
A CRITICAL ANALYSIS ON MALICIOUS PROSECUTION AND SECTION 211 WITH RESPECT TO THE FILM ‘NAANDI’

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ABSTRACT

The Telugu film Naandi starring Allari Naresh and Varalaxmi Sarathkumar in the lead roles, which Vijay Kanakamedla directs, is a crime courtroom drama that revolves behind a man who is accused of a wrong case by the police using baseless evidence. “It is a fictional story inspired by several real-life incidents that are mostly unfamiliar to the public.” (Dundoo, 2021) The film depicts the pain and helplessness of the protagonist and his family. It represents the hardships of all the prisoners in India who live in prison under various criminal charges. The film’s main idea is to educate ordinary people on what people in power misuse and what IPC has in place to fight such people. It succeeds in driving this point strongly. The research paper’s main idea is to focus on Malicious Prosecution by the police, the sufferings of the innocent, and its remedy, i.e., section 211 available in the Indian Penal Code, which is not known to many of the people.

INTRODUCTION

One of the worst forms of police brutality is incriminating innocent people, which is what Malicious Prosecution is. “It is where a person is blamed for the wrongdoings, mistakes, or faults of others, especially for reasons of expediency.” (Gillian Ruch, 2014) “The history or the origin of Malicious Prosecution can be traced back to the conspiracy that existed at the beginning of the reign of Edward I. This cruel Prosecution has its roots in England and dates back to the 18th and 19th centuries. It was the result of misuse of the legal system from the 18th and 19th centuries in England. It later spread its wings throughout the world, in various lands.” (Uditi22)

Here, the film begins with the discussion of stats of under'-trial prisoners. It says that there are 70% of under-trial prisoners and few of them are framed or mistakenly getting trapped to the cases. Then the narration shifts to the story an IT Professional Surya Prakash. He is an honest person living with his parents and the only aim that he had in his life was to fulfill the dreams of his parents. Soon tensions arise in the state after the death of a truthful lawyer Rajagopal and the police are put under pressure to arrest the culprit. The police in charge create some fake evidences and use them to prove, Surya to be guilty and accuse him of the murder case where he ends up in a situation of being called a scapegoat. He experiences the life of an under trial prisoner who is falsely accused of a murder, awaiting judgment. The pain and helplessness of the protagonist i.e. Surya Prakash and his family can be clearly witnessed in the film. The victim seeks justice only when a newly graduated lawyer Aadhyा who is shown to be the daughter of Rajagopal, takes up his case and proves Surya to be innocent. Later, Surya takes revenge on the police using section 211. The film represents the hardships of the wrongly accused prisoners and his family. The film also enhances the dark secrets of few cops in India. Many innocents in the country keep getting arrested for the crimes that they don't commit. Their voices don't matter because most of them are often forced to accept the wrongdoings by brutal injuries from the police.

On a different note, Malicious Prosecution has killed lot of innocents. The police tend to cause physical harm to make sure that they accept to have committed the crime. This can adversely affect a person's life. False accusations of crime are hard enough, but if this is the result of willful sin committed by the Police and can be even more difficult to deal with. More often the victims in general, return home to find jobs lost, businesses collapsed; broken family members and have experienced humiliation and pain associated with criminals; children who had to drop

out of school; and bereaved parents in despair, waiting for them to return. In few circumstances, there is a chance of the victim even being deceased in the prison itself.

Further, I shall discuss more about Malicious Prosecution and Section 211. I shall also discuss few examples related to this circumstance and then proceed on to a comparison of the theoretical and practical reality regarding the implementation of this section. I shall also emphasize more on the thesis of this research.

1. Research Methodology –

The methodology used in this research will be Qualitative and doctrinal in its primary nature. Mainly secondary in nature will be reference material used in newspaper articles, and Journals.

2. Literature Review –

- *“A powerful subject backed by power-packed performances : Times of India*

This paper applauds the cast and crew for bringing forth a topic that is generally less explored. They feel that Naandi is a film that is like a smack on the higher authorities in India but where the smacks land harder is on the audience that often hoots and whistle as non-judicial punishments are meted out both on and off-screen.” (Pathi, 2021)

- *“What it takes to turn the tables : The Hindu*

This paper feels that the movie relies heavily on the emotional quotient. After a slow start, it becomes a courtroom drama in the second half, puzzle-solving the crime and clinging to the fight for justice. The film strikes a balance between being intellectual and accessible. They feel that the film needed a masala approach towards the end.” (Dundoo, 2021)

- *“A crime drama that fails to raise the above template : The New Indian Express*

This paper feels that the movie despite being well-intentioned, it lacked both the consistency of a courtroom drama and the maturity of a legal procedural.” (Vijayanagaram, 2021)

I personally consider this movie to be outstanding. It isn’t easy for one to put forth these kinds of harsh realities, but that is what the director has done. The cast and crew have been amazing. Coming to the story and execution, it could have had much more spice, yet the stand has to be appreciated.

ANALYSIS

“Malicious Prosecution is where a party knowingly and intentionally puts the crime on the other party using baseless evidences. It includes both criminal charges and civil suits. It is an abuse to the Indian Justice System because the innocents are often offended for a crime that they don’t commit” (Uditi22). It is the “intentional confinement of plaintiff by another within fixed boundaries without any sort of a legal justification. The person intentionally puts a total restraint on the liberty of a parson, for a short period of time” (Khakare, 2017). However in practice, few cops tend to invoke laws and sections which are not even mentioned in the FIR. They at times arrest people who were not even present at that particular place. This most commonly takes place in rural areas. They also try to change through the sections wherein the possibility of the punishment could be increased.

Every citizen is guaranteed basic, constitutional and legal rights. Some anti-social activists use different acts and laws against the innocent to harass and imprison them for illicit gain as shown in the film. Registration of fraudulent, false charges and branding the innocent is a curse to the victim as his dignity is tarnished. He is considered unclean in the eyes of the public.

Now arises the question, can the delinquent cops be punished? Theoretically the answer is yes. Here comes into existence, a lesser known section in the Indian Penal Code called the Section 211. It is like a life guard to all the victims of Malicious Prosecution. Whenever a false charge is committed with intent to cause a bodily harm, initiate any criminal proceedings, or falsely accuse any person of wrongdoing, knowing that there is no justifiable reason, the victim can file a case highlighting this. In the context of the film, after the victim loses all the hope in his life, enters a lawyer who is ready to use this powerful weapon of Section 211 against the police who had caused this trauma to him. It is all about a hopeless person who is fighting for justice and has nothing to lose in life.

“According to IPC, Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceedings against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both, and if such criminal proceeding be instituted on a false charge of an offence punishable with death imprisonment for life, or imprisonment for seven years or upwards, shall be punishable with

imprisonment of either for a term which may extend to seven years, and shall also be liable to fine.” (Devgan, 2018)

There are few cases where Supreme Court ordered for the prosecution of the investigating officer under Section 211. Unfortunately such cases are rare and the chance of the victim being succeeded is very less. The practical world being a way too difficult makes the implementation of this section a bit tough.

Now can the victim claim compensations?

The answer is yes again but as said theoretically. To claim compensations in practise is difficult. Even if given, the compensation would be granted at a stage where you have nothing to do with it. Considering the example of the famous ‘Former ISRO scientist Nambi Narayan’; he was falsely accused of ‘Espionage’. After investigation, the case was squashed, yet no action was taken on the concerned police authorities. After a long wait of 22 years, Nambi Narayan was compensated with 50 lakhs. He then had nothing to do with it as he grew 77 years old and lost all his career and fame by then. Situations like this keep happening somewhere or the other yet as said the compensations being granted is only theoretical.

It is very easy for the police to falsely implicate someone as a criminal especially in India. They just have to record some statements by the arrested ones as a witness. Police still use the old forms, as in used in the ‘Ayushi Murder Case’. Police have been endlessly misusing their powers as in nobody has got anything to question them. At times even courts do not bother about such things and it is very sad that Judges rely upon the Investigations of the police. After facing years of agony in the jails, the victims have nothing left and all their life has been ruined.

At times it is very unfortunate that police file false cases to fill the pending ones due to their ignorance. Sometimes, the officers take bribe and let the accused go off. The originally accused having a huge background is resulting in the poor innocents to be suffered as victims in most of the cases.

CONCLUSION

“Malicious Prosecution is an abuse of the process by the court by the means of a wrongful setup of law taking shape of Criminal Charge. Mere carelessness is not an in itself a proof of malice. The tort balances all the competing principles which are the ‘freedom that every person

should have in bringing criminals to justice and the need for restraining false accusations against innocent persons'. The primary aim of this concept is to protect people from 'vengeful litigation', be it civil or criminal." (Law Corner , 2020)

The evil business of spreading false accusations also has a profound effect on the nation as well. "The inability to locate, arrest, and prosecute the real criminals of terrorism means that criminals are constantly hiding somewhere and will be able to strike again." (Asthana) Thus, the formation of innocent people, especially in cases of terrorism, threatens national security. Structures and structures are not a deviation; they have become the soul of the police now. Sadly, the process of getting justice is so traumatic, so expensive that, in fact, getting rid of police brutality is extremely difficult. The victims will experience severe hardships of varying lengths of time: arbitrary arrests and torture (both physical and mental), arrests and, of course, traumatic trials.

Ironically, if anything happens to an advocate the entire bar association will seek justice. But none of them are ready to take part in the investigation and as lawyers they are ready to believe a person who has been arrested by the police regardless of whether he is a false suspect or not. It is very important that people know their basic rights and the laws that the Indian Judicial System put forth to ensure safety and secularism in the country. The laws that are theoretical also need proper practical implementation. The courts must ensure justice to the public at all the time.

REFERENCES

1. (2020, Novemeber 6). Retrieved January 3, 2022, from Law Corner : <https://lawcorner.in/malicious-prosecution-and-its-essential-elements-under-law-of-tort/>
2. Asthana, N. (n.d.). Retrieved December 31, 2021, from <https://thewire.in/government/malicious-prosecution-abuse-police-power>
3. Devgan, R. (2018, August 15). Retrieved January 3, 2022 , from <https://devgan.in/ipc/section/211/>
4. Dundoo, S. D. (2021, February 19). Retrieved December 31, 2021, from The Hindu : <https://www.thehindu.com/entertainment/reviews/naandhi-movie-review-what-it-takes-to-turn-the-tables/article33879659.ece>
5. Gillian Ruch, A. L. (2014). Getting Beneath the Surface: Scapegoating and the Systems Approach in a Post-Munro World . 313-327.
6. Khakare, D. V. (2017, September 17). *Slide Share* . Retrieved January 3, 2022, from https://www.slideshare.net/DrVikasKhakare/tort-trespass-to-person-suit-for-false-imprisonment-suit-for-malicious-prosecution?qid=e3c10b04-17dd-4af2-9f07-ef8690984e01&v=&b=&from_search=2
7. Pathi, T. (2021, February 19). Retrieved December 31, 2021, from Times Of India : <https://timesofindia.indiatimes.com/entertainment/telugu/movie-reviews/naandhi/movie-review/81106584.cms>
8. Udit22. (n.d.). Malicious Prosecution . *Legal Service India* .
9. Vijayanagaram, V. (2021, February 20). Retrieved December 31, 2021, from The New Indian Express : <https://www.newindianexpress.com/entertainment/review/2021/feb/20/naandhi-movie-review-a-crime-drama-that-fails-to-rise-above-the-template-2266329.html>