CHAPTER - IV

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CHAPTER – IV

CONCLUSION AND SUGGESTIONS

"The reason for gender injustice can be attributed to unequal power equation in gender relations. Patriarchal society, considering women’s household work as economically insignificant, male child preference in society, lack of legal awareness in women’s rights and so on and so forth aggravated the differential status to the disadvantage of women. It is being increasingly realized that crime against women are to be handled with greater sensitivity and women, as seekers of justice to be treated with extra care."

AN OVERVIEW:

According to justice Krishna Iyears "the indignities and injustices done to women and the crimes committed against them violates constitutional guarantees. The state being a fiduciary, must enforce these guarantees in favour of women. The court is a part of the state, so is the legislature and the administration. All these instrumentalities have an obligation to strive their best to abolish man made inequalities and fight force injustice done to women”.

Introductory chapter indicates that the incidents of cruelty and wife beating have increased enormously over the past few decades and the insertion of section 498A has not brought any decrease in the number of such incidents. Study reveals that most of the crime against women like wife beating, cruelty by husband and in laws, adultery, bigamy, etc are committed due to adjustment problems between the husband and the wife. There is hardly any scope to sort out those problems at the initial stage through counseling by social organizations. Some misunderstandings in this area are

* Judiciary and Gender justice by justice R. C Lahoti, Chief Justice of India (Published by National Judicial Academy, Bhopal, March 2004)
due to unnatural expectations. For example there is expectation on the part of husband that once girl is married, she should break off all her associations with her parental home and completely identify herself with her husband's home. Police stations sometimes come forward for settlement of marital disputes, but once the parties take the issue to the court, the attitude of both the parties became hard and it became very difficult for the court to arrive at a mutually accepted solution.

It appears that the constitutional protection is only a myth to millions of women, who are subjected to various kind of violence in their daily life. A plethora of laws and legislative provisions proved futile and miserably failed in protecting women from the evil. It is to be noted that law alone will not help to remove the ugly situation faced by women. However a comprehensive law on this subject is the need of the hour.

It has been rightly observed by our Apex Court in Brij Mohanlal's Case\(^1\) "the root cause for delay in dispensation of justice in our country is poor judge population ratio ...................... The judge Population ratio in India (based on 1971 census) was only 10.5 Judge per million population while such ratio was 41.6 in Australia, 50.9 in England 75.2 in Canada and 107 in United States. The law commission suggested that India required 107 Judge per million of Indian population, however to begin with the judge strength needs to be raised to five fold i.e. 50 Judges per million population in a period of five years but in any case not going beyond 10 years".

According to last census\(^2\) total population of West Bengal is eight cores two lakhs, twenty one thousand one hundred and seventy one. According to

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direction made by Apex Court total strength of Judge in terms of population should have at least four thousand but the cadre strength in West Bengal judicial service is at present 906 out of which more than hundred posts are lying vacant.

**FINDINGS:**

From this study one thing is apparent that the victim of crime against women is a "forgotten woman" in the criminal justice system. The trend shows a moved increase in incidence of crime in one hand and a growing backlog on investigations, prosecutions and trials and declining rate of conviction on the other. The obvious conclusion is that more and more criminals are going unpunished. If this trend is allowed to go unchecked, it will further erode credibility of the criminal justice systems, reduce people's faith and confidence in it's efficacy and further encourage a tendency on their part to take law in their own hands.

The cases studied in chapter III reveals following important aspects of legal process relating to crime against women.

**VICTIMS DO NOT COMPLAIN**

Most of the crimes that are committed against women have become so institutionalized that they are condoned not only by the society and other institutions that are supposed to curb them but also by the victims themselves. Out of 70 people interviewed on the question of dowry most of them think that dowry system is bad but maintained that there is nothing wrong in giving dowry if it is according to the capacity. We usually express our helplessness to fight against such a well established customs and follow the

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3 Researcher has interviewed 70 Persons from different field as to whether he supports dowry system at the time of marriage or not.
traditions. Similar is the position in cases of wife beating and cruelty against the wife. Most of the men possess double personality and they are totally against so many liberties being given to women. The growing incidents of eve-teasing and sexual harassment of girls at work place is an appropriate pointer in this direction. 70% of the women interviewed do not even know that cruelty is a crime and there are laws that can protect them\textsuperscript{4}. A large number of women who are aware of such laws are not prepared to set them in motion to seek relief.

Probably women do not have the confidence to complain. They know by experience that reporting will only complicate their problems. Fear-psychosis is the main reason for not reporting. The culprits blackmail the women and create an impression that the law is impotent, police are corrupt and the process of law is very expensive, long and unending, so she will not gain anything by reporting against him. The wife is convinced that the husband will make her life miserable if he comes to know that she has told anyone about his misbehavior and convinces the women that he is not bothered about the legal consequence.

Majority of the women instead of reporting the matter to the police use to report the matter either to the local political party office or in the office where husband is working. Women's organization help only initially, their help is just a publicity stunt, they leave the women midway.

The case of rape victim is worse, because rape is not just physical violence or injury, its significance lies in the physical repugnance, the mental and emotional trauma and the severe social repercussions.

\textsuperscript{4} Researcher has interviewed 50 women about their awareness of legal provisions regarding cruelty.
In case of cruelty initially the victims do not want to tell anyone about their harassment, torture and beating. They use to tell about it to their parents, friends or relatives only when they feel that the situation is beyond tolerance or there is danger to their lives. Even then parents and relatives of the victims advised them to be more tolerant and forgive and to avoid confrontation.

INADEQUACIES OF LEGAL PROVISIONS

Most of the protective laws fail because laws for women suffer from various loopholes and shortcoming. In most of the cases, instead of solving problems it's ambiguity and complication makes the situation more complex. The police, the lawyers, the judges are responsible in his own way for the docket explosion of crimes and judicial delays.

The dowry (Prohibition) Act is just one example of the innumerable acts which do not make into account the social realities of a women's life. Such laws can only be a palliative measure to steer the state out of a problem and help it to get out of an ugly situation by appearing a particular group of people. Inspite of a number of changes in the laws, the dowry problem not only continues, but has assumed alarming proportions. The continued differences in various personal laws and absence of adequate enforcement mechanism has made many of the other laws ineffective.

Similarly cruelty to wife by the husband or by the in laws has been declared a crime under Section 498 A I.P.C., but the definition of cruelty is quite vague. it has left several vital aspects of cruelty out of the purview of the law. In most of the cases the reasons for the cruel treatment of the wife is not dowry, it is suspicion of illicit sexual relations, mutual incompatibility maladjustment etc which usually does not come within the perview of that
section. Moreover the procedural requirement of Section 498A, that only the women victim, her parents or relations by blood can file a complaint make it very difficult for the victim to get a complaint lodged in critical cases.

The amendment Act on prostitution remains a paper tiger because there is no responsible agency to maintain its use or abuse. The Act neglects the root cause of this evil as it has failed to plug the supply and the demand position in the flesh market which remains unchanged. Most of the cases extreme poverty forces young girls to take to prostitution.

The anti women bias is easily perceptible in some of the laws relating to crime against women. Probably the pro-male lobby is not agreeable to accept the liberal changes. A large number or minor girls are being trapped regularly under the false promise of marriage and on the other hand our courts are passing inconsistent orders while interpreting the term "Consent".

An overview of the cases studied by researchers shows that judges, who can make these laws more effective by the positive approach are insensitive and they are in favour of acquitting accused on the ground of minor discrepancies in documentary or oral evidence. They allow cases of crime against women to be adjourned on frivolous grounds. There also seems to be total lack of empathetic laws favouring battered women of a broken marriage. Battered women struggle in the courts for years before they can get justice.

**ROLE OF THE INVESTIGATION AGENCIES**

The shortage of police personnel has contributed sorry state of affairs. There is no special branch of investigation agency in West Bengal as yet. Anything connected with politics and politicians becomes a mega affair and police men are requisitioned from nearby police stations. This has reduced the
availability of the police force for protective, preventive and detective work at
the station level.

Most of the women are scared to go to the police station to report crime being committed against them as they have no faith in the police. Majority of the crime against women are committed by known culprits, yet the police man usually fail to collect evidence which will prove their guilty. They show their reluctance in making arrangement for prompt medical examination of the victim, seized of wearing apparel and other articles including weapon used, apprehending accused persons etc. for some reason or other.

Police, people blame the rules of evidence, which rely so heavily on the evidence of the witnesses. The statement of a witness to the police is an unsigned document and becomes useless the moment a witness turns hostile. The investigating officer is rarely present at the court when the case is presented at the court. Any information sought by the judge could not be supplied to the judge on many occasions due to absence of investigating officer. The family members of the victim are rarely informed about the date of hearing by the police. The police have distanced themselves from the public by their corrupt ways, working and behavior.

**ROLE OF JUDICIARY**

In Court serious cases relating to crime against women are being adjourned without just cause and long dates are given to frustrate the victims. The release of persons, charged with heinous crime, on bail and anticipatory bail has a very demoralizing effect on the victim. Delay in lodging FIR is seen by the courts as a material to doubt victim's testimony without realizing that it does take time for a women to muster enough strength and support for the registration of a case which is socially stigmatized.
The judge and magistrates are more interested in completing their quota of cases on which their future and promotions depended.

The backlog crisis has brought about a virtual collapse of the legal system. It is source of intense frustration for the women litigants, the public spirited lawyer and the judges. Delayed justice results in higher legal fees, more expense in going to the court again and again, lost wages and more frustration.

The problem of arrears has led to a virtual breakdown of the criminal justice system. When a case finally comes for trial either witnesses became untraceable or witnesses turned hostile. Delay makes the witnesses shy away from testifying in the courts.

**LACK OF GOVERNMENTAL POLICY:**

Courts do not form part of “plan departments” of Government which means that expenditure on courts does not get the priority that “plan” expenditure does. Shortage of space, furniture, filing almirah, copying facilities, record rooms, staff and the like hamper functioning of courts in West Bengal. The idea of developing courts calendar will be possible only if Judge population ratio is improved.

**LACK OF PUBLIC CO-OPERATION:**

Study reveals that most of the cases under section 498A, 304B, 306 IPC ended without fruitful result for the victim, mainly because victim, is supposed to get cruelty at her in law's house and obviously her in laws will not depose in favour of victim. Here the role of public witnesses becomes very important. But general unwillingness on the part of members of the public is major drawback which our criminal justice system has been facing for a long time. Majority wants to remain uncommitted, neutral and detached unless
they are sufferers from the offence. Even educated people who are supposed to have a developed sense of civil responsibility, are often reluctant to get entangled as witness. They become reluctant for various reasons which includes police harassment, cases are generally adjourned many times, yet on all such days, witnesses are required to appear. They are not even assured of their reasonable traveling expenses and diet money. Witnesses are to wait from morning in the court verandah or outside and even elementary conveniences to persons appearing as witnesses are lacking in all most all courts in West Bengal. A human and dignified treatment of public witness, adequate seating facilities in the court room and better attention from the court staff towards witnesses are likely to go a long way towards removing main indifference and unwillingness to go to court.

**ROLE OF PROSECUTORS:**

In West Bengal it is found that no sincere effort has ever been made to improve the quality of the management of prosecution in order to increase the certainly of conviction and punishment for the most serious offence and the worst offenders. In some cases integrity and impartiality of the public prosecutors are not beyond doubt.

Under Section 301 Cr.P.C public prosecutor may avail himself of the service of counsel retained by a victim but the management of the prosecution always remain with him. Lawyer engaged by victim has to act only under the direction of the public prosecutor. He can only submit written argument and that too with the permission of the court and therefore victim's privately engaged lawyer has no independent status of his own. Researcher has noticed during case study that many criminals go free because the public prosecutor has not cross examined the important witnesses in systematic manner. Management of prosecution has not been reformed with effective participation
of victim in the criminal justice process so that quality of the management of
the prosecution can be improved.

The public prosecutors do not keep it in mind that they are state's legal
representative whose primary responsibility is to convict the offender. He is
not properly sensitized that he has been appointed on behalf of the people
(state) rather than on behalf of individual victim on complainant. Being state's
legal representative his responsibility starts shortly after the arrest of the
accused person till the time of judgment. His role also becomes very important
in determining and maintaining the specific charges leveled against the
accused at the time of charge hearing. He is the appropriate person who can
properly convert the probable cause or reasonable suspicion which leads
police to make a legal arrest, into a position where guilt of the accused person
has been proved beyond reasonable doubt to a judge. In Vijay Shankar Mishra
Vs. State of Uttar Pradesh5 it was held that a public prosecutor is more than
an Advocate of the litigant. He holds a public office. His duties are of public
nature. It is not only the state, but also the public at large who is concerned
in the manner in which the Government i.e. public prosecutor discharges his
duties. If he fails to perform his duties properly, then the offenders who
deserve punishment would be free from the clutches of law. He is not only
accountable to the state but also to the public.

According to a recent report prepared by the center, the rate of
conviction for murder (Under Section 302 and 303 of the IPC) is much lower
in West Bengal (19.8 percent in 2007) compared to other states including
Bihar (24.8 percent in 2007). The average conviction rate of murder in the
country in 2007 was 29.36. It is also reported that callous methods of

5 1999 Cr.L.J. 521 (All)
investigation used by the law enforcing agencies coupled with indifferent attitude of the state Government are the reasons why the rate of conviction in the state is low.

The director of public prosecutor of the state of West Bengal does not have his own office. Only four out of eighteen districts of the state of West Bengal have deputy director of public prosecutor there is lack of proper coordination between investigators and prosecutors. To convict an accused, every case monitored properly both by the public prosecutor and the investigating officer.

LACK OF RECEPTIVE AND SYMPATHETIC ATTITUDE FROM POLICE:

The most common problem suffered by many of the victims while reporting an offence is the absence of receptive and sympathetic attitude from police towards the victim who has come with all mental tension caused by the mental or physical or moral loss resulting from the crime. Victims often rates police as being unhelpful and they are not happy with the attitude of the policemen.

The victim is vital to the police throughout the recording, detection and investigation of the case to the police. Yet the police do not seem to be concerned to fulfill the victim's need to be informed. Victims want to know all sorts of details, whether the offender is caught, what the charges are, whether the offender is on bail, what would happen next, what the victim would be required to do. Victims are aggrieved as they are not told and could not easily be found out. The police is not vigilant to initiate and continue prosecutions, so that victims and witness are not terrified into dropping cases. The police have the ultimate power to decide whether to file a charge sheet in any case. In some case there is disagreement between victim and police about deciding upon the issue of prosecution, which causes the utmost concern and anxiety.
to the victim. Thus a considerable number of victims do not trust police and would rather bear loss in silence than report crime committed against them to the police except where very serious crimes are involved.

Once an offence has been reported to the police, the focus for determining subsequent action moves from the victim to the police. Victim will often be a major prosecution witness and the evidence that she can provide will not only include her statement of what happened, but also evidence of the injuries she sustained, identification evidence as to the offender, samples for forensic analysis and evidence as to the place of the offence.

The police does not render the co-operation and moral support of the victim to prepare the case for the prosecution before the court. The victim, being the receipt or sufferer of the consequence of the conduct of the accused person, can play a crucial role in the process of identifying the offender and establishing the essential grounds for ensuring that justice is done. Police take too much time to complete investigation. Policemen who are supposed to investigate crime against women have no specialized skills in investigation and does not have required legal knowledge so that they are aware of the questions that will be put to them in the courts.

**TIME CONSUMING PROCESS CAUSING INACCESSIBILITY TO JUSTICE:**
As the criminal justice procedure is time consuming, so many victims expressed their unwillingness to process the criminal case through the criminal justice system. Magistrates have to record the proceeding of the court by long hand. Cases are usually adjourned on some reason or other. These are various factors which slow down court procedure and in turn discourages the victim seeking the criminal justice system. Thus, except in very serious criminal cases, a considerable number of victims would prefer to suffer their loss in silence rather than go through the criminal justice system. It is also
seen that the prosecution hardly insist on compensation to the victim for her loss and injury and the court also reluctant to award compensation to the victim of crime.

The morass into which the criminal justice delivery system has presently fallen into is not on account of the failure of the law but on account of the failure of the men both in the executive and in the judiciary who wielded the law. The Supreme Court of India in High Court of Rajasthan Vs. Ramesh Chandra Paliwal7 was pleased to held “Judge to live and behave like hermits who have no desire or aspirations having shed it through penance. Their mission is to supply light and not heat”. If the Judiciary becomes a hermitage and the bureaucracy captivates the heat of the masses, only then can there be a redemption for this country.

Practically in West Bengal no sincere effort has been made to improve the quality of the management of prosecution in order to increase the certainty of conviction and punishment for the most serious offences and the worst offenders. In this direction Directorate of prosecution under which all prosecutors work has not been strengthened. As a result of all these things violence towards women is systematically condoned as legitimized by the state’s refusal to intervene it except in grave and exceptional circumstances. To check this tendency, it is necessary to create a wide atmosphere of resistance in which women at all levels are increasingly stand up to fight the violence and seek resource to live with dignity and honour.

At this juncture for proper implementation of existing laws, following are the suggestions for improving the conditions of victims relating to crime against women.

7 AIR 1998 SC 1979
3) Section 198A of the criminal procedure code regarding reporting of cases on cruelty by the victim or persons related to her by blood should be amended and the neighbours and friends of the victim, women's organization should be given authorization to make a complaint and to get a FIR registered.

4) Full fledged law on sexual harassment of women at work place or any other places is required to be passed by state of West Bengal.

5) The requirement of proving the intention of using girls for illegal purpose or prostitution as provided in Section 372, 373 IPC should be done away with and selling or buying girls per-se should be declared as crime.

6) The law relating to bigamy should be simplified and Section 494 IPC should be suitably amended to incorporate that it is not essential that the second marriage should be solemnized with all ceremonies.
Evidence that the man and woman are living together as husband and wife should be sufficient to declare bigamy, as the requirement of strict proof of second marriage has proved to be a block for many women victims.

7) Section 497 of Indian Penal Code which deals with adultery should be amended so that sexual intercourse by a married man with an unmarried woman also can be made punishable under the said provision.

8) Section 114A of the Evidence Act, which states that presumption as to absence of consent in certain prosecutions for rape should be made applicable to all cases of rape and it should not be restricted only to custodial rape.

9) Section 375 is required to be amended to raise age of victim from sixteen to eighteen years when she is a consenting party to remove anomaly as appearing at present in Section 375 and Section 361 I.P.C. regarding giving consent by victim. This is also because if a woman is not eligible to give valid consent in case of kidnapping under the age of eighteen under section 361 I.P.C, how she can extend a valid consent to an act of rape before attaining 18 years when rape is a more grievous offence.

10) Section 366B which deals with importation of girls from foreign countries is required to be amended to substitute "himself or any other person" in place of "another person" as it leaves the procurer unpunished, if he himself commits an act of illicit intercourse with such victim.
11) The words "under the age of twenty one years" should be deleted from section 366B IPC as there appears no apparent reason to limit the scope of his section for only girls below twenty one years of age.

12) The limitation of age should be removed from both Sections 372 and Section 373 IPC which deals with purchase of minor girl by making suitable amendment of both the sections as it is found that any minor girl nearing or less than eighteen years are projected as of eighteen years or more and the rigors of the protective legislation are being easily flouted.

13) The expression "forced or seduced to illicit inter course with another person "as appearing in Section 366A and Section 366B should be amended as "forced or seduced to illicit intercourse with another person at any age" because those sections shall have no application in a case, where the minor girl is forced or seduced to illicit intercourse with another person after she has completed the age of eighteen years.

14) By West Bengal Amendment Act, Section 354, 494 and 495 I.P.C., should be made non-bailable offence as the incidents like bigamy, out raging modesty is increasing day by day.

15) The growing incidents of eve-teasing can be curbed if a new law on the lines of Delhi Eve Teasing (Prohibition) Act, 1988 be enacted in West Bengal, which should make eve teasing a cognizable and non-bailable offence with specific provisions for expeditions summary trial.

16) A criminal justice commission should be appointed in West Bengal to oversee the conduct of investigations and prosecutions. This commission will be an autonomous body and will be headed by a High
Court Judge. It's main power will be confined to the proper and expeditious conduct of investigations.

17) More number of women police investigation officers, specialized in art of investigating crime against women should be appointed.

18) Indian Penal Code does not distinguish between child rape and rape on adults. There should be a separate section in IPC dealing with child rape, where a minimum sentence of ten years should be made mandatory and the rule of evidence for proving this crime should not be the same as for other cases of rape.

19) Marital rape or rape within marriage should be given legal recognition so that the husbands cannot ill-treat wives with impunity. In this regard explanation II of Section 375 should be deleted.

20) The provision in Section 376(1) which gives discretion to the Judge to impose a sentence "lesser than the prescribed minimum" is required to be reviewed as this provision is responsible for causing gross injustice to the victim in many cases.

21) The minimum sentence for dowry death Under Section 304 B IPC should be increased to ten years.

22) Bifurcation of the investigating agencies from the law and order maintaining team is a need for the hour. The heavy pressure on the investigating officers is a major reason in delay of investigation. So if the pressure is decreased, the officers will be free to concentrate in the investigation.
23) "All women police stations" should be set up in all districts of West Bengal to tackle women's case.

24) The prevention of Immoral Traffic Act makes provision for cancellation of licence of a hotel where immoral traffic takes place. Usually such offences are also committed in other licensed and unlicensed places like restaurants, night clubs, and massage parlors, so called health clubs etc. Cancellation of these licences and attachment and eviction from the premises should be a mandatory provision in the law.

25) Protective homes for the victims in West Bengal are running in miserable conditions. Immediate re-organization of observation homes is badly needed.

26) Wherever there is danger of the witnesses tuning hostile, the court should follow strictly the mandate of Section 309 Cr.P.C of completing the trial by examining the witnesses from day to day and not giving a chance to the accused to threaten or win over the witnesses so that they may not support the prosecution.

27) In Cr.P.C, a provision should be added to the effect that a victim or his relations (in case victim is dead), be given a clear option to engage a private lawyer of their own choice to solely conduct the prosecution Section 301(2) of Cr.P.C may be suitable amended in this regard.

28) Victim of crime should be given an opportunity to be heard at different stage of criminal justice system by making necessary amendment in the Cr.P.C. which requires that the victim be kept informed and receive appropriate notice at every stage i.e. from police investigation to final release of the offender.
29) Under Section 235(2) and 248(2) of the Cr.P.C., if the accused person is convicted, the judge shall, unless be proceeds in accordance with the provision of Section 360 Cr.P.C., hear the accused on the question of sentence. Said two provisions of Cr.P.C. are required to be amended so that the victim of crime against women may also have something to say concerning victim's economic loss, the physical and physiological injuries etc on the sentencing.

30) Provision of Section 357 of Cr.P.C. should be made mandatory for compensating the victim of crime against women by the offender or by the state.

31) As conviction rate is very low and accused/offender in most cases are poor, so there is an urgent need to establish a victim assistance and compensation board by the State Government to provide assistance and compensation to the victim of crime against women for their loss an injury.

32) A consolidated victim welfare fund may also be created on a statutory basis which will be designed to meet both the immediate financial assistance that some victim in distress will need, inclusive of medical and hospitalization expenses and compensation. Such fund may be created by the state from the amount collected by the state as fine from the accused persons in different cases and a suitable matching grant should be provided by the state.

33) In order to speed up for reducing arrears, process should be served by post or courier service after fixing a photograph on the summon.
34) It is found during research work that one of the reasons for causing delay in disposal of crime against women is that records are not transmitted from one court to other within a reasonable time. Trial court must not delay in sending the records asked for by the appellate court and the appellate court should not unnecessarily retain the record of the lower courts.

35) Arguments should be heard by Judges at a stretch and judges must avoid granting adjournments on the personal ground of Advocates.

36) Frequent stay order should be avoided by the court and where it is passed it should be given only till next date of hearing so that accused benefited by the order, must not abuse victim's favourable order by adopting delaying tactics.

37) Appellate court should avoid unnecessary remanding of the case if it is possible to decide it by the appellate court.

38) Malkhana (room for keeping seized articles) are to be constructed in every court building on urgent basis, so that Alamats (seized articles) can be kept in court's custody during trial and for ensuing production of items during trial.

39) A Magistrate may be exempted from giving evidence where he records statements Under Section 164 Cr.P.C. or holds T.I. Parade. In case of necessity he may be examined through video conference to save judicial hour.
40) In compliance with the principle laid down by our Apex Court in P.Ruthinam’s case\textsuperscript{8} as well as Boddhisatwa Gautam’s case\textsuperscript{9} interim compensation to the victim should be awarded by trial court during pendency of trial where state government’s inordinate delay in cooperating with the judicial process will be found, of course granting of interim compensation to the victim will no way touch the merit of the case.

41) Specific legislation for forceful extraction of blood, semen, saliva, nasal fluid, urine and all types of body fluids from the body of accused is required to be passed.

42) Special female courts are required to be constituted which should run by female Judge, female ministerial staff and preferably by female Advocates.

43) To avoid delay in sessions triable cases for service of police papers to the accused, serious, triable cases should be directly transferred to the court of sessions and police papers can be served in the court of sessions. Sec. 207 to sec. 209 of Cr.P.C. should be suitably amended in this regard.

44) In every district of West Bengal forensic laboratories are required to be established to ensure quick supply of forensic examination report to the investigating agency.

\textsuperscript{8} P.Rathinam Vs. State of Gujrat 1994 SCC (Cri) 1163

\textsuperscript{9} Boddhisatwa Gautam Vs. Subhra Chakrabortty AIR 1996 SC 922.
45) Government must ensure regular payment of traveling expenses and diet expenses to witness for the victim and necessary budget allocation should be made in this regard.

46) Courts are required to declare next date of every criminal trial in open court after conclusion of day's hearing, so that no foul play could be played by the bench clerk in fixing date in collusion with the accused.

47) Today science and technology have been developed to a large extent. New techniques of scientific investigation must have to be employed in the crime investigation process and for that purpose a separate and uniform DNA legislation is required to be framed.

48) There is no protection of witnesses in our laws. So, a special provision for protection of witnesses has to be given from unnecessary, irrelevant, unjustified cross-examinations and harassment of witnesses. A special witness protection law should be passed, so that witnesses can be protected from threat, assault, etc.

49) All criminal trials are supposed to be held in presence of accused and accordingly accused is supposed to know what incriminating evidence has come against him. Moreover, accused persons are always at liberty to get certified copy of evidence. Accordingly, Section 313 Cr.P.C. is required to be reviewed about necessity of examination of accused Under Section 313 Cr.P.C. specially in case of offences where punishment is less than 7 years imprisonment.

50) Where there is large incidence of crime specially in Calcutta and suburban areas and some district courts, large number of Fast Track Magistrate Courts are required to be established. For this purpose
Central Government may be approached for sharing 2/3rd of expenditure.

51) There is no specific provision for imposing sentence in the absence of payment of compensation. Moreover, accused persons are not generally interested to pay compensation to the victim. In such event court is required to pass order for realization of compensation out of wages during rigorous imprisonment and for this purpose "Prison Fund" should be created, otherwise the victim of the crime will remain in the destitute condition.

52) State Government has power to establish special courts of judicial Magistrates of the first class or of the second class to try any particular case in consultation with the High Court Under Section 11 of the Code of Criminal Procedure. Advocates, retired judicial officers can be appointed in such special courts, so that such court can handle petty offences which form the bulk of the cases and it will reduce the burden of the regular courts and give more time to the judges to try serious cases specifically cases like crime against women expeditiously.

53) The existing courts are not enough to cope up with the heavy backlog and the new cases that are filed everyday. Law commission of India in it's 120th report (July, 1987) had recommended that there should be 107 judges for every ten Lakh people India has the lowest judge population ratio having 10.5 judges for every ten Lakh people Supreme Court in All India Judges Association Case10 had directed the State Governments to appoint at least 50 Judges for every ten Lakh people by next five years. But so far as Government of West Bengal is concerned they are far from

10 All India Judges Association and others Vs. State of Karnataka, 2002 (4) S.C 92.
the target laid down by the Apex Court. So more Courts are required to be created to improve judge population ratio.

54) Working days of the court should be increased and there is no requirement for the courts to be closed on second and fourth Saturdays. Puja vacation should be shorted to maximum ten days only.

55) Those women victim who want to argue their own case despite strike called by local bar should be permitted to proceed with the case.

56) The District Judges and the high Court Judges should make special efforts to ensure that the cases relating to crime against women are decided within short period.

57) In West Bengal Fast track Courts are comparatively less burdened and they use to take up sessions triable cases only. Fast Track Courts may be asked to dispose of cases relating to crime against women which are pending before magistrate Courts since long.

58) Section 146 of the Evidence Act which deals with questions lawful in cross-examination should be suitably amended, so that said Section is not misused to cause humiliation to the victim during cross examination.

59) Immoral Traffic (Prevention) Act 1986 should specifically incorporate the rehabilitation of those victims who are affected by the implementation of the Act. Those women who want to get out of this profession must be provided with all facilities to lead respectable life. More shelter home rehabilitation centers for much victims are required to be established in West Bengal.
60) Indecent Representation of Women Act should be amended to define "indecent representation of women" more exhaustively and should also make provisions for the sure punishment of those who are found to be guilty.

61) Government of West Bengal should be vigilant so that law against child marriage be rigorously enforced.

62) The existing vacancies of Judges and magistrates should be filled without any delay.

63) In the interest of more responsible and efficient investigation, no officer below the rank of inspector of police should handle the case of an unnatural death of women where punishment prescribed is more than 7 years.

64) Early appointment of dowry prohibition officers as provided in the dowry prohibition Act, is highly desirable for their likely utility in the prevention, investigation and prosecution of dowry related crimes and the practice of giving additional charge of dowry prohibition officer (DPO) to a public servant must be discontinued forthwith.

65) There should be penal provision in the Dowry Prohibition Act in case of failure of preparation and signing of list of gifts by both the families at the time of marriage.

66) Prompt and severe action should be taken against police officers who found to have played a role in refusing to register complaint made by a woman of a cognizable offence.
67) Programs of gender sensitization and awareness should be integrated and made mandatory through continuous legal education, seminars, workshops for judges and public prosecutors.

68) Chief Medical officer of health for all the districts should introduce detailed guidelines for the medical examination of victims of rape and other sexual violence to ensure that concerned medical officer conduct a full assessment of the physical and psychological health of the victim, which also includes a full and detailed history of the complainant and resultant physical and psychological symptoms and signs found on examination of patient.

69) In order to decrease burden of pending cases, compoundable complain cases started under section. 200 Cr. P.C. may be directed to be dissolved through alternative dispute resolution forums, especially through mediation.

70) Specific powers have to be conferred upon the Magistrates to allow compounding of an offence under section 498(A) on compromise between the spouses by appropriately amending Section 320 of code of Criminal procedure.

71) The intentional and willful jumping of bail of the accused persons without any sufficient cause is to be strictly handled by the court and all the police officers upon whom the order for execution of warrant against accused and witness have been made must be vigilant in executing the warrant expeditiously.

72) All the investigating officers of the concerned cases must be vigilant in producing the witnesses in time in the courts.
73) There should be a soothing relation between the bench and the bar for implementing speedy criminal justice to the victim. Lawyers are the most important and indispensable part of the criminal justice system. They can make the present system of criminal justice more effective by co-operating with the bench for speedy disposal of such cases.

74) The developments of all criminal cases are to be fed in short in the respective Court computer linked with the High Courts, so that Hon'ble High Court can easily get all the details and progress of pending cases easily at any point of time.

75) The executive should frame transfer policies in such a manner that investigating officers dealing with cases of major crime against women are not transferred delaying the criminal justice process.

76) In West Bengal large number of women welfare voluntary organizations are established. Out of them many are functioning with commercial motive for the benefit of the organization. These organizations misuse Government aid. They are in no way helpful to victim woman. Government should give special attention for reorganization of these institutions.

77) Legal Literacy programme for women needs more attention for their awareness about their legitimate rights.

78) Government may workout a victim assistance scheme to provide support to victim women when their financial conditions are miserable.

79) Law enforcement should be more efficient so as to bring a sense of confidence among the victims of crime in the criminal justice system.
and feel secure and protection to report and give evidence in the courts of law.

80) In order to increase output every Magistrate's Court should be provided with stenographer.

81) District Judges should constantly hold meeting with judicial Officers to monitor their performance and guide and advise them suitably more particularly for early disposal of offences where women are the victim.

82) Video conferencing should be arranged for effective time management in all the courts.

83) Regular training facilities for upgradation of public prosecutors in West Bengal is required to be provided on urgent basis and an Academy may be created in that direction.

84) The power of imprisonment of First class magistrate is required to be extended to 6 years and power of imposing fine up to Rs. 20,000/- {Rupees Twenty Thousand}.

85) The whole process of Judicial system not only depends on the presiding officer, litigants and the lawyer but also court staffs and clerks who does the major paper work. They should be guided with proper rules and regulations of service and at times training should be pertainied to them for fast and efficient disposal of their duty.

86) The problem of witnesses turning hostile is a very serious one and is responsible for the destruction of many prosecution, cases where victim is the worst sufferer. The problem is aggravated by the fact that the statement recorded Under Section 162 Cr.P.C. cannot be used as
substantive evidence, since it has not been made on oath. The charge of perjury cannot be leveled against the witness. Accordingly, it should make mandatory for the investigating officer to record on oath by the magistrate the statements of all material witnesses during the course of investigation under section 164 cr. P.C

87) In case of offence where women are the victim of crime a time limit should be made for completion of trial for effecting criminal justice. All sorts of dilatory and notorious tricks by either side for defeating the purpose of fair trials should be seriously dealt with by the courts and trial period can only be extended on imposing heavy cost on the party who is causing delay. Necessary amendment of Cr. P.C. in chapter XIX and Chapter- XX should be introduced.

88) West Bengal state amendment of Section 167(5) Cr.P.C. poses a threat to the administration of criminal justice system only because the victim of a criminal offence suffers and not getting justice for no latches of her own, but for the inefficiency of the investigation system for the said W.B. state amendment. As such W.B state amendment of section 167(5) Cr. P.C should by deleted.

CONCLUDING REMARK

Besides what has been suggested above a Judge is always to act in the interest of Justice. To deliver justice to women as victims of crime it is important that faith is placed on the Judges. With that end in view we may
conclude with few lines from the Citizen’s Commission to improve Michigan Courts quoted by Hon’ble Justice R.C. Lahoti(2004): 

"Nothing is more basic than courtesy. The court system exists to serve those who come to it voluntarily, as well as those who are summoned. There must be a welcoming attitude on the part of all court personnel, including Judges. The chief judge must take personal responsibility for setting a tone and attitude of courtesy and helpfulness toward all who come to the court” 

This perceptual change alone can do a great job towards poor and unfortunate women who became victims of crime.