

## THERE IS NEED OF HARSH PUNISHMENT FOR THE PERPETRATORS UNDER THE NDPS ACT, 1985

By

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According to Chapter IV Section 31-A if any person who has been convicted of the commission of or attempt to commit or abetment, or involve in criminal conspiracy to commit any offence punishable under Sections 19, 24 and 27-A of NDPS Act, 1985 and offence involving commercial quantity of any Narcotic Drugs or Psychotropic Substances, and subsequently convicted under the Act, and engaged in production, manufacture, possession, transport, import into India or export from India any Narcotic Drug or Psychotropic Substances specified under the NDPS Act and involving the quantity which is equal or more than the quantity mentioned under the NDPS Act or finance directly or indirectly, shall be punished which shall be less than the punishment specified in Section 31 or with death.

Whereas the Section 31-A (death sentence) inserted under the NDPS Act by Act No.2 of 1989 but till date none of the convict in the history of NDPS Act, 1985 awarded by capital punishments in *State of Bengal v. Ansar Rahman @ Ramesh Giri and another*, 2019 (2) 268 to 278 High Court of Calcutta modified the death sentence to life imprisonment of 30 years rigorous imprisonment and fine of Rs.3 Lakhs with an order that 30 years of rigorous punishment would rule out any real possibility of the convict indulging in similar offence upon his release from Jail in future.

According to the mandatory provisions under Sections 42, 43, 44 and 50 of NDPS Act, it is very difficult for the investigation officer to work under the mandatory provisions of Chapter-V under Sections 42, 43, 44 and 50 till the compliance of above said provisions there will be delay in search seizure or arrest of an accused, and till the mandatory provisions complied by the investigating agency definitely there will be practicable difficulties arises during the course of investigation which

results in acquittal of perpetrators/accused investigation officers are also natural persons and may commit mistake or some time may forget about the mandatory provisions of the NDPS Act or some times reasons beyond their control and fails to comply the mandatory provisions under NDPS Act, which create doubt in findings of the Court and benefit of doubt goes to accused, in *State of Bengal v. Ansar Rahman @ Ramesh Giri and another*, the prosecution proved the case beyond reasonable doubt but the High Court alter the death sentence into 30 years Rigorous imprisonment and fine Rs.3 lakhs which means that still there is need of harsh punishment to combat the challenges posed by perpetrators under NDPS Act otherwise the trafficking of Narcotic Drugs and Psychotropic Substances increasing day-by-day which is affecting economic and social structure of India, according to the first national survey on narcotic drugs and psychotropic substances use in India survey report released in February 2019, by ministry of social justice and empowerment nearly 17 crores individuals consume alcohol, 3.1 crores use cannabis products 2.26 crores use opioids, 5.7 crores are affected by harmful alcohol, about 25 lakhs suffer from cannabis, about 77 lakhs person need help for their opioids problem, from the above said fact it reveals that if really any stringent law which follow harsh punishment nearly 27 crores individuals life will be protected which means still there is need of harsh punishments under the NDPS Act for perpetrators.

Supreme Court in *State of Himachal Pradesh v. Pawan Kumar*, (2005) 4 SCC 350, holds that in *Sheffield City Council v. Yorkshire Water Service Ltd.*, (1991) 1 WLR 58 at P.71, where it was held as, under: "Parliament is taken not to intend the carrying out of its enactments to be unworkable or impracticable, so the Court will be slow to find in favour of a construction

that leads to these consequences. This follows the path taken by Judges in developing the common law. ‘...the common law of England has not always developed on strictly logical lines, and where the logic leads down a path that is beset with practical difficulties the Courts have not been frightened to turn aside and seek the pragmatic solution that will best

serve the needs of society as such according above discussion and the data showing the conviction rate in NDPS Cases there is 90% acquittal in NDPS Cases because of the above said reason, as such there is need of harsh punishment under NDPS Act for perpetrators to combat the challenges posed by the Drugs traffickers.

## JUSTICE FOR ACID ATTACK VICTIMS – A MYTH OR REALITY

By

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### *Introduction:*

One in three women worldwide experience physical or sexual violence, which could be at public places, in educational institutions, place of work or even at home, where she should feel the safest amidst her family members. Violence against women and girls is a human rights violation, and the immediate and long-term physical, sexual, and mental consequences for women and girls can be devastating, including death. Acid attack is one such type of violence.

*“Freedom cannot be achieved unless women have been emancipated from all kinds of oppression.”— Nelson Mandela.*

The subordination of woman by man according to Confucius was one of the supreme principles of Government.

Over 155 countries have introduced laws on domestic violence with over 140 countries enforcing legislations against sexual harassment in the workplace according to the World Bank. Enforcing these laws has been challenging for countries thereby limiting access to safety and justice for women. There is more we can do to prevent violence against women and to ensure that it does not go unpunished when it does occur.<sup>1</sup>

The National Crimes Records Bureau of India has determined that the reported incidents of crimes against women have increased by 6.4% in 2012 and also women are victims of a crime every 3 minutes in our country. In 2011, more than 2.3 lakhs incidents of crimes against women were reported and this number increased by 44% in 2015 when we witnessed over 3 lakhs cases of crimes against women. West Bengal accounts for 7.5% of the women population in our country and it witnessed 12.7% of the total cases of crime against women in our country. Andhra Pradesh which is home to 7.3% of the female population accounted for 11.5% cases of crime against women in our country.<sup>2</sup>

In 2020, a total of 3.7 lakhs cases of crime against women were registered, showing a decline of 8.3% cases over 2019.

‘Cruelty by a Husband or his Relatives’ (30%) accounted for the majority of cases of crime against women followed by ‘Assault on Women with intent to Outrage her Modesty’ (23.0%), ‘Kidnapping and Abduction of Women’ (16.8%) and Rape (7.5%) according to the cases registered under IPC. 56.5 cases were registered for every 1 lakh women in our country in 2020 as compared to 62.3 cases in 2019.<sup>3</sup>

[1] [https://en.wikipedia.org/wiki/Violence\\_against\\_women\\_in\\_India](https://en.wikipedia.org/wiki/Violence_against_women_in_India)

[2] [https://en.wikipedia.org/wiki/Violence\\_against\\_women\\_in\\_India](https://en.wikipedia.org/wiki/Violence_against_women_in_India)

[3] <https://ncrb.gov.in/sites/default/files/CII%202020%20Volume%201.pdf>