .Investigating officers are the persons who search the accused or who reaches on the place from where evidence can be collected.

7. Interested Witness- Interested witness is one who is interested in securing conviction of a person out of vengeance or enmity or a person who has a personal interest in the outcome of the matter at hand. It includes friends, relative ,master, servant etc.

8. Victim as a witness- The person who has suffered from the commission of crime ,the statement is given by that person is considered is most reliable in the court.

The '*Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*' adopted by the *United Nations General Assembly* in November 1985 regarded the *victims of crime* to be an important witness and gave forth four objectives, the applicability of whose need to be ensured by the member nations towards the victims of crime:

- (i) Access to justice and fair treatment
- (ii) Restitution
- (iii) Compensation
- (iv) Assistance

IV. IMPORTANCE OF WITNESS AND THEIR PROTECTION

New Testament of the **Holy Bible** teaches us: “*Thou shalt do no murder, thou shalt not commit adultery, thou shalt not steal, and thou shalt not bear false witness.*” The importance of the witnesses to the trial process could be inferred from the words of an eminent thinker **Jeremy Bentham**: “*witnesses are the eyes and ears of justice.*” The Hon’ble Supreme Court of India also held in **State of Gujrat v. Anirudh Singh**⁶ that: “*It is the salutary duty of every witness who has the knowledge of the commission of the crime, to assist the State in giving evidence.*” **Committee on Reforms of Criminal justice System** said in its report that “*By giving evidence relating to the commission of an offence, he performs a sacred duty of assisting the court to discover the truth. It is because of this reason that the witness either takes an oath in the name of God or solemnly affirms to speak the truth, the whole of the truth and nothing but truth*”. In **Zahira Habibulla H. Shiekh and Another v. State of Gujarat and others**⁷ the definition for a fair trial was given as one “*in which bias or prejudice for or against the accused, the witnesses, or the cause which is being tried is eliminated. If the witnesses get threatened or are forced to give false evidence that also would not result in a fair trial. The failure to hear material witnesses is certainly denial of fair trial.*”

The irony is that while offenders have a range of rights, (both Constitutional and legal), the victims and more particularly, witnesses, have a limited range of rights. Thus, this unequal distribution of rights results in a situation where witnesses are rendered helpless as they lack sufficient rights to protect themselves and thereby compelling them to turn hostile.

The issue of Witness Protection should be studied in light of the fact that conviction rate is low in India and acquittal rate is high. The Supreme Court too observed in **Swaran Singh v State of Punjab**⁸, that the procedures being followed is one of reasons for a person to abhor becoming a witness.

The disturbing fact that such a big democracy as India does not have a Witness Protection law. In the event of the creation of such a law, the focus should be the protection of witnesses, not only before, but also during and after the trial.

The Witness Protection Scheme, 2018

The Witness Protection Scheme, 2018 envisages means ensuring protection of life/ safety of witnesses in events ranging from; providing a police escort to witness up to Court room or

⁶(1997)6 SCC 514.

⁷(2004)4SCC158

⁸AIR 2000 SC 2017

using audio video means for recording testimony of such witness to steps ensuring anonymity, temporary residence in safe house, providing new identity, relocation of witnesses, etc., in extreme cases. The Scheme, *inter alia*, provides for classifying witnesses into three categories, i.e., **Category A⁹**, **Category B¹⁰** and **Category C¹¹**, as per threat perception and further provides for the establishment of State Witness Protection Fund, operated by the Department/ Ministry of Home under State/ Union Territory Government, for meeting the expenses incurred during implementation of Witness Protection Order, passed by Competent Authority. As per the Scheme, the genesis of Witness Protection Order is the filing of an application in the prescribed form before the Competent Authority of the concerned District, through its Member Secretary. **Clause 6** of the Scheme provides for the procedure for processing of such application(s), basis Threat Analysis Report ("**TAR**"), prepared by the Additional Commissioner of Police/ Deputy Commissioner of Police in charge of concerned Police Station and its disposal within a period of five working days from the receipt of said Report. The said Clause further confers power on the Competent Authority to pass interim protection order, till final decision on witness's application and monthly follow up and review of final order of protection so passed. Witness Protection Order, proportionate to the threat and for specific duration and subject to monitoring/ review, which may be passed may include: monitoring of mails/ telephone calls; ensuring witness and accused do not come face to face during investigation/ trial; concealment of identity; holding in-camera trial; regular patrolling around witness' house, etc. The Scheme also makes provisions regarding protection of identity of witness (*Clause 9*); change of identity (*Clause 10*); relocation of witness (*Clause 11*); Confidentiality and preservation of Records (*Clause 13*); etc. Further, as per *Clause 12* of the Scheme, it has been made incumbent on every state to give wide publicity to the scheme and on the Investigation Officer and Court to inform the witnesses about the existence of the Scheme and its salient feature.

Though, the Witness Protection Scheme, 2018 is an appreciated step in the direction of witness/ victim security, however, there are certain inherent lacunae existing therein. Firstly, the protection envisaged therein is limited for a specific duration of three months at a time. Secondly, the basis of orders which may be passed under the Scheme seem to hinge largely on the recommendations/ advice made in TAR(s) by the concerned officials of police, who are often prone to corruption, superior/ political pressures, etc. Further, though, the Scheme

⁹ Where threat extends to life of witness or his family members, during investigation/ trial or thereafter.

¹⁰ Where threat extends to safety, reputation or property of witness or his family members, during investigation/ trial or thereafter.

¹¹ Where threat is moderate and extends to harassment or intimidation of witness or his family member's, reputation of property, during investigation/ trial or thereafter

envisages for confidentiality and preservation of records, however, no penal provisions against such violation are provided for therein. The Scheme also does not make any provision for occupation/ work/ education, in the interim, of the witnesses. In contrast, the Witness Protection Bill, 2015 made, *inter alia*, specific provisions in relation to the penalties which may be imposed for the violation of the terms of the said Bill; orders for safety and security of the protectee from the inception of investigation till the stage after trial on terms, as warranted by the Court as per the threat perception of the individual; etc. In fact, under the said Bill there were specific provisions in relation to the protectee's right to practice an alternate occupation, without compromising the integrity of the case and continuity of education of juvenile protectee, lacking under the Scheme. Similar Bill for the protection of Identity of witness was introduced in the Parliament. However, unfortunately, both the said Bills could not transform into a statute.

V. HOSTILE WITNESS: RECENT JUDICIAL PRONOUNCEMENT

A witness might flip hostile for varied reasons, usually it is the combination of cash and muscle power, threat / intimidation, inducement by various means that, allurements/seduction etc. however the foremost one being the absence of protection to the witnesses throughout and when the trial. The witness is frightened of facing the wrath of the convicts who could also be well connected. Witnesses are a unit extremely liable to intimidation within the variety of threats by the suspect. Today, hostility of witnesses in serious crimes and crimes committed by "high profile" persons has challenged the system of criminal justice.

As discovered by the Apex Court: *"increasingly folks are basic cognitive process that laws are like spider's webs: if some light-weight or inundated issue falls into them, it's caught, however a much bigger one will break through and acquire away"*. Conducts that illegitimately have an effect on the presentation of witness in proceedings before the courts ought to be seriously and severely dealt with".

1. The Sohrabuddin case

In the Sohrabuddin case, the following witnesses have turned hostile. One of the passengers of the bus wherein Sohrabuddin, and his wife Kauser Bi along with associate Tulsiram Prajapati were travelling in November 2005 from Hyderabad to Sangli was Sharad Krushanji Apte who International Journal of Pure and Applied Mathematics Special Issue 1839 had deposed that he had seen them in the bus, but denied it later. The bus driver Misbah Hyder, and the cleaner Gazuddin Chabuksawar, had initially stated that the bus had been stopped by an SUV and that the police had taken them away. However they later retracted their statement. The bus operator

M J Tours provided CBI with a photocopy of their tickets, but later denied issuing them. The person who had hosted Sohrabuddin in Hyderabad later denied that he had stayed with them.

2. 2007 Mecca Masjid case

Lt Col Shrikant Purohit, who was an NIA witness in the Mecca Masjid case, subsequently turned hostile and recanted his statement of having met the accused, Swami Aseemanand. In Samjhauta Express and Ajmer Dargah blasts cases, almost 40 witnesses turned hostile, which led to Aseemanand's acquittal.

3. Salman Khan Hit & Run Case

In the 2002 hit-and-run case involving the superstar, an eyewitness who had claimed initially that he had seen the actor exit the driver's seat, denied it in 2014.

4. Best Bakery Case

In this case, Zaheera Sheikh initially said that an armed mob had been chanting anti-Muslim slogans, and spoke of "dance of death which continued all night", but turned hostile later. Four others also turned hostile. The Supreme Court sentenced her to a year's imprisonment for perjury, and has ordered that a retrial be held after the 21 accused were acquitted by both the trial court and the High Court.

VI. EVIDENTIARY VALUE OF STATEMENT GIVEN BY HOSTILE WITNESS

The evidence of a hostile witness cannot be discarded as a whole. In 2012, the Hon'ble Apex Court held that *"the law can be summarised to the effect that the evidence of a hostile witness cannot be discarded as a whole, and relevant parts thereof which are admissible in law, can be used by the prosecution or the defence."*

In *Balu Sonba Shinde v. State of Maharashtra*¹², the Supreme Court held that *"the declaration of a witness to be hostile does not ipso facto reject the evidence. The portion of evidence being advantageous to the parties may be taken advantage of, but the Court should be extremely cautious in such acceptance."*

In *State of U.P v. Ramesh Prasad Misra*¹³, it was held that *"it is equally settled law that the evidence of a hostile witness would be totally rejected if spoken in favour of the prosecution or the accused, but it can be subjected to close scrutiny and that portion of the evidence which is consistent with the case of the prosecution."*

¹² 2003 SCC (Cri.) 92

¹³(1996) 10 SCC. 360

Principles of law developed by the Supreme Court and the High Courts

In the pre-Maneka Gandhi phase the Supreme Court, in *Gurbachan Singh v. State of Bombay*¹⁴, upheld a provision of the *Bombay Police Act, 1951* that denied permission to a detente to cross-examine the witnesses who had deposed against him. It was held that "*the law was only to deal with exceptional cases where witnesses, for fear of violence to their person or property, were unwilling to depose publicly against bad character. At this stage, the issue was not examined whether the procedure was 'fair'.*" The decisions in *G.X. Francis v. Banke Bihari Singh*¹⁵ and *Maneka Sanjay Gandhi v. Rani Jethmalani*¹⁶ stressed the need for a congenial atmosphere for the conduct of a fair trial and this included the protection of witnesses. In *Mahender Chawla and Ors. v. Union of India (UOI) and Ors*¹⁷, the Hon'ble Court specifically observed that "*one of the main reasons for the witnesses to turn hostile is that they are not accorded appropriate protection by the State. Clearly, threat to life, induced by coercion, compulsion, violence, etc., may often result in witnesses from contracting from truth, even if the same may go against their conscience or will.*"

In *Kartar Singh v. State of Punjab*¹⁸ the Supreme Court upheld the validity of ss.16 (2) and (3) of the *Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA)* which gave the discretion to the Designated Court to keep the identity and address of a witness secret upon certain contingencies; to hold the proceedings at a place to be decided by the court and to withhold the names and addresses of witnesses in its orders. The court held that "*the right of the accused to cross-examine the prosecution witnesses was not absolute but was subject to exceptions.*" The same reasoning was applied to uphold the validity of *Section 30 of the Prevention of Terrorism Act, 2002 (POTA)* in *People's Union of Civil Liberties v. Union of India*. In *Delhi Domestic Working Women's Forum v. Union of India*¹⁹ the Supreme Court emphasized the maintenance of the anonymity of the victims of rape who would be the key witnesses in trials involving the offence of rape.

The importance of holding rape trials in camera as mandated by Section 327 (2) and (3) Cr.PC was reiterated in *State of Punjab v. Gurmit Singh*²⁰. In *Sakshi v. Union of India*²¹ the Supreme Court referred to the **172nd Report of the Law Commission** and laid down that

¹⁴1952 AIR 221, 1952 SCR 737

¹⁵AIR 1958 SC 309, 1958 CriLJ 569

¹⁶1979 AIR 468, 1979 SCR (2) 378

¹⁷2019 (14) SCC 615

¹⁸1994 SCC (3) 569, JT 1994 (2) 423

¹⁹1995 SCC (1) 14, JT 1994 (7) 183

²⁰1996 AIR 1393, 1996 SCC (2) 384

²¹1999 CriLJ 5025, 1999 (5) SCALE 376, (1999) 6 SCC 591

"certain procedural safeguards had to be followed to protect the victim of child sexual abuse during the conduct of the trial." In the **Best Bakery Case**²², in the context of the collapse of the trial on account of witnesses turning hostile as a result of intimidation, the Supreme Court reiterated that "legislative measures to emphasize prohibition against tampering with witness, victim or informant, have become the imminent and inevitable need of the day." Although, the guidelines for witness protection laid down by the Delhi High Court in **Neelam Katara v. Union of India**²³ require to be commended, they do not deal with the manner in which the identity of the witness can be kept confidential either before or during the trial. The judgment of the Full Bench of the Punjab and Haryana High Court in **Bimal Kaur Khalsa vs Union of India**²⁴, which provides for protection of the witness from the media, does not deal with all the aspects of the problem. These judgments highlight the need for a comprehensive legislation on witness protection.

VII. TYPES OF PROTECTION MEASURES

- (a) Ensuring that witness and accused do not come face to face during investigation or trial;
- (b) Monitoring of mail and telephone calls;
- (c) Arrangement with the telephone company to change the witness's telephone number or assign him or her an unlisted telephone number;
- (d) Installation of security devices in the witness's home such as security doors, CCTV, alarms, fencing etc.;
- (e) Concealment of identity of the witness by referring to him/her with the changed name or alphabet;
- (f) Emergency contact persons for the witness;
- (g) Close protection, regular patrolling around the witness's house;
- (h) Temporary change of residence to a relative's house or a nearby town;
- (i) Escort to and from the court and provision of Government vehicle or a State funded conveyance for the date of hearing;
- (j) Holding of in-camera trials;
- (k) Allowing a support person to remain present during recording of statement and

²²2004 (4) SCC 158

²³ILR (2003) II Del 377 260

²⁴AIR 1988 P H 95

deposition;

(l) Usage of specially designed vulnerable witness court rooms which have special arrangements like live links, one way mirrors and screens apart from separate passages for witnesses and accused, with option to modify the image of face of the witness and to modify the audio feed of the witness' voice, so that he/she is not identifiable;

(m) Ensuring expeditious recording of deposition during trial on day to day basis without adjournments;

(n) Awarding time to time periodical financial aids/grants to the witness from Witness Protection Fund for the purpose of re-location, sustenance or starting new vocation/profession, if desired;

Some other measures, which can be resorted to in graver scenarios are '*Protection of Identity*', '*Change of Identity*' and '*Relocation of Witness For protection of identity*', an application for seeking identity protection can be filed in the prescribed form before the Competent Authority. The Competent Authority, keeping in view the '*Threat Analysis Report*' and after examining the witness, his family members or any other person can pass an order for concealment of identity of witness. Similarly, in some cases keeping in view the threat perception report a new identity may be conferred. In appropriate cases relocation of witnesses can also be ordered to a safer place within the State/UT or territory of the India Union

VIII. CONCLUSION

Law cannot be static. It has to change as per the changing needs of society. The phenomenon of hostile witnesses, a decade ago was an exception but now it has become a casual thing in celebrated cases involving the high politic citizens. For example, in cases like *Neelam Katara*, *Jessica Lal and Best Bakery*²⁵ etc. the key witnesses turned hostile during the actual trial resulting in dilution of trial procedure. Apparently though the reasons for hostility might be different, latently, it is the lack of proper witness protection programs in India. Today undeserving acquittals can be secured by simple means, namely, ensuring that the main witness either does not turn up or turns hostile. Though the Supreme Court has laid down that evidence of a hostile witness need to necessarily be treated as being in favour of the accused, still the court find it difficult to do so. Failure of prosecution resulting in acquittal of accused ultimately hampers process of justice and people are losing their confidence in the criminal justice system. It is due to this reason that a witness protection law and programme is needed in India. In the

²⁵ National Human Rights Commission v. State of Gujarat (2009) 6 SCC 767

absence of any law or programme affording protection to witnesses, we cannot hope for the crime rate to come down. In fact it will work as a safeguard for criminals who will dare to repeat their criminal activity. The need for witness identity protection is debated over every now and then. Many a times, protecting the identity of the witness during the trial is not sufficient and the witness and his family members may need some extra care and protection even outside the court. This is a preventive step from saving the life of the witness and his family members from the brutal consequences of becoming a witness against the accused person. Various countries have established the Witness Protection Programmes in different countries which deals with the aspect of physical protection of witness outside the court. These programmes aim at taking care of witnesses in all spheres of life, social economic and safety of the life. The extent and the nature of this programme changes from country to country. The Indian legal system recognises various rights conferred upon the accused person in provisions of Constitution and the Code of Criminal Procedure. *Article 20 (2) and (3) of the Indian Constitution recognises the right of an accused against double jeopardy and right against self incrimination. Section 250 of the Code of Criminal Procedure provides for the compensation to an accused person on the ground that the person is been charged with the commission of an offence without the existence of reasonable ground. Hence it could be concluded that "when the Indian legal system could be so sensitive towards the rights of an accused, it should also be equally sensitive towards the rights of the witnesses who play a major role in administration of criminal justice."* Undoubtedly, India has come a long way in relation to ensuring the safety and security of witnesses, considered as an integral part of criminal justice system. However, a lack of statutory mechanism with strict penal implications may result in leaving the entire mechanism so adopted through judicial process, in lurch. As the Indian Courts have often recognized, *"[t]he edifice of administration of justice is based upon witness coming forward and deposing without fear or favour, without intimidation or allurement in Courts of Law, If witnesses are deposing under fear or intimidation or for favour or allurement, the foundation of administration of justice not only gets weakened, but it may even get obliterated."*²⁶ Therefore, an existence of an effective and strict Witness Protection Scheme cannot be stated be enough. Time has come for the State to step into its role of *parens patriae* and to provide a comprehensive legislation in this direction. It is only then that the stream of justice would be able to flow freely and independently.

²⁶ *Neelam Katara v. Union of India, 2003 SCC OnLine Del 952 : ILR (2003) 2 Del 377*