

# AND THE VICTIM'S SCARS AMOUNT TO A LIFETIME SENTENCE FOR

## MANY WOMENS

(WITH REFERENCE TO CRIMINAL AMENDMENT ACT, 2013)

DHARMENDRA &  
MAHIMA SHRIMALI\*

### ABSTRACT

The very backbone of our nation on which whole of our legal system is based itself says-.the main object of our Constitution is Justice, Liberty, Equality and Fraternity.<sup>1</sup>Whenever, we read this, a question arises in our mind. Does Justice actually exist in our nation, if yes, then maybe it is far away from the reach of people? The best instance is the victims of acid attack; still after several amendments they are unable to get proper justice.<sup>2</sup> The victim life becomes so miserable and the culprit's life goes on without any hindrance. Acid attacks are a form of violence against women, where the perpetrator splashes a person or object with acid in order to deface or kill them.<sup>3</sup> Although acid throwing, also known as vitriol age, has been a form of violence known to be committed throughout history, there has been a steep rise in the cases documented in recent years. Acid melts flesh and even the bones of a person; it causes an unparalleled degree of pain to the victim and giving permanent disabilities at times such as blindness and sometimes even cause death of the victim<sup>4</sup>

KEYWORDS- Acid, Crime,Victim, Amendment, Act,

### INTRODUCTION-

India still has the largest number of illiterate in the world<sup>5</sup>, but they are also very verse with the term CRIME. CRIME, CRIME and CRIME!!! Everywhere the word crime has been fascinated. The word crime is not new for us, but just the way of doing crime has been reformed now. A small word crime has created so much significance in the life of others that

---

\* Authors are the students of Amity Law School, Amity University Rajasthan pursuing B.A.LL.B. (H.); Fourth Semester.

<sup>1</sup> [http://en.wikipedia.org/wiki/Preamble\\_to\\_the\\_Constitution\\_of\\_India](http://en.wikipedia.org/wiki/Preamble_to_the_Constitution_of_India)

<sup>2</sup> Alok Dixit, founder, Stop Acid Attacks (SAA) campaign.

<sup>3</sup> <http://www.lawcommissionofindia.nic.in/reports/report226.pdf>

<sup>4</sup> Gulab Sahiblal Shaikh vs The State of Maharashtra, (1998 Bom CR(Cri))

<sup>5</sup> <http://www.deccanherald.com> -India still home to largest illiterate- UNESCO

everyone has word crime on their mouth. If crime is such a disastrous acts then why it takes place? Who are responsible for it? To whom we can blame for crime? The answer is same - *WE THE PEOPLE*. Crime is not something which has been gifted by God or Aliens', it is Man-Made. We create it and therefore we are responsible for the heinous crime which we are facing today. We do crime for taking revenge, for our whims and fancies, for dowry<sup>6</sup>, property etc. Property and land dispute can prove to be a motive for acid attacks<sup>7</sup>. One of the important instance of the crime is ACID ATTACK- In our early period, acid is used for household purposes but now the term acid become a crime in a reformed way by its use for destroying the life of people.

### **ACID ATTACK-**

Our forefathers can't even imagine that the acid which they used for household purpose now become a heinous crime, it destroy the life of people. Acids are being misused, for destroying the life, by throwing it, it melts the skin and even bones of the victim. The beauty which is the ornament of every lady has been spoiled with the misuse of acid. The most notable effect of an acid attack is the bodily disfigure and maims. The acid attack is a form of violent assault by throwing corrosive substance onto the body of another person with the intention to destroy his body.<sup>8</sup> In most of the cases, it has been found that acid are mostly thrown at the face of victim and mostly the victims are women and only women.<sup>9</sup> Acid besides burning the face of victim, damaging skin tissues, it often exposing and sometimes dissolving the bones, it make the life of the victim worse. Such type of attack makes the person blind, permanent scars on the face and body and disfigure the entire body of the victim. Victim's life leads to a miserable life.

### **CONSEQUENCES-**

Acid attack makes the life of the victim worse. It is impossible to easily recover from this. The medical treatment is also very expensive, but it also doesn't shape the body as it was. The medical effects of acid attack are extensive. It is very difficult to recover, it depend upon the concentration of the acid and the period of time before the acid is thoroughly washed off

---

<sup>6</sup> Marepally Venkata Sree Nagesh Vs. State of A.P. ( 2002 CriLJ3625)

<sup>7</sup> Mahender vs State on 1 November, 2013

<sup>8</sup> Mannan A, Ghani S, Clarke A, Butler PE, Cases of chemical assault worldwide: A literature review, 2006

<sup>9</sup> <http://www.stopacidattacks.org/p/law.html>

with water or neutralized with a neutralizing agent<sup>10</sup>. The acid rapidly eat away our skin, the layer of fat beneath the skin, and in some cases even the underlying bones and makes our body paralyzed. If the acid thrown at the face of the victim then there may be chances that he/she becomes blind. It completely destroyed the eyelids and lips and the nose and ears are severely damaged.<sup>11</sup>

These victims suffer a lot in their personal, economical, psychological and social life. People are least interested in communication, interaction with them, they are ignored by the large number of people, but the culprit is as usual doing his daily work, without any hindrance, he is still invited and enjoyed by his relatives and friends. And if he gets the imprisonment then he come outside through bail within one or two month and again starts his happy life. But the victim has no option to start a new beginning or to start a new life, as she/he starting hating themselves, disappointing, frustrated with their life. With his/ her relatives' motivation, inspiration, own determination if they come out from this then its society which don't allow them to forget the incident. The societies where they live itself avoid them and welcome the culprit.

#### **LAW CONCERNIG-**

*The one who attacked me, what did he get and what did I get? He got arrested after four days of the attack and was bailed out after a month. Now, he is married and has a child.*

*“Where is justice? Where is law? Nowhere”<sup>12</sup>*

The lines of Victim, itself depict the lack of law and justice in India. The culprit who attacked acid on her, who destroys the life of victim is free now. He marriages and also has a child. And the victim is still at that phase of time where the culprit made her to suffer whole life. *The society ignores her and wishes the culprit.*

There is nowhere in the Indian Penal Code, the word “Acid” is mention, so it's difficult for the victim to put a strong case against the culprit. The horrific acid attack act has been taking place across different parts of the country. The number of acid attack cases is also increasing very rapidly. According to a study 174 cases of acid attack were reported in India in 2000<sup>13</sup>,

---

<sup>10</sup> <http://blog.ipleaders.in/acid-attack-and-the-law-in-india/>

<sup>11</sup> State of Karnataka Vs. Joseph Rodrigues,22-Aug-2006

<sup>12</sup> Laxmi, 24, who goes by one name, was doused with acid eight years ago after ignoring repeated overtures from a man more than 25 years her senior.

<sup>13</sup> <http://www.lawcommissionofindia.nic.in/reports/report226.pdf>

this does not include victims that do not report their case because they fear further violence or being socially stigmatized. In this regards, the Campaign and Struggle Against Acid Attack on Women(CSAAAW) noted one incidence in Bangalore in July 2004 that was not included as part of the reports cases partly because the victim and her family have opted not to go public with their trauma.<sup>14</sup> It is among the gravest offences and requires a separate and stringent categorization in our law i.e. there must be a specific act or law to deal with the acid attack cases. The victims demand for the need of a specific law which governs them. As per the requirement and demand of people an amendment brought in the Indian Penal Code, Indian Evidence Act and Code of Criminal Procedure, 1973

### **CRIMINAL AMENDMENT ACT, 2013-**

Criminal Amendment Act, 2013 brought to made changes in the Indian Penal Code, Indian Evidence Act and Code of Criminal Procedure, 1973 on laws related to sexual offences. An incident took place in capital city- Delhi which brings the legislative authority in such a crucial situation, where amendments is must require and it is the demand and need of the people.

**BACKGROUND-** On 16 December 2012, a female physiotherapy intern was beaten and gang raped in Delhi. The incident generated international coverage and was condemned by the United Nations Entity for Gender Equality and the Empowerment of Women, who called on the Government of India and the Government of Delhi to do everything in their power to take up radical reforms, ensure justice and reach out with robust public services to make women's live more safe and secure. Public protest took place in whole country.

Six days after the incident, central government appointed a judicial committee headed by J.S.Verma,a former Chief Justice of India, to suggest amendments to criminal law to sternly deal with sexual assault cases was given a month to submit its report. The Law Commission of India came out with a report on "*The Inclusion of acid attacks as specific offences in the Indian Penal Code and a law for compensation for victims of crime*".<sup>15</sup> The report included many suggestions like maximum punishment for rape as life imprisonment, clear ambiguity over control of Delhi Police, etc. The Cabinet Minister approved the suggestion given by the Verma Committee Report. The suggestions have been incorporated into the ordinance, which

---

<sup>14</sup> Burnt Not Defeated, Report by CSAAAW, CSAAAW Bangalore publication

<sup>15</sup> <http://en.wikipedia.org/wiki/>

was subsequently replaced by a bill with numerous changes, which was come into enforcement on 3 April 2013.

**AMENDMENTS-** the Criminal Amendment act has recognised certain acts – acid attack, sexual harassment, voyeurism, stalking as offences which have been now incorporated into the Indian Penal Code.<sup>16</sup> The bill introduces three new offences under the IPC.

Firstly, it penalises public servants who knowingly disobey an order that prohibits them from conducting investigation or requiring the attendance of a person for the purpose of the investigation. The bill provides a punishment of imprisonment for up to one year and a fine.

Secondly, it includes sections 326A and 326B in the Indian Penal Code to make acid attack a specific offence. It penalises the act of intentionally causing damage to the body of a person, or burning or maiming a person by throwing acid with imprisonment for minimum of 10 years that may extend up to life imprisonment and a fine of Rs 10 lakh. It penalises the attempt to cause harm by throwing acid with minimum of five and maximum of seven years of imprisonment.

It amend sections 154, 160 and 161 of the Code of Criminal Procedure, 1973 for providing women and male person under the age of eighteen years or above the age of sixty-five years more protections;

d.) It amends the Indian Evidence Act, 1872 by way of inserting a new section 53A<sup>17</sup> wherein evidence of the character of the victim or of his or her previous sexual experience shall not be relevant or questioned.

### **SECTION 326A and 326B of Indian Penal Code, 1860**

Before the amendment act come into force, there is only one Section 326<sup>18</sup> deals with it. The scope of the definition of section 326 is very narrow but it does not deal adequately with the issue of acid attack because-

---

<sup>16</sup> [www.wikipedia.com](http://www.wikipedia.com)

<sup>17</sup> 53. In criminal cases, previous good character relevant.—In criminal proceedings, the fact that the person accused is of a good character, is relevant.

<sup>18</sup> 326. Voluntarily causing grievous hurt by dangerous weapons or means—Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive

- It does not cover the various kind of injuries inflicted because of an acid attack.
- It does not cover the act of administrating acid attack, i.e. planning it
- The section does not specify who the fine should be awarded to
- The section also does not punish the intentional act of throwing of acid if no injuries occur

These defects have been cleared in the new Section- 326A and Section 326 B of the Indian Penal Code.

**Section 326A of Indian Penal Code-** Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses of the treatment of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.<sup>19</sup>

Acid includes any substance which has acidic or corrosive character or burning nature that is capable of causing bodily injury leadings to scars or disfigurement or permanent or temporary disability. The section lays down the punishment of acid throwing. The minimum imprisonment is 10 years which may be exceed to life imprisonment with fine.

In most of the acid attack cases- Hydrochloric and Sulphuric acid were used, as it was easily available in the market. The Hon'ble Supreme Court has completely prohibited the counter sale of the chemical unless the seller maintains a recording of the address and other details of the buyer, and the quantum.<sup>20</sup>

---

substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with 1[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

<sup>19</sup> <http://indiankanoon.org/>

<sup>20</sup> Laxmi v Union of India(2015) 42 SCD 588

Mostly the victims were very young women between the age of 16 and 25 years, and were attacked by men who were known to them. Mostly attacks took place in public places or at home.<sup>21</sup> It was found that man who cannot face rejection take their 'revenge' by throwing acid so that the life of the person get destroy. The accused on a second attempt to throw acid on the victim, the motive for the crime was revenge as the victim had rebuffed the overtures of the main accused Ramesh<sup>22</sup>. Men's emotions get hurt for ending relationship and for refusing sexual harassment, sexual intercourse, intimacy, proposals of marriage and demands for dowry. Since, acid is easily available in the market, it become a relatively cheap and effective way of committing acts of violence against women. They throw acid with the intention of injuring or disfiguring victim's bodies, burn their faces, smash noses, melt their eyes, and walk away as happy men.

This amendment included punishment for those people who practice this heinous form of crime but the amendment was useless because after also people use to practice. So the best punishment will be tit for tat i.e. same thing should be done with those people who practice this crime. They should give realization, by throwing acid on their face and on their family members. These will be the best punishment which can be awarded to them.

#### **Attempt to Acid Attack**

**Section 326B of Indian Penal Code, 1860-** Whoever throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage or deformity or burns or maiming or disfigurement or disability or grievous hurt to that person, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.

#### **Compensation for acid attack**

Section **357B** has been newly inserted in Cr PC which reads as :

"The compensation payable by the State Government under section 357A shall be in addition to the payment of fine to the victim under section 326A or section 376D of the Indian Penal Code."

---

<sup>21</sup> Deccan Herald News Service, Bangalore, Acid test of Humanity, Bala Chauhan

<sup>22</sup> Ramesh Dey and Ors. vs. State of West Bengal, Decided on 16/5/2007

## **Free Medical Treatment**

**357C** has been newly inserted whereby all hospitals, public or private are required to provide first aid or medical treatment free of cost. The section reads as:

"All hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under section 326A, 376<sup>23</sup>, 376A, 376B 376C, 376D or section 376E of the Indian Penal Code and shall immediately inform the police of such incident.

## **TODAY'S SCENARIO-**

Specific provisions have been made for the offence of acid attack by the Criminal Amendment Act, 2013. It also defines the punishment of not less than 10 years to a maximum of life imprisonment with fine that could go up to Rs.10 lakh.

But neither the activists nor victims are happy with it. They say the new law has only increased the punishment for perpetrators and does not have provisions to aid acid attack victims who have to live with not just the physical disfigurement but also psychological scars and social ostracisation.

There must be a separate law to tackle the crime of acid attack, including easy sale of nitric and sulphuric acid. These are available for Rs.30 a bottle, and are frequently used by men to attack young women. The new law does not provide any concrete solution for the victims such as proper medical treatment, long term medical care, specialised medical care for burns, scars, elaborate plastic surgery, insurance plan, and employment. It has only made acid attack a criminal offence. A few lakhs money and first aid will not be enough for the victims who has to survive further. It was the first time that a large sum in terms of compensation was given to the victim to meet the medical expenses including that of plastic surgery. However, no compensation was awarded for the after effects of the attack such as loss of income, reputation etc<sup>24</sup> . Our neighbouring countries like Bangladesh<sup>25</sup>, Pakistan and Cambodia,

---

<sup>24</sup> State of Karnataka vs. Joseph Rodrigues

have amended their laws to regulate the import, export, use and waste management of corrosive substance. Acid attack incidents in Bangladesh, which peaked in 2002 with 496 cases reported, came down to 98 last year, according to the Acid Survivors Foundation.

. "We still have a long way to go. Like Bangladesh and other countries, we have to pass laws regulating the availability of acid and other corrosive substances."<sup>26</sup>

. Therefore there is a need of such a law which besides providing culprit the punishment, also provides aid to the victims by providing them proper rehabilitation, long term medical care, proper plastic surgery, insurance etc.

### **CONCLUSION-**

The consequences of acid attack are long lasting on the life of the victim who faces perpetual torture, temporary or permanent damage, disfigurement, ignorance by society and other problems for the rest of her life. Their living life become so miserable; they get embarrassed to walk out of their house. It seems impossible like, to start a new beginning. Even if they are willing to pursue a normal life, there is no guarantee that society itself will treat them now as a normal human beings given their appearance and disabilities after an attack. They may not be able to do work, to get a job and thus perpetually struggle to survive.<sup>27</sup> Therefore, to curb attacks on women harsh punishment should be given to person so that they feel the same as the victim feels i.e. tit for tat.

The cases of acid attack increasing very rapidly, day by day. Now its the peak time- government has to take the appropriate action which actually help the victim and to deter the society by giving harsh punishment to the culprit.

***THERE IS A NEED OF A SPECIFIC LAW AND PROPER JUSTICE.***

---

<sup>25</sup> 2002 the Bangladesh government passed two acts, the Acid Control Act 2002 and the Acid Crime Prevention Acts 2002 (1st and 2nd Act), restricting import and sale of acid in open markets

<sup>26</sup> Alok Dixit, founder, Stop Acid Attacks (SAA) campaign

<sup>27</sup> Baseline Survey with International Comparative Analysis of the Legal Aspects of Acid Violence in Uganda, Commissioned by: Acid Survivors Foundation Uganda with funding support from the US Democracy & Human Rights Fund, Legal Consultant: Rachel Forster