

A Critical Analysis on the Right of Accused with the Perspectives of Human Right

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Abstract: *As per the rights of accused perspective on human rights the topic that's have been taken that shows the accused also get some of the opportunity. through the accused also person but because of the his/her criminal behavior or the crime he/ or she had committed the person is called as accused person. But however, though he is an accused, but if we see that the as a person or human being the accused also want some rights toward him/ her.*

In our Indian constitution there are fundamental rights are given to the person who belongs to India who is born in India who has domicile. Now further will we understand all the laws and rights that a person who is accused in the trail case which is going in the court.

In the cognizable offence the accused person is arrested without warrant as per the code of criminal procedure 1973. According to procedure law, police officer has given the rights in procedure law that if the person is doing cognizable offence with the permission of a magistrate before arresting the accused person. And after the accused person is arrested by the police officer, as per the procedure law section 53, the accused should be examined medically at the time of arrested, at the request of police officer. As per the amendment is done in section 54 of the Criminal Procedure Code 1973. And in section 50 of the Criminal Procedure Code 1973 has also make the order that the power of judicial magistrate have the power to give order to the person involved for medical examination

Keywords: cognizable offence, arrest, amendment, CrPC, accused, warrant

I. INTRODUCTION

As per human right that the constitution has given us but now here, we will look about human rights which the accused person given that the accused also not violate her human rights as per the citizen of India. In short accused means the person who is person and he or she is a domicile of India.

As an offender as well as an undertrial. these rights are under Article 14,19,20,21,22,32 and 226 as per the constitution of India. The accused which are under trial prisoners enjoy certain other legal rights provided under the Indian Penal code, 1860 (IPC): The Criminal Procedure Code, 1973 (CrPC), and the Indian Evidence Act ,1872 (IEA).

In this not only the supreme court of India and high court played a main role in attaching constitution of these significance rights but, through human judicial also have some of their interpretation in these which they can expand their contents. But in This the right of accused is highlight briefly because of the under trial and the offer some suggestions to ensure their promotion and protection

As we see the historical background in which the accused person who as committed the offence though the offence, he or she had done is not much grievous offence. But if we look at the person background there are such accused also seen that they are doing offence of the family member like robbery, thief etc. and like that they are living in such surrounding where all these things they are looking and they are becoming the criminal. This is the main thing from where the person is form in criminal.

And if such type of criminal person come as an accused in criminal justice or they are undertrial in their case though they are innocent they have not done anything wrong but for the food, shelter and cloths they are doing such offence. All though they are from the poor and backward area there the people are illiterate they do not have any knowledge about the legal rule and regulation.

For such type of accused person if they are attempting in the court the public procedure is there for giving them the knowledge of the legal right that is given in the constitution in procedure law.

The criminal justice moves around the accused and law functions as the meaning of justice. In the criminal justice it involves and influencing their pattern each other among crime victim, crime reporter, police, prosecutor, courts, defense counsel and corrections, probation and parole person.

As we see that the largest democracy country in the world is India. But unfortunately, over all the time its shine is diminishing because of defective criminal justice system.

Therefore, we are in a critical juncture of time, there is need to again reformulate the justice system to address the challenges of the present day. There are some necessitate the development of various techniques that can be effectively incorporated into the policy framework.

Therefore, in order to attain better understanding of criminal justice system and to uplift of accused person it is worth to examine the object of the criminal system.

II. METHOD OF DATA COLLECTION

This research is based on secondary data, books, internet, websites, observations etc. This secondary data collection methodology was considered in the present research paper.

III. DISCUSSION

As per the discussion on this research paper topic that is "Rights of accused person with the perspective of Human rights" the Constitution of India, Criminal Procedure Code, Evidence Act all these things are there but as we see there are some of the people if they are illiterate, they do not have any knowledge about this criminal system. So, there must be some things that provide to gain them some knowledge about criminal system.

And the second thing we are looking in the surrounding that through all these legal rights are given some of them are taking benefits in wrong full manner we have to see over it.

The main aim of this Research Paper is to aware people about the Rights in case of Arrest or Detention. This Research Paper also helps Researcher to come forward to research on topics related to this Right.

There are multiple views on this Topic, but I still realized to embody it in People Life's. Article 20, 21 and 22 of Indian Constitution provides a Right to Freedom a Fundamental Right which also provides Rights of Accused Person. The researcher has research by various secondary sources and also discusses many related case laws. This case law has helped the researcher to analyse the topic.

The researcher also research on Sections of Code of Criminal Procedure for accused person in human perspective. Article 39 a, and as per the Criminal Procedure code section 300 person once convicted or acquitted not to be tried for same offence and section 304 say about the legal aid to accused at the state expense in certain cases.

IV. CONCLUSION

By the data collected and as per the observations is done. All over, the result which has come out is not very stronger match as per the situation. Though we have a more rate who make sure, the research problem, that the rights of accused should be confined with accordance of the cases, but it is also seen that this is not enough, and also not so much realistic in comparison to the other group of people who marked the words correctly, that on the grounds of which, who will decide whom to give the right and whom to not.

We can assume that all these things the judge will do, but how much it will help the court .so for equal justice and fair trial the legal offer's that that is prosecution and defence lawyers is appointed who gives their level best to plea this in court to attack/defend their clients as per there side, which might not always truth and sometime it is truth also that can be decided by the facts of cases ,evidence and document that is submitted before the court.

The legal aid providing some of the part though seems justified as per the case of Ajmal Kasab, he shouldn't have been allowed to defence himself. But in such cases, where the poor people who cannot afford lawyers when they are seen accused of charges in front of court it will be unfair for them, so for them the public prosecutor is appointed. As per the rare cases occasions should be marked where the rights of an accused in India is confined.

V. SUGGESTION

It is suggested that the joining of science with traditional criminal investigation techniques offers new outlooks of efficiency in criminal investigation. New perspectives in investigation bypass a total or major reliance on informers and custodial interference and also use a skilled scanning the crime scene for physical evidence and a search for as many witnesses as possible.

As per the right of accused persons perspective of human right the Indian constitution and Criminal Procedure code had look all the things that will not violate the human right of the Accused person and treated as a human being thought the accused person committed. All Legal system provide, at least on paper, guarantee that insure certain basic rights of the accused. These include right to trial by jury, to representation by counsel, to present witnesses and evidence that will enable him to prove his innocence, and to confront that's cross examine, his accusers, as well as freedom from unreasonable searches and seizures and freedom from double jeopardy.

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