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HON'BLE MR. JUSTICE RAJESH BINDAL
Chief Justice, Allahabad High Court

SUPERVISORY COMMITTEE OF JTRI



Hon'ble
Mr. Justice Devendra Kumar Upadhyaya
Judge, Allahabad High Court, Lucknow Bench
& Chairman Supervisory Committee JTRI



Hon'ble
Mr. Justice Ajay Bhanot
Judge, Allahabad High Court



Hon'ble
Mr. Justice Piyush Agrawal
Judge, Allahabad High Court



Hon'ble
Mr. Justice Jaspreet Singh
Judge, Allahabad High Court,
Lucknow Bench

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TRAINING ACTIVITIES IN THE INSTITUTE

I. Two Days Conference on Sensitization of District Court Judges on Gender Justice and Differently Abled Victims/Survivors of Sexual Abuse

Two Days Conference on “**Sensitization of District Court Judges on Gender Justice and Differently Abled Victims/Survivors of Sexual Abuse**” was organized by the Institute on 23rd & 24th July, 2022 in which about 225 Judicial Officers including District Judges from district courts of Lucknow, Kanpur Nagar, Sitapur, Raebareli, Unnao & Faizabad participated.

This two days’ conference was organized to sensitize the participating Judges in the matters involving sexual violence against women and girls with disability, gender inequality, gender stereotypes and gender injustice, value of the testimony of disabled prosecutrix, intersectionality, victim compensation, restorative justice and witness protection. The purpose of the conference was to make the whole exercise participative and interactive, so as to reap maximum benefits and a pragmatic outcome which is useful in day-to-day working of district courts.



Hon’ble Mr. Justice Dinesh Maheshwari, Hon’ble Mr. Justice Rajesh Bindal, Hon’ble Mr. Justice Ramesh Sinha & Hon’ble Mr. Justice Devendra Kumar Upadhyaya planting a tree



Hon’ble Mr. Justice Dinesh Maheshwari, Chief Guest Hon’ble Mr. Justice Rajesh Bindal, Guest of Honour and other Dignitaries Lighting the Lamp

The inaugural session of the conference was scheduled on 23rd July, 2022 from 11.00 a.m. to 12.20 p.m. in the Auditorium of JTRI. The conference was inaugurated by **Hon’ble Mr. Justice Dinesh Maheshwari, Judge, Supreme Court of India and the Chief Guest of the Inaugural Session** in the august presence of **Hon’ble Mr. Justice Rajesh Bindal, the Chief Justice, Allahabad High Court, Hon’ble Mr. Justice Ramesh Sinha, Senior Judge, Allahabad High Court at Lucknow, Hon’ble Mrs. Justice Sunita Agarwal, Judge, Allahabad High Court & Chairperson, Committee for Sensitization of Family Courts, Hon’ble Mr. Justice Devendra Kumar Upadhyaya, Judge, Allahabad High Court at Lucknow & Chairman, Supervisory Committee, JTRI** who welcomed Hon’ble the Chief Guest of the session and other Dignitaries.



Sri P.K. Srivastava - II, Principal Secretary & L.R. presenting live plant to Hon'ble Mr. Justice Dinesh Maheshwari, Judge, Supreme Court of India
Chief Guest of the Inaugural Session



Sri Vinod Singh Rawat, Director, JTRI presenting live plant to Hon'ble Mr. Justice Rajesh Bindal, Chief Justice, Allahabad High Court



Sri R.M.N. Mishra, District Judge, Lucknow (now Judge, Allahabad High Court) presenting live plant to Hon'ble Mrs. Justice Sunita Agarwal, Judge, Allahabad High Court



Sri Ashish Garg, Registrar General, Allahabad High Court welcoming Hon'ble Mr. Justice Ramesh Sinha, Senior Judge, Allahabad High Court at Lucknow



Sri Vivek, Senior Registrar, Allahabad High Court at Lucknow welcoming Hon'ble Mr. Justice Devendra Kumar Upadhyaya, Judge, Allahabad High Court at Lucknow

On the occasion, a large number of Hon'ble Judges, sitting and former were present in the conference. Principal Secretary, Law & L.R., Government of Uttar Pradesh and District Judges of all the six districts were also present on the occasion.



Hon'ble Mr. Justice Dinesh Maheshwari, Hon'ble Mr. Justice Rajesh Bindal, Hon'ble Mr. Justice Ramesh Sinha, Hon'ble Mrs. Justice Sunita Agarwal & Hon'ble Mr. Justice Devendra Kumar Upadhyaya Sharing Dias in the Inaugural Function



Hon'ble Mr. Justice A.R. Masoodi, Hon'ble Mr. Justice Ajay Bhanot, Hon'ble Mr. Justice Piyush Agrawal & Hon'ble Mr. Justice Jaspreet Singh in the Inaugural Function



Hon'ble Mr. Justice J.J. Munir,
Hon'ble Mrs. Justice Saroj Yadav, Hon'ble Mr. Justice
Saurabh Lavania, Hon'ble Mr. Justice Rajeev Singh,
Hon'ble Mr. Justice Samit Gopal & Hon'ble Mr. Justice
S.K. Pachori in the Inaugural Function



Hon'ble Mr. Justice Shamim Ahmed, Hon'ble Mr.
Justice Abdul Moin, Hon'ble Mr. Justice N.K. Johari,
Hon'ble Mr. Justice P.K. Srivastava, Hon'ble Mr.
Justice S.K. Tripathi, Hon'ble Mr. Justice Harsh
Kumar, Hon'ble Mr. Justice A.K. Singh, District
Judges and Participating Officers at the Conference

While inaugurating the programme, **Hon'ble Mr. Justice Dinesh Maheshwari, Judge, Supreme Court of India** said that human beings have five senses which are external sense organs, but more important are the internal sense organs of human beings. It is the internal sense organs with which one gets to know the power of foresight, confidence etc. While addressing the participating Judges, the Chief Guest appealed that Judges must focus on the power and utility of the internal organs and repose greater confidence in internal sense ability or conscience. Judicial Officers have to establish a fine balance in their approach and they should neither be too compassionate towards the litigants nor should be devoid of compassion. His Lordship also said that justice should not be 'litigant centric' but it should be 'cause centric', which means the Judges are doing justice for a cause not for a party. The 'cause being justice', which is the ultimate purpose of judicial institutions. His Lordship said that while performing judicial work, we should never allow irrelevant elements, questions or any stereotypes to enter in our analysis. He also said that disabled victim needs special attention rather than sympathy. It is empathy, which should be embedded in the approach of judging while dealing with disabled victims or survivors of sexual abuse.



Hon'ble Mr. Justice Dinesh Maheshwari,
Judge, Supreme Court of India addressing in the
Inaugural Function



Hon'ble Mr. Justice Rajesh Bindal, Chief Justice,
Allahabad High Court sensitizing the participants

Hon'ble Mr. Justice Rajesh Bindal, the Chief Justice, Allahabad High Court and the Guest of Honour of inaugural session, while addressing the participants, said that the girls

outnumbered boys in recently declared results of class-10th and 12th and their pass percentage is also higher than that of boys. We live in a state where Rani Laxmi Bai fought the battle for independence while holding her son in the lap but our daughters cannot be successful unless they are supported by the family and society. It is remarkable that our daughters are getting the support of their family now but they are yet to receive the support of society. It is therefore, our pious duty that as a member of society, we must provide required support to our daughters. His Lordship referred to many cases particularly '*Aparna Bhatt*', '*Patan Jamal Vali*' and '*Sabarimala*' and appealed to participants that they should meticulously study these cases, so as to be sensitized as required by the Hon'ble Supreme Court of India.

His Lordship also mentioned the pendency of cases in U.P. and said that the huge pendency shows that people are not getting justice on time. If any maintenance application is not decided on time, it would be equivalent to not delivering justice. While mentioning the differently abled victims and witnesses, His Lordship said that no definite data is available in this regard but these matters need to be taken up with utmost sensitivity. Unfortunately, the disabled victims often do not know that whether the act done to them falls within the category of crime or not? His Lordship sensitized the participating Judges on these issues and mentioned the action plan of High Court while appealing the participants to dispose of the old cases at the earliest.

Hon'ble Mr. Justice Ramesh Sinha, Senior Judge, Allahabad High Court at Lucknow while quoting the words of **Hon'ble Mr. Justice U.U. Lalit, Judge, Supreme Court of India & Chairman, NALSA** said that these conferences and workshops educate us more than they educate the general public. We should try to get maximum benefit out of this conference.

On this occasion, **Hon'ble Mrs. Justice Sunita Agarwal, Judge, Allahabad High Court & Chairperson, Committee for Sensitization of Family Courts** said that women do not need to be worshiped rather they need the realization of their existence. They can make their own place in the society and they are capable of doing so.

While welcoming the Guests, **Hon'ble Mr. Justice Devendra Kumar Upadhyaya, Judge, Allahabad High Court at Lucknow & Chairman, Supervisory Committee, JTRI** said that we should develop a culture of respecting women and we should also imbibe a culture of equality in our society. His Lordship also said that what we need to change is our mindset and suggested that we should come together to break gender stereotypes. His Lordship also said that '*Constitution do not make revolution, but it is revolutions, which make the Constitution.*'

In the end of Inaugural Session, **Sri Vinod Singh Rawat, Director of the Institute** extended vote of thanks.



Sri Vinod Singh Rawat, Director, JTRI tendering vote of thanks to Hon'ble Dignitaries



Dr. Humayun Rasheed Khan, Additional Director (Research), JTRI Competing in the Inaugural Session

After the inaugural session, ICE Breaking Session started, in which **Hon'ble Mrs. Justice Sunita Agarwal**, Judge, Allahabad High Court, **Sri Vikram Singh**, Former DGP, UP, **Dr. Preeti Mishra**, Head and Dean, Department of Human Rights & Legal Studies, Baba Saheb Bhim Rao Ambedker Central University, Lucknow enlightened the participating officers on different aspects of gender stereotypes, gender inequality and allied issues.



Hon'ble Mrs. Justice Sunita Agarwal, Judge, Allahabad High Court addressing the participants in the Ice Breaking Session



Hon'ble Mr. Justice Devendra Kumar Upadhyaya, Judge, Allahabad High Court at Lucknow sensitizing participants in the Ice Breaking Session



Sri Vikram Singh, Former D.G.P., U.P., in the Ice Breaking Session



Dr. Preeti Mishra, Department of Human Rights & Legal Studies, B.R. Ambedker Central University, Lucknow in the Ice Breaking Session

Besides, ICE Breaking Session, a working session was also organized, in which participants were divided into five groups.



Group-A was **Chaired** by **Hon'ble Mrs. Justice Sunita Agarwal**, Judge, Allahabad High Court & **Chairperson**, Committee for Sensitization of Family Courts and **Co-chaired** by **Hon'ble Mr. Justice P.K. Srivastava**, **Chairman**, U.P. State Law Commission and was **facilitated** by **Ms. Preeti Chaudhary** and **Mrs. Twishi Srivastava**, Deputy Directors, JTRI, **Moderator** was **Sri R.M.N. Mishra**, **District & Sessions Judge**, Lucknow (now a Judge of Allahabad High Court) and **Eminent Speaker** was subject expert **Dr. Sheela Mishra**, Professor in Department of Statistics.

Group-B was **Chaired** by **Hon'ble Mr. Justice J.J. Munir, Judge**, Allahabad High Court and **Co-chaired** by **Hon'ble Mr. Justice Harsh Kumar**, Former Judge, Allahabad High Court, which was **facilitated** by **Sri Manmeet Singh Suri**, Additional Director (Training), JTRI, **Moderator** was **Sri Mayank Kumar Jain**, **District & Sessions Judge**, Kanpur Nagar (now Judge, Allahabad High Court) and **Eminent Speaker** was **Ms. Mayuri Raghuvanshi**, Advocate on Record, Hon'ble Supreme Court of India.



Group-C was **Chaired** by **Hon'ble Mr. Justice Samit Gopal, Judge**, Allahabad High Court and **Co-chaired** by **Hon'ble Mr. Justice Harsh Kumar**, Former Judge, Allahabad High Court and the group was **facilitated** by **Sri Kushalpal**, Additional Director, JTRI, **Moderator** was **Sri Abdul Shahid**, **District & Sessions Judge**, Raebareli and **Eminent Speaker** was **Mr. Lalit Mudgal**, Joint Director (Prosecution), Allahabad High Court, Lucknow Bench.

Group-D was **Chaired** by **Hon'ble Mr. Justice Ajay Bhanot, Judge**, Allahabad High Court and **Co-chaired** by **Hon'ble Mr. Justice Alok Kumar Singh**, Former Judge, Allahabad High Court, which was **facilitated** by **Dr. Humayun Rasheed Khan**, Additional Director (Research), JTRI, **Moderator** was **Sri Harvir Singh**, **District & Sessions Judge**, Unnao and **Eminent Speaker** was **Ms. Pusshp Gupta**, Mediator and Expert on Gender Issues, Advocate, Delhi High Court.



Group-E was **Chaired** by **Hon'ble Mr. Justice Jaspreet Singh, Judge**, Allahabad High Court and **Co-chaired** by **Hon'ble Mr. Justice S.K. Tripathi**, Former Judge, Allahabad High Court, which was **facilitated** by **Sri Vijay Kumar Katiyar**, Deputy Director, JTRI, **Moderator** was **Sri Pradeep Kumar Singh-II**, **Principal Judge**, Family Court, Faizabad and **Eminent Speaker** was **Dr. Ashutosh**, Clinical Psychologist.

Thereafter, on 24th July, 2022, final presentations were made by all the groups in the concluding part of the conference before a panel consisting of **Hon'ble Mrs. Justice Sunita Agarwal, Judge, Allahabad High Court & Chairperson, Committee for Sensitization of Family Courts, Hon'ble Mr. Justice Devendra Kumar Upadhyaya, Judge, Allahabad High Court at Lucknow & Chairman, Supervisory Committee, JTRI, Hon'ble Mr. Justice J.J. Munir, Judge, Allahabad High Court, Hon'ble Mr. Justice Jaspreet Singh, Judge, Allahabad High Court at Lucknow & Member, Supervisory Committee, JTRI** addressed the participants and appealed them to be more sensitive while working on dais from tomorrow as the purpose of the conference would be served only if it is reflected in their judicial attitude and judicial working on courts from the next day onwards.



Hon'ble Mrs. Justice Sunita Agarwal, Judge, Allahabad High Court, Hon'ble Mr. Justice Devendra Kumar Upadhyaya, Judge, Allahabad High Court at Lucknow, Hon'ble Mr. Justice J.J. Munir, Judge, Allahabad High Court & Hon'ble Mr. Justice Jaspreet Singh, Judge, Allahabad High Court at Lucknow Sharing Dias in the Valedictory Session.

The group presentations started with the first presentation made by group 'A' which was given by Mrs. Aakriti Gautam, Metropolitan Magistrate, Kanpur Nagar and Sushri Kisa Zaheer, Civil Judge (Junior Division), Lucknow on the topic '*Intersectionality and judicial empathy with reference to Patan Jamal Vali v. State of Andhra Pradesh Case*'. The speaker started her talk with intersectionality and the Supreme Court judgement in *Patan Jamal Vali Case* for sensitization of judicial officers in cases relating to the sexual offences against women with disability. The speaker talked about biases and prejudices faced by the women with disability and discussed the judgement in detail.



Mrs. Aakriti Gautam, Metropolitan Magistrate, Kanpur Nagar making Group Presentation



Sushri Kisa Zaheer, Civil Judge (Junior Division), Lucknow making presentation

Group 'B' Presentation was given by Mrs. Swapna Singh, Special Judge, (E.C. Act), Unnao on the topic – '*Role and approach of courts regarding bail, trial and other provisions in respect of sexual offences.*' The speaker started her talk with a poem: "**I am the woman who holds up the sky. The rainbow runs through my eyes. The sun makes a path to my womb. My thoughts are in the shapes of clouds. But my words are yet to come.**"



Mrs. Swapna Singh, Special Judge,
(E.C. Act), Unnao making group presentation

The speaker started with the historic view of the women in the society and talked about how women have many roles like motherhood, daughter, wife etc. she talked about the constitution of India which gave a number of benefits for the protection of women and rights of women. The speaker talked about the criminal justice system and various agencies which play vital role in the justice delivery system. The speaker also mentioned the role and powers of courts in the justice delivery system.

Group 'C' presentation was given by Dr. Avanish Kumar, Additional District Judge, Lucknow on '*Judicial Intervention on Gender Equality, Gender Justice and Sensitization of Judiciary.*' The speaker said if we want to bring gender equality, we need to understand gender inequality. There are seven kinds of inequality in India such as: household inequality, basic facility inequality, special opportunity inequality, professional inequality, ownership inequality, mortality inequality & natal inequality. We need to work in these areas to achieve gender inequality and gender justice.



Dr. Avanish Kumar, Additional District Judge,
Lucknow making presentation



Sushri Shinjini Yadav, Addl. Civil Judge (Junior
Division), Rai Bareli making presentation

The co-presenter of group 'C' was Sushri Shinjini Yadav, Additional Civil Judge (Junior Division), Rae Bareli who said that if we want to achieve the objects of any progressive thoughts, we need to be a little more sensitive towards gender equality and shun prejudices and biases in our approach. We need to create a sensitive environment in our court while recording statement under section 164 and while recording evidence of witnesses. It is also needed that police personnel and staff are also made sensitive.

Group 'D' presentation was made by Mrs. Sudha Singh, Civil Judge (Senior Division), Unnao on '*Restorative Justice, Victim Compensation and Rehabilitation.*' She started focusing on who are entitled to get compensation under victim compensation scheme. Identification of victim is a little bit difficult if the victim has not come forward.



Mrs. Sudha Singh, Civil Judge (Senior Division), Unnao making presentation

The speaker said that there are many institutions which interact with victim after registration of FIR like police officers, doctors, radiologist, prosecution, court staff and courts. Each one of these needs to be sensitized towards the problems of victims and the issue of compensation and rehabilitation of victim. The presenter extensively covered the areas of restorative justice, victim compensation and victim rehabilitation.

Group 'E' presentation was given by Sri Pradeep Kumar Singh – II, Principal Judge Family Court, Faizabad on the topic '*Understanding the Psychology of Deaf, Dumb & Blind Victim of Rape/Sexual Abuse.*' The speaker talked about the need of scientific investigation and proper prosecution of offenders in sexual abuse cases. He said that the court should make all possible efforts to inspire the witness with disability or child witness to extract the truth from such witness. A judge must make all efforts to eliminate gender stereotype in judicial work both in pre-trial stage and post-trial stage.



Sri Pradeep Kumar Singh – II, Principal Judge Family Court, Faizabad making presentation



Sri Pankaj Jaiswal, Additional District Judge, Rae Bareilly making presentation

The co-presenter of the group was Sri Pankaj Jaiswal, Additional District Judge, Rae Bareilly, who started by pointing out the causes behind the under reporting of sexual abuse cases. He mentioned various causes such as lack of information, social stigma, victim blaming, lack of support of victim, interacting with police, problems of medical care, challenges in the courts, difficulties in obtaining compensation. The speaker also said that the mother of a victim plays an important role in getting sexual abuse cases reported as it is she who may encourage or discourage the minor victim in reporting the case.

After the final presentations, valedictory session started in which **Hon'ble Mrs. Justice Sunita Agarwal, Judge, Allahabad High Court & Chairperson, Committee for Sensitization of Family Courts, Hon'ble Mr. Justice Devendra Kumar Upadhyaya, Judge, Allahabad High Court at Lucknow & Chairman, Supervisory Committee, JTRI, Hon'ble Mr. Justice J.J.**

Munir, Judge, Allahabad High Court, **Hon'ble Mr. Justice Jaspreet Singh, Judge**, Allahabad High Court at Lucknow & Member, Supervisory Committee, JTRI shared the Dias and make concluding remarks and encouraged officers who made presentations by appreciating their hard work and active participation during working sessions The dignitaries also appreciated the manner in which presentation was prepared and presented by the preventatives of all the five groups.

The two days' conference on gender issues concluded with National Anthem.

II. Zonal Conference on Expeditious Disposal of MACT Cases with Special Reference to Motor Vehicles (Amendment) Act, 2019 and Central Motor Vehicles (Amendment) Rules, 2022

Under the patronage of Hon'ble Mr. Justice Rajesh Bindal, Chief Justice, Allahabad, High Court and under the aegis of Hon'ble High Court, Allahabad, one-day zonal conference (Lucknow Zone) was organized by the Committee to Monitor and Suggest Steps for Expeditious Disposal of Cases Related to Motor Accident Claims Pending Before the High Court of Judicature at Allahabad and Motor Accident Claims Tribunal throughout the State of U.P. on the topic "Expeditious Disposal of MACT Cases with Special Reference to Motor Vehicles (Amendment) Act, 2019 & Central Motor Vehicles Rules, 2022" at the institute on 31.07.2022 (Sunday).



Hon'ble Mr. Justice A. R. Masoodi addressing the participants in Zonal Conference



Hon'ble Mr. Justice D. K. Upadhyaya delivering the inaugural address in the Zonal Conference



Hon'ble Mr. Justice Jaspreet Singh speaking in the Zonal Conference

This one-day zonal conference was inaugurated by Hon'ble Mr. Justice Devendra Kumar Upadhyaya, Judge, Allahabad High Court at Lucknow & Chairman, Supervisory Committee, JTRI in the august presence of Hon'ble Mr. Justice Attau Rahman Masoodi, Judge, Allahabad High Court at Lucknow & Member, Committee to Monitor & Suggest Motor Accident Claims and Hon'ble Mr. Justice Jaspreet Singh, Judge, Allahabad High Court at Lucknow & Member, Supervisory Committee, JTRI.

While inaugurating the zonal conference, Hon'ble Mr. Justice Devendra Kumar Upadhyaya said that the Motor Vehicle law is still in the process of development and adaptation to the conditions of a changing world. The newly added provisions through the Motor Vehicles (Amendment) Act, 2019 relate to issues such as promotion of innovation, National Register of Motor Vehicles, National Transportation Policy, Electronic Monitoring and Enforcement of Road Safety and changes relating to enhancement of penalty and compensation etc. His Lordship stressed on the need of quick disposal of these cases despite some infrastructural problems which

the presiding officers of MACT might be facing. He also made an appeal to other stakeholders such as transport officers, insurance company officers and mediators to provide full cooperation in speedy disposal of MACT matters.



Participants in the Zonal Conference on MACT



Hon'ble Mr. Justice D. K. Upadhyaya, Hon'ble Mr. Justice A. R. Masoodi & Hon'ble Mr. Justice Jaspreet Singh Sharing Dias in Zonal Conference



Presiding Officers of MACT, ARTOs, Mediators from Hon'ble High Court & Insurance Company Officers in the Zonal Conference

Hon'ble Mr. Justice A.R. Masoodi said that the accident tribunals must take special care to see that innocent victims do not suffer and drivers, and owners do not escape liability merely because of some doubt in a claim matter. The quantum of just compensation would differ from case to case depending on the facts of each case. This however would not mean that the Tribunal is entitled to award even lower than minimum below which the compensation would become unjust. He made an appeal to the participants to make the whole programme participative and interactive so as to reap maximum benefits from the conference.



Sri Kushalpal, Additional Director presenting a book to Hon'ble Mr. Justice A. R. Masoodi



Sri Vivek, Senior Registrar, Allahabad High Court at Lucknow presenting a book to Hon'ble Mr. Justice D. K. Upadhyaya



Sri Manmeet Singh Suri, Additional Director (Training) presenting a book to Hon'ble Mr. Justice Jaspreet Singh

In the inaugural session while addressing the participants, Hon'ble Mr. Justice Jaspreet Singh said that the Motor Vehicles (Amendment) Act, 2019 has made exhaustive amendments in the law and award of compensation is one of the major areas where amendments have been made. It has been provided that the claimant shall not be required to plead or establish that the death or grievous hurt in respect of which that claim has been made was due to any wrongful act or neglect or default of the owner of the vehicle or the vehicle concerned or of any other person. I wish that this conference achieves its targets and turns out to be a great source of learning and opens new ways for speedy recovery of compensation.

The Programme concluded with National Anthem.

SHORT ARTICLES

वह बरसात का दिन

By Sri Mahendra Prasad Chaudhary*

उस दिन मौसम को देखकर नहीं लगा रहा था कि इतनी तेज बारिश होगी लेकिन दस बजते बजते मूसलाधार बारिश शुरू हो गयी। बिजली की चमक और बादलों की गरज मन में सिहरन पैदा कर रही थी। मैं जानता था कि ऐसे विपरीत मौसम में शायद ही कोई वादकारी कोर्ट तक आ पायेगा लेकिन जब मैं कोर्ट में आया तो वहां आशीष और सविता पहले से मौजूद थे। कुछ वादकारी ऐसे होते हैं जिनके विशिष्ट कार्य व्यवहार के कारण पीठासीन अधिकारी उन्हें जल्दी ही पहचानने लगते हैं। आशीष और सविता के बीच भरण पोषण का मुकदमा चलते यह तीसरा साल था लेकिन मैंने उन्हें कभी अन्य पति पत्नियों की तरह आपस में लड़ते झगड़ते या एक दूसरे पर आरोप लगाते हुये नहीं देखा था। वे विनम्र थे, शांत रहते थे लेकिन आपस में पर्याप्त पूरी दूरी बनाये रखते थे। उनका शालीन व्यवहार उन्हें कुछ सीमा तक अन्य वादकारियों से अलग करता था। मैं 2-3 बार उनसे संधि वार्ता के लिये कह चुका था लेकिन दोनो में से कोई तैयार नहीं हुआ।

कोर्ट का दैनिक कार्य करने के बाद मैं खाली हो गया। बारिश के कारण न्यायालय का कार्य जल्दी शुरू होने की सम्भावना नहीं थी अतः मैंने सोचा कि क्यों न खाली समय का उपयोग आशीष और सविता के विवाद को जानने व सुलझाने में किया जाये।

मैंने पहले सविता से विवाद का कारण जानने का प्रयास किया लेकिन सविता ने मना कर दिया। सविता का कहना था कि जब समझौते की कोई सम्भावना ही नहीं है तो बात करने से क्या लाभ? संधि वार्तायो की प्रारम्भिक असफलताओ ने शायद सविता के मन में निराशा का भाव पैदा कर दिया था। मेरे प्रोत्साहन और कुछ देर की बातचीत के बाद सविता ने अपने विवाह से लेकर अलगाव की तक की पूरी कहानी बता दिया। सविता की बात से लगा कि उसके मन में अभी भी अपने पति के प्रति कोई कड़वाहट नहीं थी। सविता के अनुसार उसके पारिवारिक विघटन के पीछे आशीष की मां व छोटी बहन का हाथ था। वह आशीष से इसलिये नाराज थी कि क्योंकि आशीष अपनी माँ व छोटी बहन की सारी बातों को सही मान लेता था लेकिन सविता की बात पर उसे विश्वास नहीं था। शुरू में सविता ने आशीष को समझाने का प्रयास भी किया लेकिन धीरे धीरे उसे यह लगने लगा कि अपने आत्म सम्मान को आहत करके आशीष के साथ रहने का कोई कारण नहीं है।

मैंने आशीष से बात किया तो उसने बताया कि सविता के दूसरे व्यक्ति के साथ प्रेम सम्बन्ध है इसीलिये वह उसके साथ नहीं रहना चाहती। सविता अपने अवैध सम्बन्ध को छिपाने के लिये उसके मां व बहन पर झूठे आरोप लगाती रहती है।

उस दिन मैंने सविता और आशीष से कई बार बात किया। मुझे सविता की बात में अधिक सच्चाई दिख रही थी। सविता ने मुझे बताया कि एक दिन उसने आशीष की किशोर वय बहन रानी को उसके प्रेमी के साथ देख लिया जो छिपकर रानी से मिलने आया था। जब उसने रानी से पूछताछ की और उसकी आयु का हवाला देकर उसे पढ़ाई में मन लगाने के लिये कहा तो पहले तो रानी ने डरकर भाभी की सारी बातें मानने की बात कही लेकिन जल्दी ही रानी ने दूसरी चाल चलनी शुरू कर दिया। उसने धीरे धीरे, अपनी माँ व भाई को सविता के विरुद्ध भड़काना शुरू कर दिया। रानी ने ही अपने प्रेमी से कहकर सविता के मोबाइल में उसकी फोटो व कुछ भद्दे मैसेस डलवाये फिर चुपके से अपनी मां को मैसेस दिखाकर सविता के चरित्रहीन होने का ठप्पा लगा दिया। रानी ने सविता के मोबाइल के मैसेस को अपने मोबाइल पर फारवर्ड करके सविता के मोबाइल से मैसेस डिलीट कर दिया ताकि सविता को

कुछ ही पता ही न चल सके। घर के काम में उलझी सविता को पता भी नहीं था कि उसकी ननद उसके विरुद्ध इस प्रकार की साजिश रच रही है।

सविता की चरित्रहीनता व कमियों को बढ़ा चढ़ाकर आशीष तक पहुँचाया जाने लगा। आशीष कभी सोच भी नहीं सकता था कि उसकी लाडली छोटी बहन उससे झूठ बोलेंगी अतः उसने जब रानी की बात सुनी और मैसेज देखा तो उसे विश्वास हो गया कि सविता चरित्रहीन है। सविता की अनभिज्ञता और सफाई भी आशीष के मन के संदेह को दूर न कर सकी। धीरे धीरे अविश्वास और संवादहीनता ने उनके मध्य अलगाव पैदा कर दिया।

मै जानता था कि आशीष को केवल समझाने से काम नहीं चलेगा। उसके मन से सविता के चरित्र के प्रति उत्पन्न सन्देह को निकालना होगा। मैने उन्हें दो माह बाद पुनः आने के लिये कहा।

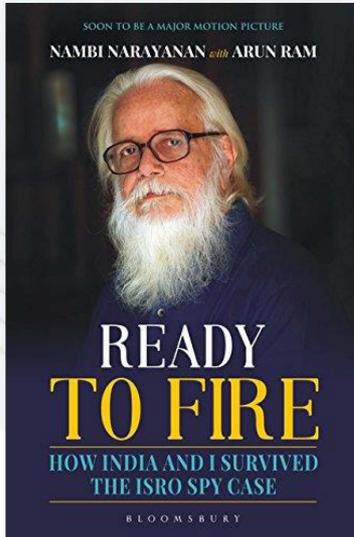
मैने अपने श्रोतों से सविता के कथन की वास्तविकता का पता करवाया तो रानी के साथ उसके कालेज में पढ़ने वाले प्रेमी का पता लग गया। अगली तारीख पर मैने आशीष को रानी के प्रेमी का पूरा विवरण उपलब्ध करवाते हुये कहा कि वह स्वयं उसके बारे में जानकारी कर ले तथा रानी द्वारा दिखाये गये सविता के कथित प्रेमी की फोटो का मिलान करके देख ले कि वह रानी के प्रेमी की फोटो है या सविता के?

एक छोटे से प्रयास से आशीष की आँख पर पड़ा परदा हट गया। आशीष ने अपनी भूल के लिये सविता से माफी मांगी और जल्दी ही उनका विवाद एक सुखद मोड़ पर समाप्त हो गया।

आज भी जब कोर्ट के बाहर तेज बारिश होती है तो मुझे आशीष और सविता के केस की याद आ जाती है।
(पात्रों के नाम काल्पनिक हैं)

BOOK REVIEW

By Dr. Humayun Rasheed Khan*



Title of the Book

Ready to Fire: How India and I Survive the ISRO Spy Case

Author

Nambi Narayan with Arun Ram

Publisher

Bloomsbury Publications

Year of Publication

2018

Autobiographies are now published more frequently than these were done a few decades back. Some autobiographies are natural outcomes of a writer inside an autobiographer who was silent for one reason or the other and it culminates into writing when the hidden author gets time to reflect on past events in his or her life. There may also be certain autobiographies which are an outcome of some event in autobiographers' life that has made the autobiography inevitable. These kinds of autobiographies may be termed as 'compulsive account of one's life' and certain happenings which have made the memoir obvious.

This beautifully written autobiography under review seems a 'compulsive outcome' of an unfortunate event in the life of one of the most remarkable mechanical engineer with expertise in rocket propulsion. The unfortunate event in the authors' life happened in late 1994 as a potboiler of sex, spies and rocket science before being exposed as police mischief and misadventure that eventually exposed an international conspiracy hatched beyond the Atlantic. As the writer says in the beginning of this autobiography that it is in public domain how the US applied sanctions on India and Russia in 1992, a year after the two countries signed a contract for transfer of cryogenic technology. In this context the timing of ISRO spy case (1994) and the subsequent exposure of foul play not only by police but by Intelligence Bureau (I.B.) as well. The dubious role of leading I.B. officer and his subsequent shift and permanent settlement in United States speaks volumes about international conspiracy to ruin the lives of many scientists including Nambi Narayan, the autobiographer.

The renowned public servant T.N. Seshan in his foreword to the autobiography says that he knew Nambi Narayan from his early days in ISRO as an intelligent, hardworking and dedicated scientist with unquestionable integrity. This autobiography has many twists and turns

as it relates to the remarkable achievements of a great scientist coming from a humble background. His work with some of the greatest space scientists such as Satish Dhawan, Vikram Sarabhai, B. Ram Krishan Rao and A.P.J. Abdul Kalam and sharing of happy memories gives a delightful feeling. But when the author moves on to narrate the sad story of ill treatment, abuse, torture and intolerable accusations of being a traitor, the story becomes heart breaking, conscience jolting and melancholic for a reader.

This autobiography is also a unique example as to how semi-literate citizens swayed by empty emotions in the name of nationalism and fake narrative start accusing and abusing not only an accused but his family members despite the fact that the contributions in nation building of such an accused were well known in public space. It is also a sad story of irresponsible manner of reporting news by some sections of media as also responsible reporting and truth finding journalists of some other sections of the media, which ultimately exposed the conspiracy.

The autobiography of Nambi Narayan is touching, thought provoking and well written. If anyone is interested to find out the meaning of a true nationalist and a selfless nation serving citizen, he must find this autobiography and travel through its 337 pages.

LEGAL JOTTING

“

“In contradistinction to parole, in furlough the prisoner is deemed to be serving the sentence in as much as the period of furlough is not reduced from actual serving period.”

Hon'ble Mr. Justice Dinesh Maheshwari,
Judge, Supreme Court of India
Atbir v. State of NCT of Delhi,
AIR 2022 SC 2911: AIR Online 2022 SC 628

”

SUPREME COURT

1. **Union of India and others v. C.R. Madhava Murthy and another, (2022) 6 SCC 183**

The judgement of Hon'ble Supreme Court deals with parity in pay scale and removal of anomaly by stepping up pay of seniors on promotion drawing less salary than their juniors who had availed benefit of ACP Scheme.

It has been held that employees who were junior to respondents and were granted promotion drawing higher pay on account of upgradation granted to them under ACP Scheme was justified in relying on Fundamental Rules 22 and order issued by Government of India for removing anomaly while directing stepping up of pay of respondents from date they started drawing lesser pay than their juniors. Hence, it was held that no interference with impugned judgment was required.

2. **Manoj alias Monu alias Vishal Chaudhary v. State of Haryana and another, (2022) 6 SCC 187**

It has been held that plea of juvenility and determination of age under section 7A of Juvenile Justice (Care and Protection of Children) Act, 2000 is essentially a question of fact to be determined on basis of materials adduced by the parties. It was further held that the plea should be raised in a bona fide and truthful manner. Therefore, if the reliance is on a document to seek juvenility which is not reliable or dubious in nature, the appellant cannot be treated to be juvenile only on the ground that the Act is a beneficial legislation.

It was observed that in case of a plea for juvenility, medical evidence as to age and ossification and radiological tests are inconclusive. It was held that the contention that family register cannot be made basis of determining the age of the juvenile under the provisions of the 2000 Act and the Rules framed thereunder is not tenable in light of Sections 35 and 79 of the Evidence Act. Such family register is maintained under statutory Rules, so long as all the requirements for proper maintenance of such family register have been duly satisfied. It was further held that school leaving certificate was not reliable when the school was not found to exist at location concerned at the relevant time.

3. Sanjeev and another v. State of Himachal Pradesh, (2022) 6 SCC 294

The Hon'ble Supreme Court held that the reversal of acquittal of convict by High Court straight away without considering reasons that had weighed with trial court in acquitting them in the context of an offence under Section 20 of Narcotic Drugs and Psychotropic Substances Act, 1985 was not proper. Considering totality of circumstances, assessment on facts made by trial court was absolutely correct and did not call for any interference by High Court. Hence, acquittal was restored. The principles relating to interference by appellate court with an order of acquittal under Sections 378 and 386(a) of Criminal Procedure Code, 1973 were explained.

4. Naser Bin Abu Bakr Yafai v. State of Maharashtra and another, (2022) 6 SCC 308

The Hon'ble Supreme Court explained the position regarding right of accused to be released on default bail under Section 167(2) of Criminal Procedure Code, 1973. It was further explained that when this right continues to remain enforceable and when can it be said to be extinguished. It was further held that default bail can be claimed on the following grounds:

1. Charge-sheet submitted by investigating agency which did not have, or, had lost the jurisdiction to conduct the investigation.
2. Even if the investigating agency in question, had jurisdiction or retained its jurisdiction, charge-sheet submitted before court which had no jurisdiction in respect of the offence(s) concerned.

The salient aspects which emerge from the provisions of Section 6 National Investigation Agency Act, 2008 need to be formulated. They are:

- i. On the receipt and recording of information under Section 154 CrPC relating to a Scheduled Offence under NIA Act, a report must be forwarded to the State Government by the officer-in-charge of the police station [sub-section (1) of Section 6].
- ii. The State Government on receipt of the report under sub-section (1) must, as expeditiously as possible, forward it to the Central Government [sub-section (2) of Section 6].

- iii. The purpose of the first and second steps embodied in sub-sections (1) and (2) of Section 6 is to enable the Central Government to make a decision in terms of sub-section (3).
- iv. Upon receiving a report from the State Government, the Central Government must determine within fifteen days, on the basis of the information made available by the State Government or received from other sources, whether: (a) the offence is a Scheduled Offence; and (b) if it is fit case to be investigated by NIA, having regard to the gravity of the offence and other relevant factors [sub-section (3) of Section 6].
- v. If the Central Government is of the opinion that the offence is a Scheduled Offence and it is a fit case to be investigated by NIA, it shall direct NIA to investigate the offence [sub-section (4) of Section 6].
- vi. An overriding power is entrusted to the Central Government [evident from the incorporation of a non obstante provision in sub-section (5)] to suo motu direct NIA to investigate the offence if it is of the opinion that: (a) a Scheduled Offence has been committed under NIA Act; and (b) that it is required to be investigated by NIA [sub-section (5) of Section 6].
- vii. Upon the issuance of a direction by the Central Government under sub-sections (4) or (5) of Section 6, two consequences emanate under sub section (6) of Section 6: (a) the State Government and any police officer of the State Government investigating the offence shall not proceed with the investigation; and (b) the relevant documents and records must be transmitted to NIA forthwith [sub-section (6) of Section 6].
- viii. By way of abundant caution ("for the removal of doubts"). sub-section (7) of Section 6 contains a declaration that till NIA "takes up the investigation of the case", it shall be the duty of the office-in-charge of the police station to continue the investigation [sub-section (7) of Section 6].
- ix. The provisions of sub-sections (6) and (7) of Section 6 must be read together and in harmony in order to fulfil the purpose and intent of Parliament in a holistic manner.
- x. The object and underlying purpose of sub-section (7) is to ensure that there is no hiatus in the course of the investigation. Hence, while sub-section (6) stipulates a twofold requirement, that upon the issuance of a direction under sub-sections (4) or (5) of Section 6 neither the State Government nor the police shall proceed with the investigation and must transmit the documents and records to NIA forthwith, sub-section (7) imposes a statutory obligation on the officer-in-charge of the police station to continue the investigation till NIA actually takes over.
- xi. While enacting the provisions of sub-section (7) of Section 6, Parliament was conscious of the fact that an interlude may occur between the date of the issuance of a direction and the actual taking up of the investigation by NIA. However, between the issuance of a direction under sub-sections (4) or (5) of Section 6 and the actual taking up of the investigation by NIA, there should be no hiatus in the investigation to the detriment of the interests of national security involved in the enactment of the legislation.

5. **Sadique and others v. State of Madhya Pradesh, (2022) 6 SCC 339**

It has been held in the context of default bail under Section 167 (2) of Criminal Procedure Code, 1973 that extension of time by the Magistrate for completing investigation from 90 to 180

days in respect of UAPA offences is not proper as it is the court which is competent authority under Section 43-D(2)(b) of the UAPA Act, 1967.

6. **Sagar v. State of Uttar Pradesh and another, (2022) 6 SCC 389**

The Hon'ble Supreme Court while dealing with the principles in relation to Section 319 of the Code of Criminal Procedure, 1973 held that the trial should use caution while exercising powers under Section 319 and it should be exercised when strong and cogent evidence against person(s) concerned sought to be added as accused under Section 319 exist.

It was held that the Trial Judge rightly rejected application under Section 319 to add appellant as additional accused in the absence of strong and cogent evidence necessary for exercise of power under Section 319. The High Court in reversing the same failed to consider even basic principles laid down by five Judge Bench judgement in Hardeep Singh (2014) 3 SCC 92.

ALLAHABAD HIGH COURT

1. **Sabir Ahmad and another v. Khali Ulla, 2022 AIR CC 1745 (ALL): AIR Online 2022 ALL 2232**

From the perusal of language of Section 17 of Act, 1887, it is very much clear that though it was enacted to protect the interest, of landlord, but the interest of tenant can also not be ignored. Therefore, in Section 17(2) of Act, 1887, it has been clearly held that where a person become liable as surety under the proviso to sub-section (1), the security may be realized. Application under Order IX, Rule 13 of CPC has been filed to set aside the ex parte decree and to protect the interest of landlord, decretal amount has to be deposited. In case of allowing the application under Order IX, Rule 13 of CPC and setting aside the ex parte, there would have no occasion for landlord to realize the security or encash the money so deposited. In case of rejection of application under Order IX, Rule 13 of CPC, interest of landlord is protected and he may realize the amount so deposited.

Therefore, as provided in Section 17 of Act, 1887 as well as law discussed herein above, it is apparent that while framing Section 17 of Act, 1887, legislation was conscious enough to protect the interest of landlord as well as tenant. Section 17(1) of Act, 1887 provides for deposit of decretal amount before moving application under Order IX, Rule 13 of CPC to protect the interest of landlord whereas Section 17(2) of Act, 1887 provides that only in case a person has become liable as surety, he may realize the money which protects the interest of tenant. Therefore, before decision upon the application filed under Order IX, Rule 13 of CPC, if amount is released, that would frustrate the intention of legislation. In case money is released prior to the decision upon the application filed under Order IX, Rule 13 of CPC, it may intend to multiplicity of litigation as in case of allowing the application, tenant would have no option but to initiate separate legal proceeding for recovery of the money so realized by the landlord. Therefore, during the pendency of application filed under Order IX, Rule 13 of CPC, allowing the application of release of money is against the provisions of Section 17 of Act, 1887.

2. Sitaram v. State of U.P. and others, 2022 AIR CC 1797 (ALL): AIR Online 2022 ALL 1451

The conditions which are required to be satisfied while considering grant of permission by the Collector to a bhumidhar belonging to a scheduled caste seeking to transfer land belonging to him having been clearly specified under the proviso to sub-section (1) of Section 98 read with sub-rule (8) of Rule 99, the reference made in the orders impugned to any other circumstance and on the basis thereof to reject the application of the petitioner seeking grant of permission to transfer, would therefore render the exercise of the discretionary power as ultra vires and invalid. The orders impugned having been passed in the absence of consideration of the relevant provisions and being based on wholly irrelevant consideration, are accordingly held to be legally unsustainable and are set aside and quashed.

3. Kalawati v. Board of Revenue and others, 2022 AIR CC 1814 (ALL): AIR Online 2022 ALL 1448

The rule of exhaustion of statutory remedies has been held to be a rule of policy, convenience and discretion and existence of an alternate remedy would not divest the High Court of its powers under Article 226 which may be exercised in appropriate cases.

Having regard to the foregoing discussion the exceptions under which a writ petition may be entertained against orders passed in mutation proceedings would arise where:

- i. the order or proceedings are wholly without jurisdiction;
- ii. rights and title of the parties have already been decided by a competent court, and that has been varied in mutation proceedings;
- iii. mutation has been directed not on the basis of possession or on the basis of some title deed, but after entering into questions relating to entitlement to succeed the property, touching the merits of the rival claims;
- iv. rights have been created which are against provisions of any statute, or the entry itself confers a title by virtue of some statutory provision;
- v. the orders have been obtained on the basis of fraud or misrepresentation of facts, or by fabricating documents;
- vi. the order suffers from some patent jurisdictional error i.e. in cases where there is a lack of jurisdiction, excess of jurisdiction or abuse of jurisdiction;
- vii. there has been a violation of principles of natural justice.

Having regard to the aforesaid this Court is not inclined to exercise its extraordinary discretionary jurisdiction under Article 226 of the Constitution of India in the facts of the present case.

**By -
Dr. Humayun Rasheed Khan,
Additional Director (Research), JTRI**

ABOUT US

Judicial Training and Research Institute, U.P., Lucknow

The Institute was established by the Government of Uttar Pradesh in pursuance of a decision taken at All India Conference of the Chief Justices of High Courts in August/September, 1985 in New Delhi. This landmark conference which was also attended by the Chief Ministers and the Law Ministers of the States, mooted the idea of providing institutional induction and in-service training to the judges of the subordinate courts in the country. The initiative of the state government after being readily agreed to by the Hon'ble High Court of Judicature at Allahabad, saw the Institute coming into existence and becoming functional on 25th April, 1987 with Hon'ble Mr. Justice K.N. Goyal as its first honorary Director. Sri Vinod Singh Rawat is its present Director.

The institute has been established with the overall vision of ensuring ceaseless upgradation of skills and appropriate attitudinal reorientation through induction level and in-service training in consonance with the imperatives of national and global environment.

In the training programmes, case studies, discussion sessions, exercises and activity based studies; book review and case law presentation are used extensively. To make the discussion effective, background material is given before discussion. This helps the trainees to develop analytical skills and decision-making power in addition to enable them in writing orders/judgments.

Keeping in view that in a healthy mind rests a healthy body, the institute has established and developed a gymnasium with latest equipments and machines. The physical training is compulsory part of the training programmes organized by the institute. The facilities of gym have been made available to the trainee officers as well as faculty members.

The Institute believes in continuous involvement of officers in sports activities to relieve the stress and keep them healthy. Besides Volley Ball and Carom, the hostel is also having Badminton Court as well as Table-tennis facilities. The hostel is fully furnished and equipped with the best house-keeping and hospitality facilities. The institute has a big air-conditioned Dining Hall with a dining capacity of about 150 persons at a time. The dining Hall is housed with the officers' hostel in one and the same building.

Judicial reasoning, indeed, is both an art and a science to be cultivated by every judge through study, reflection and hard work. The institute has a beautiful and big library housed into two spacious air-conditioned halls in the 'Training Wing' with one being dedicated to law books, law digest, encyclopedia, commentaries and general books including classics, biographies, fictions (Hindi and English both) memoirs, letters, speeches, words and phrases, books of philosophy, religion, history, politics, computer, management, personality development etc. and the other wing is exclusively meant for storing Journals. This centre of knowledge has more than **25000 books**. The institute has been subscribing **15 Law Journals** of varied nature, **seven newspapers** and **four magazines**. The library has All England Law Reports from 1936 to 2014, Halsbury's Laws of India from 2004 to 2008, Halsbury's Laws of England from 1973 to 1987 and Corpus Juris Secundum from Vol. 1 to 101A, Canadian Law reports, American Law Reports Annotated and Law Commission of India Reports. The institute is working on to develop e-knowledge hub and e-library in near future.