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ACID ATTACK AND WOMEN IN INDIA: A CRITICAL ANALYSIS

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ABSTRACT :

An acid attack is the premeditated throwing of acid on a victim, usually on the face. It's a heinous crime against women it causes psychological trauma to a victim, acid attack results in acute pain, permanent disfigurement, infections, eye blindness, etc.¹ The paper aims at understanding the legal statutes which are really helpful to the victims of such cases in the practical sense and how despite having the legal remedies such victims fail to get the compensation and how the criminals get scot-free despite committing such life torturing crime paper will also highlight the 'social problems' and 'mental trauma' that the victims face by society and how police authorities show negligence while dealing up with criminals even they have not registered it as a separate crime which was also said by the Supreme Court of India that the government is lacking in seriousness and the government should make the offense non-bailable.² The paper will also highlight the present cases of acid attacks and how the acid is still easy to purchase and locally available in shops without real identification. Also, the paper will add up the case study of Ms. Laxmi Agarwal and her struggle to get justice with major difficulties and how her agenda 'Stop Acid' gave light to various acid survivors, and how it emerged as a new challenge to the court also and how this case bought significant changes in the legal field.

INTRODUCTION :

Women are an integral part of society and they have many roles to play in society but still, men are considered the strongest gender in India. Women are becoming not only significant units of society but are also influencing social change. Violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women. There is a wide range of violence against women because of the reason that they

¹ Das, Advocate Arundhuti and Banik, Subhamoy, A Study on Acid Attack in India and Its Impact (January 2, 2019). Journal of Emerging Technologies and Innovative Research (JETIR) www.jetir.org, Available at SSRN: <https://ssrn.com/abstract=3367773>.

² ibid

have lower social, economic, and legal status. Gender-based violence has a wide range which also violates their natural rights, women have been facing much violence for ages that includes gender discrimination, marital status, religion, caste acid attack, rape, forced use of contraceptives and sexual assault, and so on. This paper will deal up with the acid attack victim in India especially women that how the acid is thrown at the victim is a heinous crime.

LITERATURE REVIEW :

- Dr. Sangeeta Kumari in the article “Acid attack on women: A new face of gender-based violence in India. The article talks about the study in which the victim profile and motive behind committing a crime are studied. The article talks about the awareness of acid attack survivors and there is also an analytical study on victims of the acid attack who got plastic surgery between the year July 2012 and June 2017 also along with that the assault cases are also described in the article.
- Dr. Radhika Kapur in the article “Acid Attacks on Women in India” in this article it broadly defines the term acid attack and also deals with the consequences of acid attacks the article also covers the case study of an acid attack victims and how the judiciary has played an important role in delivering the justice and also how the implementation of the law has been done effectively to provide compensation and punishment to the criminal.
- Subhamoy Banik in the article “A Study on Acid Attack in India and its Impact” in this article gender-based crime is expressly mentioned and also the article talks about the psychological trauma which is caused to the victim. The article also states the reason for acid attacks for instance around 78% of acid attacks occur due to the refusal of marriage. The article also highlighted the causes and impact of the acid attack on innocent women and the difficulties which are faced by the women.³
- Dr. Ashika Jain in the article “Acid Attacks: A burning Injustice” in this article the factors which are responsible for the acid attack is mentioned and the consequences after committing this heinous crime are also mentioned clearly also, the article widely talks about the statutory provision made to safeguard women from this crime and the compensation provision are also

³ Sarala Jayakumar\ A Brief Analysis Of Acid Attacks On Women In India\ Legal Service India \ <https://www.legalserviceindia.com/legal/article-5989-a-brief-analysis-of-acid-attacks-on-women-in-india.html>\ Last Visited 22\01\2023

mentioned clearly. The article also talks about the landmark cases which are enabling the judiciary to frame issues and take the decision for the welfare of women.

DEFINITION OF ACID ATTACK :

Section 3 of the Prevention of Offences Act, 2008 constitutes the definition of the Acid Attack as follows:

(a) "Acid" shall mean and includes any substance which has the character of acidic or corrosive or burning nature that is capable of causing bodily injuries leading to scars or disfigurement or temporary or permanent disability.⁴

(b) "Acid attack" means any act of throwing acid or using acid in any form on the victim with the intention of or with the knowledge that such person is likely to cause to the other person Permanent or partial damage or deformity or disfiguration to any part of the body of a such person⁵."

THE LEGAL FRAMEWORK FOR THE ACID ATTACK VICTIMS :

- Until recently there were no specific laws were initiated particularly for acid attack victims but as the crime has rapidly emerged and caused a threat to human life the law commission initiated the 226th law commission report and specific provisions were laid down by amending the Criminal Law Section 326A and 326B⁶ were inserted in the Indian Penal Code by providing the punishment for the acid attack and making it a separate, cognizable and non-bailable offense under the IPC.
- Also, the Amendment Act, 2013 promulgated additional clauses under Section 100 which gives the criminal liability by ensuring the right to private defense, if a person tries to make attempt to administer this crime. Section 326A states that if the person causes voluntarily hurt by an act of throwing acid, he will be liable for 10 years of imprisonment which can also be extended up to life imprisonment with a fine.
- The Amendment Act, 2013 also inserted Section 114B in favour of the acid attack victims under the Indian Evidence Act, 1972. The Constitution also granted provisions for safeguarding

⁴ ibid

⁵ "Prevention of offenses (by Acids) Act 2008, No.115, Acts of Parliament, 2008 (India).

⁶ 326-A and 326-B. Sections 326-A and 326-B were inserted after Section 326 with the passing of Act 13 of 2013 i.e., the Criminal Law (Amendment) Act, 2013.

the victim's rights like the right to life and the right to employment. Thus, the protection is given under Article 12-35 of the Indian Constitution.

- National Acid Victim Assistance Board was also suggested in the famous case *Laxmi v. Union of India*⁷, where the Supreme Court laid down the rules for the regulation of the sale of acid.

EFFECTIVENESS OF THE AMENDMENT ACT OF 2013 :

Since the amendment has not brought any significant changes in the reduction of acid attack crimes. According to the Data Intelligence Unit (DIU), crimes have increased rapidly from the year between 2014-2018, the majority of crimes were reported around 1,483 victims in the country⁸. West Bengal has become the highest-ranking state. Uttar Pradesh is the second highest where this heinous crime is committed because of the reason that there was lack of monitoring the sale of acid and the carelessness of the police authorities. The main reason is that in spite of the ban on the sale of acid, the shopkeepers are openly selling the acid even with identification proof they are selling it randomly. In the year 2018, one shopkeeper was handed acid for selling the acid. Such kind of activities is giving birth to the heinous crime and that is why there is a tremendous increase in crime. The cost factor is the other reason why this crime is increasing rapidly the average cost the acid in the market is Rs. 25 which is a way cheaper mode to purchase it and throw in somebody's face and there is no current initiative which is taken to increase the price of the acid.

POLICE AUTHORITIES' NEGLIGENCE IN ACID ATTACK CASES :

Police authorities play a major role in giving justice to the victim and are supposed to work in favour of equity and justice. But, in reality, police play an untrue role to ensure justice for the victims. According to Uttar Pradesh C.M Yogi Adityanath reported that police authorities are negligent towards the victims of acid attacks victims. In Lucknow, three women constables were suspended because they were taking a selfie with the acid attack victims in the intensive care unit. Again in Uttar Pradesh, one Raped victim was forced to drink acid where police constable took a selfie of the victim and posted it on Facebook. Apart from this investigation is not done properly on behalf of the police authorities.

⁷ *Laxmi v. Union of India*, 2014 SCC 442 (last visited on 3. Jan. 2023 at 11:38 AM).

⁸ Zee News, <https://zeenews.india.com/india/gonda-acid-attack-uttar-pradesh-cm-yogi-adityanathorders-strict-action-against-accused-2317213> (last visited on 3. Jan. 2023)

A CASE STUDY OF LAXMI AGARWAL: AN ACID SURVIVOR :

Laxmi was attacked in the Delhi market in 2005 by one of their acquaintance's age was 15 years old he did so because he wanted revenge on her. Initially, when this event happened, she suffered from emotional trauma and she even didn't see her face for two and half months after the acid attack happened. Also, society would taunt her call her names, and also speak ill about her She got multiple surgeries. Laxmi was traumatized and also tried to do suicide but thinking about her parents she ended such thoughts later she decided to take the case to the court and the trial went on for four years. The result was that offender was sentenced to 10 years in jail. The Laxmi case is one of the most important cases where justice was done. In this case, public interest litigation was filled in the year 2006, seeking the ban on the sale of acid this case came up there were different issues before the court they are as follows: - i) To make strict laws and make change the penal provisions⁹ and Procedural law⁶ which are related to an acid attack. ii) To completely prohibit the regulation of acid to prevent easy accessibility. iii) To compensate the acid attack victim

THE ARGUMENTS OF LAXMI I, IN THIS CASE :

She said that this crime takes place because of the easy accessibility of the acid. The price of an acid bottle is only Rs.30- Rs.40 but, when buying a bottle, one asks for the reason. The only way to prevent this crime is to eradicate the sale of acid in India. She also said that laws are made for the welfare of people government should make strict rules for this heinous crime and should provide for reasonable punishment in relation to this crime. The petitioner also urged the court for the free treatment of the victim and compensation for the acid attack survivors

CONTENTIONS OF THE RESPONDENT :

It was said that the central government will put the regulations in effect. The regulations and its other forms will be included in the Poison Act⁷ and it will also regulate its distribution in the market and the punishment for this crime under the Poison act will be non-cognizable and non-bailable.

THE IMPORTANCE OF JUDGEMENT :

⁹ The Code of Criminal Procedure Code, 1908, No. 05, Acts of Parliament, 1908 (India).

The bench was headed by the two judges, the advancement for the laws of acid attack was done and guidelines were also given. The report of all cases of acid attacks was done and a graphical representation was done to know the commission of the same crime in different states. The crucial step was the amendment in sections 326A and 326B relating to the punishment of the acid attack. Various schemes were also introduced for the victim compensation of at least 3,00,000 should be given them and the treatment should be free of cost. Earlier, due to a lack of provisions, there was not adequate punishment for the offender but due to amendment this has changed and accurate punishment is provided by the provisions. After these various other cases like Parivartan Kendra & Anr vs. U.O. I¹⁰ and State of Orissa vs. Ajam got a ray for justice for acid victims and understood the seriousness of this offense it changed the whole scenario of seeing the acid attack cases.

THE NON- GOVERNMENT ORGANISATION INITIATIVE FOR ACID ATTACK VICTIMS :

- i) Chhanv Foundation: - It provides care in all aspects to the acid attack survivors plus it offers medical care, counselling, and employment opportunities to the victims it also raises funds for education. It also engages in outdoor activities like a fashion show and beauty standards and it is run by the 30 acid attack survivors.
- ii) Meer Foundation: - It is a Mumbai-based non-profit organization and founded by the Bollywood actor Shah Rukh Khan it aims the network support in works in medical aid legal advice, counselling services. For this work, the actor has also earned the prestigious Crystal Award from the World Economic Forum.
- iii) Make Love, not Scars: - It is founded by Ria Sharma in the year 2014 it helps acid attack victims with legal, medical, and educational aspects. It promotes need-based training and skill development programs to secure employment. She had won the UNICEF global Award and started looking into the lives of acid attack victims to help them through this organization.
- iv) Acid Survivors and Women Welfare Foundation: - it recognizes it as a global problem and it takes a toll on the victim's life emotionally and physically. The foundation focuses on rebuilding the lives of those who have gone through this phase. It also extends legal support, medical help, and rehabilitation facilities.

¹⁰Parivartan Kendra & Kendra v. Union of India SCC (last visited on 7th. Jan. 2023 at 10: 20 P.M).

CURRENT SCENARIO OF ACID ATTACK :

According to the reports, the acid attack is getting increased and the violence has become more heinous despite such strong laws crime is increasing at alarming rates. According to the news of Lucknow, a 19-year-old boy threw the acid on the Dalit sisters the suspect threw the acid on the girls because the elder sister refused to talk to him as a result, he threw acid on their faces. According to the hospital reports the elder sister suffered major injuries with 30% burns on her face, eyes, and even in her chest while the other sisters faced minor injuries. The incident took place when the sisters were sleeping in a room on the second floor of their house. The suspect climbed the two floors to accomplish his task of throwing harmful chemicals in their faces¹¹. In Mumbai, seven persons including women were injured due to the acid attack while solving the matter between two groups named Anjurphata Bhiwandi the conflict started while discussing about trivial issues, and at that time the acid was thrown at them. One of the women who tried to intervene between them also became the victim and was also attacked by them. There is also another case in Uttar Pradesh where the father of a woman had lodged an FIR against the husband the woman used to reside in Sarvoday Nagar on returning back home dispute took place between the husband and wife on the ongoing dispute two men came to the bike and threw acid on her the FIR was lodged against the husband in the involvement of this act. The woman has faced severe burn injuries on her face and neck¹². In Ludhiana an 18-year-old boy threw acid on the stepmother the boy threw acid on the stepmother because she was not letting him play with a game on a phone when she asked him to hand over the phone to her, he got angry and while she was sleeping, he threw the acid on her face she suffered serious injuries in face and in arm¹³ more strict rules regarding the compensation and medical treatment of the victim. Awareness is the vital point that needs to be created to aware people of the crime and committees should be formed to inquire into the matters more deeply.

¹¹ Hindustan Times, <https://www.hindustantimes.com/topic/acid-attack>, (last visited on 18th. Jan. 2023 at 12:34 P.M).

¹² Ibid, at page no. 4.

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