
PRESUMPTION OF INNOCENCE AND INVESTIGATIVE FAILURE: AN INQUIRY INTO POLICE ACCOUNTABILITY AND THE CRISIS OF VICTIM JUSTICE IN INDIA

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ABSTRACT

The Indian criminal justice system is constitutionally anchored in the protection of personal liberty under Article 21 of the Constitution of India, with the presumption of innocence serving as a foundational safeguard against arbitrary State action. However, the effective operation of this principle is critically dependent on the quality and integrity of police investigation. In India, investigative lapses ranging from negligence and delay to mala fide conduct frequently result in acquittals, not due to the innocence of the accused, but owing to the prosecution's failure to meet the constitutional standard of proof. While courts are compelled to extend the benefit of doubt in such cases, these outcomes expose systemic deficiencies in police accountability and disproportionately undermine victim justice. This paper examines the intersection between the presumption of innocence and investigative failure, analysing judicial responses, statutory provisions, and institutional constraints governing police conduct. It argues that the crisis lies not in the presumption of innocence itself, but in the absence of a calibrated accountability framework for investigative officers. The paper concludes by emphasising the need for structural reform to ensure fair, competent, and accountable investigation without compromising constitutional protections.

Keywords: Presumption of Innocence; Investigative Failure; Police Accountability; Article 21; Victim Justice; Defective Investigation; Criminal Justice System; Wrongful Acquittal

“The investigating officers are the kingpins in the criminal justice system. Their reliable investigation is the leading step towards affirming complete justice to the victims of the case.”¹

- Justice P. Sathasivam Introduction

The Indian criminal justice system is constitutionally anchored in the protection of personal liberty, with Article 21² of the Constitution of India forming its normative core. A central manifestation of this guarantee is the presumption of innocence, which mandates that every accused person be treated as innocent until guilt is established beyond reasonable doubt through a fair and lawful process. This principle safeguards individuals against arbitrary State action and ensures that criminal conviction rests on legality rather than suspicion.

The effective operation of the presumption of innocence, however, is intrinsically dependent upon the quality of police investigation. Investigation constitutes the foundational stage of the criminal process, shaping both the evidentiary strength of the prosecution and the fairness of the ensuing trial. While diligent and lawful investigation allows the presumption of innocence to function as a balanced constitutional safeguard, investigative lapses such as negligence, delay, bias, or procedural illegality render the criminal justice process vulnerable to failure.

In Indian criminal trials, such investigative failures frequently result in acquittals, not necessarily because the accused is innocent, but because the prosecution is unable to satisfy the constitutional standard of proof. Courts, bound by Article 21 and the doctrine of fair trial, are compelled to extend the benefit of doubt in these circumstances. Although constitutionally justified, this outcome exposes a systemic deficiency namely, the absence of effective accountability for police officers whose investigative lapses frustrate the administration of justice.

The consequences of defective investigation are borne disproportionately by victims of crime. Acquittals arising from investigative incompetence deny victims closure and meaningful redress, revealing an imbalance within criminal law that prioritises protection against wrongful conviction while offering limited safeguards against wrongful acquittal. This paper examines the relationship between the presumption of innocence and investigative failure in India, focusing on police accountability and its impact on victim justice, and argues for a balanced

¹ *Amitbhai Anilchandra Shah v. Central Bureau of Investigation* (2013) 6 SCC 348.

² INDIA CONST. art. 21 (Protection of Life and Personal Liberty).

legal framework that protects the rights of the accused while affirmatively recognising the victim's right to justice through fair and accountable investigation.

Presumption of Innocence

The presumption of innocence is a core principle of criminal law which holds that an individual is always regarded as "innocent until proven guilty". This principle was classically articulated by jurist Benjamin Franklin³, who observed that it is better 100 guilty Persons should escape than that one innocent Person should suffer. In *Woolmington v. DPP*⁴, the House of Lords affirmed that the presumption of innocence is the golden thread of criminal law and can in no way be jeopardized.

This principle mandates that every accused person must be treated as innocent until guilt is established through a legally valid process and proven beyond reasonable doubt. The burden of proof lies squarely upon the prosecution, and any uncertainty arising from the evidence must necessarily operate in favour of the accused. The common law maxim, "ei incumbit probatio qui dicit, non qui negat" "(the burden of proof is on the one who declares, not on one who denies)" was confirmed by the supreme, burden of proof lies on the party asserting it and never on the party denying it.

Article 21⁵ guarantees that no person shall be deprived of life or personal liberty except according to procedure established by law. Article 20(3)⁶ provides that no person who is accused of an offence shall be compelled to give evidence against himself. This clause incorporates the general rule of English and American criminal law, according to which every person is presumed to be innocent until he is proved to be guilty. The burden of proving the guilt of the accused lies upon the prosecutor.⁷

Presumption of innocence is a fundamental right

Although the presumption of innocence is not expressly mentioned in the Constitution, but it

³ Benjamin Franklin, Letter to Benjamin Vaughan (Mar. 14, 1785), in 9 THE WRITINGS OF BENJAMIN FRANKLIN 293 (Albert H. Smyth ed., 1906).

⁴ [1935] AC 462 (HL)

⁵ INDIA CONST. art. 21 (Protection of Life and Personal Liberty).

⁶ INDIA CONST. art. 20(3)

⁷ J.N. PANDEY, CONSTITUTION OF INDIA 281 (54th ed. 2022).

is an expressly human right given in UDHR⁸, ICCPR⁹ so Indian courts have recognised it as flowing directly from Article 21. In *Narendra*¹⁰, a Division Bench labelled the presumption of innocence a “human right” while holding that the burden of proof always remains on the prosecution in a criminal trial, even where a plea of alibi is raised. This label was reiterated by a 3-judge bench in *Ranjitsing Sharma*¹¹. Like in *Sibbia*¹², the Court spoke of Article 21 and the presumption of innocence in the same breath: “Presumption of innocence is a human right. Yet, conspicuously, the Court did not commit itself to a position concretely linking the presumption with Article 21. In *Noor Aga*¹³, the Court held that the presumption may be a “human right” but cannot be “equated with the fundamental right and liberty adumbrated in Article 21”. Closely upon the heels of *Noor Aga*, the Court in *Vinod Solanki*¹⁴ and other cases found it “well settled” that the presumption of innocence is only a “human right” and not a “fundamental right”.

Subsequently decisions, have expressly recognised that Article 21 includes the presumption of innocence. In *Manu Sharma*¹⁵, The Court observed that media trials have the potential to erode and even destroy the presumption of innocence, and held that such an outcome would be “opposed to the very basic rule of law and would impinge upon the protection granted to an accused under Article 21.”

Building upon this reasoning, the Constitution Bench in *Sahara v. SEBI*¹⁶ made the position explicit by holding that the presumption of innocence is embedded in Part III of the Constitution “not only as part of the rule of law under Article 14 but also as an Article 21 right.” On this basis, the Court held that the freedom of speech and expression under Article 19(1)(a) may be restricted, through a balancing exercise, to safeguard the presumption of innocence from the prejudicial effects of media trials.

⁸ Universal Declaration of Human Rights, G.A. Res. 217 (III) A, art. 11, U.N. Doc. A/RES/217(III) (Dec. 10, 1948).

⁹ International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), art. 14(2), U.N. Doc. A/6316 (Dec. 16, 1966).

¹⁰ *Narendra Singh & Anr. v. State of Madhya Pradesh* (2004) 10 SCC 699

¹¹ *Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra & Anr.* (2005) 5 SCC 294

¹² *Gurbaksh Singh Sibbia v. State of Punjab* (1980) 2 SCC 565

¹³ *Noor Aga v. State of Punjab & Anr.* (2008) 16 SCC 417

¹⁴ *Vinod Solanki v. Union of India & Anr.*(2008) 16 SCC 537

¹⁵ *Sidhartha Vashisht @ Manu Sharma v. State (NCT of Delhi)* (2010) 6 SCC 1

¹⁶ *Sahara India Real Estate Corp. Ltd. & Ors. v. Securities and Exchange Board of India & Anr.* (2012) 10 SCC 603

Finally, in *Nikesh Shah*¹⁷, while striking down the twin conditions for grant of bail under Section 45 of the PMLA¹⁸ as violative of Articles 14 and 21, the Court characterised the provision as a “drastic” one that effectively reverses the presumption of innocence. The constitutional rationale underlying the presumption of innocence is rooted in the inherent imbalance of power between the State and the individual. Criminal prosecution represents an exercise of State authority involving coercive measures such as arrest, detention, and trial. Article 21 seeks to ensure that this power is exercised with restraint, fairness, and accountability. The presumption of innocence thus functions as a safeguard against arbitrary deprivation of liberty and protects individuals from the consequences of wrongful or careless prosecution.

Investigative Lapses and Their Impact on the Presumption of Innocence

Except in a limited category of exceptional cases, the criminal justice system rests on the foundational presumption of innocence, placing the entire burden of proving guilt upon the prosecution beyond reasonable doubt. To discharge this burden, the prosecution primarily relies on evidence collected by the investigating officer. Judicial experience, however, shows that such evidence frequently suffers from deficiencies arising from procedural lapses, delays, selective examination of witnesses, failure to preserve the chain of custody, mishandling of forensic material, or non-compliance with statutory safeguards, thereby weakening the prosecution case.

In such circumstances, the defence is not required to prove innocence, but only to raise a reasonable doubt, which entitles the accused to acquittal not necessarily because the offence did not occur, but because the prosecution failed to meet the requisite standard of proof. Although investigation is an executive function, it is governed by constitutional standards of fairness, and Article 21 imposes an obligation on investigating agencies to conduct fair and lawful investigations. Consequently, acquittals resulting from investigative failures reflect systemic deficiencies in investigation rather than judicial error. Judicial experience demonstrates that there are several judgments in which procedural failures, particularly errors and lapses committed during the course of investigation, have culminated in the acquittal of the accused. Illustrative cases reflecting this position are set out below:

¹⁷ *Nikesh Tarachand Shah v. Union of India* (2018) 11 SCC 1

¹⁸ The Prevention of Money-Laundering Act, 2002, S 45, No. 15 of 2003, India.

In the case of *Kattavellai @ Devakar v. State of Tamil Nadu*¹⁹, the Supreme Court of India held that grave procedural lapses in the collection, preservation, and handling of DNA evidence vitiated the prosecution case, thereby entitling the accused to acquittal.

The appellant had been sentenced to death for offences under Sections 302, 376, and 397 of the Indian Penal Code, a conviction affirmed by the High Court and founded almost entirely on circumstantial evidence, chiefly a purported DNA match. Upon appeal, the Supreme Court found that the investigation suffered from serious deficiencies, including the absence of a chain of custody register, unexplained delays in forwarding samples to the forensic laboratory, and lack of clarity regarding storage conditions of biological samples, giving rise to a real possibility of contamination or tampering.

Observing that “A common thread that can be seen to be running through the entire process that has culminated by way of this judgment, is that of faulty investigation,” the Court set aside the conviction and death sentence. In doing so, the Court also issued binding nationwide guidelines to ensure proper collection, preservation, and processing of DNA and other biological evidence in criminal investigations.

Considering the sensitive nature of the DNA Evidence which is prone to dilution, the judgment authored by Justice Karol issued directives and the Court directed the Registry to send a copy of this judgment to all High Courts and also the Directors General of the Police of all States to ensure necessary compliance.

Further, the Court also urged the Police Academies of the States to examine the necessity of conducting training of the Investigating Officers to ensure full compliance with the requisite precautions and procedures in accordance with the directions issued herein above.

*Gambhir Singh Versus State of Uttar Pradesh*²⁰ is a case where a person was convicted on charges of murder of his six family members, including 4 children and a brother. The Supreme Court set aside the conviction and sentence on the grounds of faulty investigation and flawed recovery of evidence. It said that the prosecution could not prove even one of the incriminating circumstances—the motive, last seen theory, and recoveries. It called out the lackadaisical

¹⁹ *Kattavellai @ Devakar v. State of Tamil Nadu*, 2025 LiveLaw (SC) 703 (July 15, 2025), <https://www.livelaw.in>

²⁰ *GAMBHIR SINGH VERSUS THE STATE OF UTTAR PRADESH* 2025 LiveLaw (SC) 175

approach of the police and the prosecution because no examination of nearby neighbours to establish the guilt was done. The police failed to safekeep the collected recoveries.

In *Dashwanth Versus the State of Tamil Nadu*²¹, the Supreme Court acquitted a man convicted for the rape and murder a 7-year-old on grounds that the prosecution miserably failed to prove the vital circumstances.

It held that the man was made a scapegoat by the police by planting evidence and the mandatory requirements of a fair trial were violated as he was not given a defence counsel when charges were framed against him. Moreover, the subordinate Courts did not undertake the mandatory exercise of seeking a report of mitigating and aggravating circumstances, and the psychological examination of the appellant.

In *Surendra Koli v. State of Uttar Pradesh (Nithari killings)*²², the Supreme Court held that the prosecution case rested on Koli's alleged confession under Section 164 CrPC and recoveries under Section 27 of the Evidence Act—both of which had earlier sustained his conviction but were later rejected in twelve companion cases, a view affirmed by the Court. Emphasising that “There is no principled basis on which the same statement can be treated as voluntary and reliable in this case when it has been judicially discredited in all others,” the Court found that the confession, recorded after nearly sixty days of uninterrupted police custody without effective legal aid, lacked judicial satisfaction as to voluntariness. The Investigating Officer's proximity was held to have “compromised the environment of voluntariness,” and the statement “repeatedly adverted to tutoring and prior coercion,” rendering it inadmissible under Section 24 of the Evidence Act.

The Court rejected the alleged Section 27 recoveries due to the absence of contemporaneous disclosure memos, contradictions with remand papers, and recoveries from places already known to the police, observing that “These features negate the essential element of discovery by the accused and reduce the exercise to a seizure from an already known place.” Forensic evidence was found inconclusive, as there was “no credible chain of custody or expert testimony,” and no biological material linking the accused to the crime. Criticising the

²¹ DASHWANTH Versus THE STATE OF TAMIL NADU, CrI.A. No. 3633-3634/2024 2025 LiveLaw (SC) 983

²² Surendra Koli v. State of Uttar Pradesh, 2025 SCC OnLine SC 2384, decided on 11-11-2025...

[https://www.sconline.com/blog/post/2025/11/12/supreme-court-acquits-nithari-killings-accused-surendra-koli/2025 LiveLaw \(SC\) 1091](https://www.sconline.com/blog/post/2025/11/12/supreme-court-acquits-nithari-killings-accused-surendra-koli/2025%20LiveLaw%20(SC)%201091)

investigation as marred by “negligence and delay,” the Court noted that “The scene was not secured before excavation began, the disclosure was not contemporaneously recorded, remand papers carried contradictory versions, and the petitioner was kept in prolonged police custody without a timely, court-directed medical examination,” and that investigators failed to pursue the “organ-trade angle.” On these cumulative deficiencies, the Court held that sustaining a lone conviction would amount to a miscarriage of justice and ordered acquittal.

This case illustrates that acquittal often results not from the absence of an offence, but from investigative failure to establish guilt beyond reasonable doubt. While the accused is legally exonerated, prolonged incarceration raises serious concerns of personal liberty, and delayed justice leaves both the victim and the criminal justice system without closure.

Evolving Presumptions and the Expanding Responsibility of the State

In response to concerns regarding under-reporting, low conviction rates, and victim marginalisation, the criminal justice system has gradually adopted reforms aimed at strengthening victim protection and prosecutorial effectiveness. In certain categories of offences, particularly those involving women and children, statutory presumptions and reverse burden provisions have been introduced, along with victim compensation schemes to provide interim relief where conviction is not secured. However, these measures have not eliminated structural deficiencies. Where offences against the State remain unsolved due to investigative failure, compensation, though remedial, cannot amount to complete justice, as the absence of offender accountability undermines both deterrence and retribution. Moreover, even in cases governed by reverse onus provisions, acquittals frequently result from investigative lapses that create reasonable doubt, reaffirming the centrality of investigation quality. In *State of Himachal Pradesh v. Sanjay Kumar*²³, the Supreme Court upheld the acquittal of the accused charged with offences of rape and kidnapping, on the ground that the prosecution had failed to establish the charges beyond reasonable doubt. The judgment reaffirmed that courts must maintain a high standard of proof in criminal cases, particularly when life and liberty are at stake. These realities indicate that while the system has evolved towards a more victim-sensitive framework, such reforms remain insufficient in the absence of effective, diligent, and accountable investigation, necessitating a focused examination of the duties and liabilities of investigating

²³ *State of Himachal Pradesh v. Sanjay Kumar*, 2025 INSC 561, decided on 23 April 2025 (Supreme Court of India).

officers.

Duties and Accountability of Investigating Officers in Cases of Investigative Failure

The right to a fair investigation is an intrinsic component of the guarantee of life and personal liberty under Article 21 of the Constitution of India. The Supreme Court has consistently held that investigation is not a mere procedural formality but a substantive safeguard to ensure that criminal law operates fairly, impartially, and effectively. An investigating officer is under a constitutional and statutory obligation to conduct a prompt, unbiased, and legally sound investigation, balancing the rights of the accused with the legitimate interests of the victim and society.

The Hon'ble Supreme Court, in case of *Zahira Habibullah Sheikh & Anr. v. State of Gujarat & Ors.*²⁴ while expressing serious doubts about the role of the investigating agencies, revisited and reiterated its earlier jurisprudence on the consequences of defective investigation. The Court reproduced the following observations to emphasise that lapses or omissions in investigation, though a matter of concern, cannot by themselves form the sole basis for acquittal, particularly where the evidence on record otherwise inspires confidence:

Consequences of defective investigation have been elaborated in *Dhanraj Singh @ Shera and Ors. v. State of Punjab*²⁵. It was observed as follows:

"5. In the case of a defective investigation the Court has to be circumspect in evaluating the evidence. But it would not be right in acquitting an accused person solely on account of the defect; to do so would tantamount to playing into the hands of the investigating officer if the investigation is designedly defective. (See *Karnel Singh v. State of M.P.*)²⁶

6. In *Paras Yadav and Ors. v. State of Bihar*²⁷ it was held that if the lapse or omission is committed by the investigating agency or because of negligence the prosecution evidence is required to be examined de hors such omissions to find out whether the said evidence is reliable or not. The contaminated conduct of officials should not stand on the way of evaluating the

²⁴ *Zahira Habibullah Sheikh & Anr. v. State of Gujarat & Ors.*(2006) 3 SCC 374

²⁵ JT 2004(3) SC 380

²⁶ 1995 (5) SCC 518

²⁷ 1999 (2) SCC 126

evidence by the courts; otherwise the designed mischief would be perpetuated and justice would be denied to the complainant party.

7. As was observed in *Ram Bihari Yadav v. State of Bihar and Ors.*²⁸ if primacy is given to such designed or negligent investigation, to the omission or lapses by perfunctory investigation or omissions, the faith and confidence of the people would be shaken not only in the Law enforcing agency but also in the administration of justice. The view was again re-iterated in *Amar Singh v. Balwinder Singh and Ors.*²⁹ "

In another case of *Case Edakkandi Dinesh @ P. Dinesh and Others v. State of Kerala*,³⁰ The Supreme Court ruled that an accused cannot claim acquittal merely on the basis of a flawed investigation. The Court explained that a defective investigation does not automatically benefit the accused persons, and courts must consider other evidence presented by the prosecution.

"Therefore, the principle of law is crystal clear that merely because of a defective investigation, the accused persons will not get the benefit of acquittal. It is within the domain of the courts to consider other evidence collected by the prosecution, such as the testimony of eyewitnesses, medical reports, etc. This Court has consistently held that the accused cannot claim acquittal on the basis of a defective investigation conducted by the prosecuting agency," Justices Sudhanshu Dhulia and Prasanna B. Varale observed.

These decisions make it clear that the Supreme Court does not favour the termination of criminal proceedings merely on account of defects or lapses in investigation, nor does it permit an accused to derive an unwarranted benefit solely on that ground. Yet, judicial experience consistently shows that investigations are often conducted in a negligent, perfunctory, or compromised manner, significantly affecting the course and outcome of criminal trials and impairing the truth-seeking function of the court. Consequently, when acquittals occur due to investigative failure, responsibility cannot be said to end with the release of the accused or the grant of compensation; rather, the conduct of the investigating officer must be examined in terms of constitutional duty, professional accountability, and institutional responsibility.

Investigative failures are rarely isolated, but arise from a convergence of social, economic,

²⁸ 1999 (2) SCC 126

²⁹ 2003 (2) SCC 518

³⁰ 2025 LiveLaw (SC) 25

political, and structural factors, including societal biases, poverty of victims, political interference, resource constraints, inadequate training, procedural delays, witness intimidation, technological limitations, and degradation of evidence over time. In this backdrop, it becomes necessary to examine the existing statutory framework in India that purports to regulate investigative conduct and fix accountability of investigating officers. While the Indian legal system contains certain provisions—

BNSS³¹ defines the expression “investigation” under Section 2(1)(l) as includes all proceedings under this Sanhita for the collection of evidence conducted by a police officer or by any person (other than a magistrate) who is authorised by a Magistrate in this behalf. This statutory definition makes it evident that investigation is not confined to a single act, but constitutes a comprehensive process involving systematic collection, verification, and preservation of evidence in accordance with law. The scope and autonomy of this investigative process have been judicially clarified by the Supreme Court in *Union of India v. Prakash P. Hinduja*³², wherein it was held that the field of investigation from the lodging of the First Information Report till the submission of the final report under Section 173(2) CrPC is primarily reserved for the investigating agency, and that courts ordinarily refrain from interfering with an investigation while it is in progress.

Criminal investigation is governed by Sections 173 to 196 BNSS³³, which lay down the powers and duties of the investigating officer, and culminates in the submission of the police report before the court under Section 193 BNSS³⁴.

The statutory definition of “investigation” makes it clear that the function of investigation is to be carried out either by a police officer or by any other person authorised by a Magistrate, thereby identifying the investigating agency responsible for the lawful collection of evidence.

Police officers, being “public servants” within the meaning of Section 2(28) BNS³⁵, are therefore legally bound to discharge their investigative duties strictly in accordance with law. Failure to perform such statutory obligations constitutes dereliction of duty and may attract

³¹ Bharatiya Nagarik Suraksha Sanhita, 2023

³² (2003) 6 SCC 195

³³ Bharatiya Nagarik Suraksha Sanhita, 2023

³⁴ Bharatiya Nagarik Suraksha Sanhita, 2023

³⁵ Bharatiya Nyaya Sanhita, 2023

penal consequences under the IPC. In this regard, Section 198 BNS³⁶ provides punishment for a public servant who knowingly disobeys the law with intent to cause injury. The Supreme Court has reiterated the mandatory nature of such duties, including the obligation to register an FIR, as recognised in *Lalita Kumari v. Government of Uttar Pradesh*³⁷. Thus, non-performance of statutory obligations by investigating officers is not merely an administrative lapse but a punishable offence under criminal law.

The *Bharatiya Nyaya Sanhita, 2023* expressly provides penal consequences for misconduct and dereliction of duty by public servants during investigation. Section 198 BNS punishes a public servant who knowingly disobeys any direction of law regulating the manner of discharge of official functions, with intent to cause injury, with simple imprisonment which may extend to one year, or with fine, or with both. Section 199 BNS further criminalises specific forms of investigative disobedience, including unlawful compulsion of attendance, violation of statutory directions governing investigation, and failure to record information relating to specified cognizable offences, prescribing rigorous imprisonment for a term not less than six months and extending up to two years, along with fine. Additionally, Section 201 BNS imposes punishment of imprisonment which may extend to three years, or fine, or both, where a public servant intentionally prepares or frames an incorrect document or electronic record with intent to cause injury. These provisions collectively underscore that investigative misconduct is treated not merely as an administrative lapse, but as a substantive criminal offence attracting statutory punishment.

Apart from the provisions of substantive and procedural criminal law, investigating officers are also governed by the Police Acts, Police Manuals, and Service Conduct Rules, which impose standards of diligence, integrity, and professional responsibility. Under the Police Act, 1861, superior police authorities are empowered to dismiss, suspend, or otherwise punish subordinate police officers found remiss or negligent in the discharge of their duties³⁸. The Act further casts a statutory duty upon every police officer to prevent offences, detect and bring offenders to justice, and faithfully execute all lawful orders³⁹. Neglect or wilful breach of duty, disobedience of lawful orders, or abuse of authority attracts disciplinary as well as penal consequences,

³⁶ *Bharatiya Nyaya Sanhita, 2023*

³⁷ (2014) 2 SCC 1

³⁸ The Police Act, 1861, § 7 (Appointment, dismissal, etc., of inferior officers), No. 5 of 1861, India.

³⁹ The Police Act, 1861, § 23 (Duties of police-officers), No. 5 of 1861, India

including fines and imprisonment⁴⁰. Additionally, the obligation to maintain accurate records, including station diaries, is expressly mandated, subject to judicial inspection⁴¹. These provisions reinforce that investigative duties are not merely discretionary functions but legally enforceable obligations, breach of which entails both departmental and legal accountability.

In addition to the general criminal law and service regulations, investigative misconduct arising from corrupt practices is specifically addressed under the Prevention of Corruption Act, 1988, which defines “public servant”⁴² in expansive terms and criminalises abuse of official position, bribery, and criminal misconduct by public servants. Where defects in investigation are attributable to corruption, mala fides, or undue advantage, the said Act provides a distinct penal framework, including offences relating to bribery and abuse of official functions.

The existing framework of direct and indirect punishments for defective and negligent investigation does not appear to be calibrated to the gravity of the offence under investigation. The recurring judicial findings of defective investigation across a wide spectrum of cases indicate either the insufficiency of penal provisions or, more critically, a failure in their effective implementation. In either situation, it is ultimately the cause of justice that suffers. Defective investigation not only denies effective justice to victims often turning them into victims of the process itself but may also result in prolonged incarceration and undue hardship to the accused, who may remain in custody for years due to investigative lapses. Although constitutional remedies such as habeas corpus are available, there exists no comprehensive statutory mechanism addressing wrongful deprivation of liberty arising specifically from negligent investigation. Judicial concern in this regard is evident from decisions such as *In Nazir Javed Khan v. State of Maharashtra*⁴³, wherein the Bombay High Court directed the State Government to pay Rs. 10 lacs as compensation to the family of the deceased for a negligent investigation conducted by the police. This ruling not only reiterates the positive obligation of investigating agencies to conduct investigations with due diligence, but also recognises compensation as a remedial measure for harm caused by investigative failure.

Judicial intolerance towards defective and mala fide investigation is further evident from a decision of the Madhya Pradesh High Court in 2024, arising out of the kidnapping and murder

⁴⁰ The Police Act, 1861, § 29 (Penalties for neglect of duty, etc.), No. 5 of 1861, India.

⁴¹ The Police Act, 1861, § 44 (Police-officers to keep diary), No. 5 of 1861, India.

⁴² The Prevention of Corruption Act, 1988, § 2(c) (definition of “public servant”), No. 49 of 1988, India.

⁴³ AIR ONLINE 2019 BOM 380

of two minor girls, where the Court found that the investigation was conducted with gross negligence and malicious intent, including manipulation of evidence. The High Court observed that due to such tainted investigation, an innocent accused was compelled to remain in custody for over three and a half years, and accordingly set aside the conviction, honourably acquitted the accused, and imposed a cost of ₹1,00,000 on the Investigating Officer. However, the Supreme Court has presently stayed the operation of the adverse observations and the imposition of costs against the police officer, noting that such remarks were made without affording an opportunity of hearing, and the matter is now pending consideration till further orders. The case nevertheless underscores the continuing judicial concern regarding investigative misconduct and its profound impact on both personal liberty and the administration of criminal justice.⁴⁴

The foregoing discussion demonstrates that, despite multiple statutory provisions, there exists no comprehensive and calibrated legal framework exclusively addressing the accountability of investigating officers for negligent, reckless, or mala fide investigation. The law does not presently distinguish with sufficient clarity between investigative lapses in petty offences and those occurring in serious and heinous crimes, nor does it adequately differentiate between bona fide error, gross negligence, and deliberate omission, resulting in a fragmented regime of punishment and accountability. This normative gap has serious consequences. On the one hand, courts have consistently held that investigative lapses should not automatically enure to the benefit of the accused and that evidence must be carefully scrutinised on its own merits; yet, where the evidence itself stands irretrievably compromised due to defective investigation, judicial scrutiny alone cannot cure the miscarriage of justice. In such cases, victims are denied substantive justice or accused persons may suffer prolonged incarceration or wrongful conviction, thereby eroding confidence in the criminal justice system.

Recent judicial interventions reflect an institutional attempt to address this systemic failure. In *State of Madhya Pradesh v. Sunit @ Sumit Singh*⁴⁵, the Madhya Pradesh High Court, recognising the recurring problem of careless and unmonitored investigation in serious crimes, directed the constitution of a district-level supervisory mechanism headed by senior officers to prevent investigative lapses at the threshold stage. However, the Supreme Court stayed the said

⁴⁴ SC stays MP HC order penalising police officer for carrying out 'misguided investigation' | India News

⁴⁵ *State of Madhya Pradesh v. Sunit @ Sumit Singh*, 2025 INSC 561 (Supreme Court of India), stay order reported in 2025 LiveLaw (SC) 703 (July 4, 2025). <https://www.livelaw.in/top-stories/supreme-court-stays-mphc-direction-mandating-ips-level-supervision-of-all-serious-crime-probes-296556>

direction, not because the objective was impermissible, but owing to its practical unworkability and the disproportionate burden it would place on limited senior-level manpower. Instead, the Supreme Court directed the State to frame a Standard Operating Procedure that balances effective supervision with administrative feasibility, thereby acknowledging both the legitimacy of the High Court's concern and the structural constraints of policing.

This paper demonstrates that, although courts are acutely aware of the dangers posed by defective and negligent investigation and have made sincere efforts to evolve corrective measures, judicial intervention alone cannot substitute institutional reform. There is a compelling need for a distinct and stringent accountability framework governing investigative conduct either through a specialised statutory regime or an independent supervisory mechanism so that responsibility is fixed proportionately to the gravity of the offence and the nature of the lapse. If transparency and professional independence can be institutionally ensured for specialised agencies such as the CBI, there is no principled justification for denying comparable standards of accountability and oversight to the regular police machinery. Ultimately, the credibility of the criminal justice system rests not merely on post-facto judicial correction, but on the ethical and competent discharge of investigative duties at the ground level.

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