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Editor In chief – Assistant professor Dr. Taru Mishra

Publisher & Founder – Vaibhav Sangam Mishra

Frequency – Quarterly (4 Issue Per year)

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Victims of Abuse of Power.

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“I believe the root of all evil is abuse of power”.

–Patricia Cornwell

ABSTRACT :

The word ‘power’ consists of only five letters but its meaning is very vast in different areas and criteria, we can come to know different meanings and definitions of power from different jurists. According to the famous jurist **Thomas Hobbes**¹- ‘**Power Over**’ means ‘power simply is no more, but the excess of the power of one above that of another.’ Basically, in simple words power means the ability to wield force, authority, or influence the thoughts, actions, and mindset of people or things to do something. Black’s Law Dictionary² defines ‘abuse’ as “to depart from legal or reasonable use in dealing with (a person or thing)” or “to injure (a person) physically or mentally” or “to damage (a thing)”. However, the phrase ‘**abuse of power**’ has not been defined in any statute or enactment.¹ Personally, I see abuse of power as a psychological disorder. I have been in a place where I have seen people misuse their power. As we can take an example of a company manager. He\she constantly reminds an employee that they can be fired or replaced. They humiliate an employee in front of his colleagues and they force an employee to work overtime multiple times a week without additional pay. The main problem of abuse of power is the boss mistreating employees when he\she is in a bad mood. And they constantly shift the blame on employees for their own incompetencies. The word ”victim” is defined in section 2(wa) of CODE OF CRIMINAL PROCEDURE as a victim means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression “victim” includes his or her guardian or legal heir. The word victim means the person or group of persons who have suffered harm. Victims may be a person or group of persons who have suffered the loss or harm whether it may be physical, mental, or psychological due to the activity or result of activity done by the person who is in power or has authority to do the activity. Here abuse of power can be understood in simple words when

¹ <https://www.desikanoon.co.in/2016/07/meaning-and-definition-abuse-of-power-administrative-law-tarlochan-subject-object-context-misuse.html?m=1>

the person who is on the good post misuses his power in any wrongful mean or for his own benefit and the person who loses something or suffer a loss due to the activity of that person or result of his activity. We can understand it with the help of an example. A person having the authority to appoint any person for a job (like a company manager) appoints any person who is known to him by the advice of any of his close friends, relatives whether that person is eligible for that job or not due to this the actual person who needs that job and was eligible and qualified for it losses his/her job and suffer a loss, this is a misuse of power. Obsession with the greatness of power leads to power abuse.

Historical Background :

Previously in India, the power is used badly by many of the people who are in a position to use it or they have attained a high position in government jobs or in the private sector. Power is such a thing or ability whosoever is having it or has the ability to use it, feels very strong among every and thinks that no one can defeat me and I will only survive and rule the world. The distinction may also be made between various types of power-

- Political power
- Economic power
- Social Power
- Religious power

Even one can talk about psychic power. Media is proof of it that certain people have attained the ability to use psychic power, who not only use it but they also abuse the psychic power with which they are endowed. Abuse of power can be done by any person whether it be any government body or by any private body, but the punishment and fine for exercising the same have also been decided. But what if the body protecting the rights of the citizen is using the power wrongfully? So, in reference to this matter, the full bench of Punjab - Haryana High Court in the matter of Kulwinder Singh and Others V. State of Punjab and others³, has observed as under:

“(28) To conclude, it can safely be said that there can never be any hard and fast category that can be prescribed to enable the court to exercise its power under section 482 of CrPC. The only principle that can be laid down is the one which has been Incorporated in the section itself, i.e., to prevent abuse of process of any court or to secure the end of justice.”

In Mrs. Shakuntala Sawhney V. Mrs. Kaushalya Sawhney⁴ and others, Honorable Krishna Iyer, J. Aptly summoned up the essence of composed in the following words:

“The finest hour of justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion.”

Types of Abuse of Power :

There are the following types in which the abuse of power and its victims can be divided-

- Domestic Abuse
- Sexual Abuse
- Dating Violence
- Stalking Abuse
- Abuse of power in the workplace

Domestic Abuse :

Domestic abuse is also known by another common name such as ‘domestic violence or ‘intimate partner violence. It is the type of abuse in which one partner tries to maintain or gain power over another intimate partner, they try to control them and their behavior, and if they do not obey their rules they are punished or tortured. Torture can be of any type whether it be physical, sexual, emotional, economic, or psychological torture or threats that can influence another person. This includes behavior or activity that frightens, intimidates, terrorizes, manipulates, hurts, humiliates, blames, injures, or wounds anyone. Domestic abuse can occur with people of any race, sexual orientation, religion, or gender of any age whether they are in a relationship or living together, or dating, a married couple. Its victims can be a child or other relatives or any other family member but mostly its victim is an intimate partner in dating or family relationships where the abuser exerts power and control over the victim.

Sexual Abuse :

It is a type of abuse that mostly occurs in the relationship or dating couple living together, between the married couple, and can also occur between two unknown males and females. In this one person tries to make a physical relationship with another person without their consent forcefully. In doing all these one of the persons gets hurt, injured, and emotionally damaged. This type of abuse is also done by a senior officer with the junior officer by saying they will

be promoted easily or they will be highly paid. Just due to these reasons they suffer from this type of abuse. The immediate reaction to sexual assault may include shock, fear, or disbelief and long-term symptoms may be anxiety or post-traumatic stress disorder. Most of the common victims of sexual abuse are women as compared to men. In this 21st century, sexual abuse is another form of suppressing women as the patriarchal family system is still followed.

Dating Violence :

Dating violence or adolescent dating violence can be defined as any physical or sexual or psychological violent behavior which may include stalking. It can happen either with a current partner or with a former dating partner when they are in adolescence age. The 2013 N.Y.R.B⁵ survey found that 21% of female and 10% of male students who dated someone have experienced some form of dating violence. The major risk factor in this type of abuse is a big initiative toward dating and also toward sexual activity at a very early age. In this type of abuse the partner use substances to take advantage of another person or for harming them, like alcohol, marijuana, cocaine, etc. Flunitrazepam⁶ and gamma-hydroxybutyrate are two commonly implicated drugs that can even cause sedation and amnesia, especially when they are given with alcohol. Even most of the adolescents who suffer from this type of abuse do not even get proper medical attention when they needed it, or they even hesitate to call a helpline number by thinking about what other people or society will think about them so due to this they suffer from many medical issues like depression, anxiety, hypertension, and other health issues.

Stalking :

From the word stalking, we can understand that this is a type of behavior or a pattern of behavior toward a victim by a person which can create a feeling of terror among the victim. These activities that a person does which can cause fear among the victim are-

- Following that victim where ever they go from their home to workplace.
- Coming again and again to the home or workplace of the victim.
- Doing repeated or frequent calls and text messages to the victims.
- Showing repeated threatening or harassing behavior toward the victim.
- Doing another type of activity from which the victim fear for their safety.

The N.I.J⁷ defines stalking as “a course of conduct directed at a specific person that involves repeated visual or physical proximity, non-consensual communication or verbal, written or implied threats or a combination thereof that would cause a reasonable person fear, with repeated meaning on two or more occasions.² Stalking can be of the following types-

- **Erotomania**- Delusional obsession with a public figure
- **Love Obsessional**- Stalker delusionally thinks they are in love.
- **Simple Obsessional**- The stalker has a prior existing personal or romantic relationship

The person who is at high post can easily stalk the other person and even no one can report or do anything related to it because they are high post so they use their power of post to suppress the case and the victim can't do anything about it.

Abuse of power in the workplace :

This type of abuse occurs mostly at the workplace with the junior employees or victims done by their senior heads or boss. The senior member misuses the power of authority vested in him or in his position for his personal advantage or by misusing their powers towards juniors or a combination of both which can result in adverse effects and can promote negativity is known as an abuse of power in the workplace. Once any person gets posted on a post and gets authority, he also gets power along with it which he can use in any way for his benefit and no one is there to stop him or restrict him or his power. If we see the dictionary meaning of abuse it is- to use something in a wrong or harmful way or treat someone in such a way that is not acceptable by law or not approved by law. For example- some women abuse their rights in the commission of unlawful acts. We can also say that abuse of power at the workplace can also be considered similar to “malfeasance”.

Fine Imposed by Law for the abuse of Power :

The person who has suffered from this abuse of power done to him by any person having authority to do so can do or file a complaint or file a case against that accused. According to (2) of section 357A of The Code of Criminal Procedure, 1973 which is related to the victim

² <http://ncw.nic.in/ncw-cells/complaint-investigation-cell>, <https://nij.ojp.gov/topics/articles/overview-stalking>

compensation scheme, this section says that whenever in any case the court has said to provide compensation, the District Legal Service Authority or State Legal Service Authority on seeing the case decides the amount of compensation to be given or awarded under the scheme which is discussed in (1) of section 357A of CrPC of 1973. No punishment is prescribed or stated by law for this type of offense as it is not a very serious offense for which the law should state a serious type of punishment. So, for this type of offense or criminal court only gives simple punishment plus a fine according to the loss suffered by the victim.

CONCLUSION :

The abuse of power or misuse of power should be stopped and a strong punishment should be introduced in the law so that no one ever tries to misuse the power if he is at a high authority in the job. So it should be stopped and strict action should be taken against the person who misuses his power or authority for his personal benefit and he causes the loss of another person. So, for the loss caused to the victim, the accused should be punished with imprisonment along with a fine.

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