CHAPTER - I
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Statement of the problem

The present work is an attempt to study the process of criminalization of politics in India and how far it effects the functioning of Indian democracy. Due to criminalization of politics there has been a steady erosion of democratic values in public life. The Election Commissioner G.V.G Krishnamurty has gone on record to say that the situation is threatening to degenerate into a government of the criminals, for the criminals and by the criminals. Political corruption, political murders, undercutting, leg pulling, by politicians has become the order of the day. The present set of politicians in India in the robes of legislators have thoroughly polluted Indian politics and democracy by making it a business proposition.1 This reason, inter alia, the outer shell of the Indian democracy is intact but it appears to be moth-eaten from inside. The entry of criminals in the floor of parliament created disorder, pandemonium in the House by showing their muscle power instead of power of wit which they completely lack. The criminals terrorize and rule and created a situation even the thin dividing line between the politicians and criminals has disappeared.2

2 Ibid, p. 7
What is Criminalisation of Politics

The direct entry of criminals into the political parties and legislature, including parliament through elections and the use of criminal methods and tactics to influence political processes and procedures is an attempt to criminalize politics of a society. The politicians are thriving today on the basis of muscle power provided by criminals. The common people who constitute the electorate are in most cases reluctant to take measures that would curtail the criminal activities. Once the political aspect joins the criminal elements, the nexus becomes extremely dangerous and which in turn threatening the growth and development of the country. Criminalization of political process is really a disturbing development for the successful working of Indian democracy. The role of criminal element in politics is on the increase because of its active participation in politics. These days' highjacker, smugglers and hardcore criminals have joined politics and some of them successfully contested elections. According to Hon'ble Justice H.R Khanna scores of legislators in Bihar have been those persons whose names are found in police records because of their nefarious activities. In Bihar in 1997 elections as many as 67 politicians with criminal background were elected who were Janata party members. This effects the functioning of Indian democracy adversely.

Criminalization of politics derives its roots from the defects in the socio-political systems. Religion, Caste, absence of political accountability and the influence of various interest groups and money do play a role in influencing the

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3 *Ibid*, p. 9
growth of criminalization of politics and this all have been possible mostly due to the fact that people are not been able to appreciate the power of vote and that has happened because of a number of influencing factors. This problem is very much evident from the fact that Indian democracy is more than 60 years old and the percentage of electorate who goes to poll at the time of election hardly crosses 60%. In this context the role of Election Commission of India and various laws relating to elections such as Representation of Peoples Act 1950& 1951, Conduct of Elections Act 1961 and also The Right to Information Act etc are somewhat not up to the expectation. Although the Commission has taken many steps to curb criminalization of politics, it has not yielded the desired results. The Commission needs to be armed with more powers than it has at present then only it can be expected to carry out its functions effectively as desired by the Constitution of India. And, lastly the role of media is also very commendable in curbing the criminalization of politics During the elections the role of media assumes much more significance and relevance due to their role of informing the public at large about the political parties, their manifestoes and exposing their electoral malpractices. But for many a reasons the media is also not been able to perform its fundamental duties. Thus, the problem of criminalization of politics and the rapid declination of political ethics is not the result of one cause but it is a culmination of various reasons as stated above.

No democracy can be a full blown one from the beginning. It has to evolve its own forms depending on the genius of the people, their experiences, their ideas
and visions. A democracy is always in the process of being created, a nation can have a democracy if only its contents are being supplied to it by the people through their experiences and good conscience. This country has a history of more than 50 years of freedom struggle and more than 60 years of independence which our forefathers have given us by shedding their blood has passed but still we are not being able to understand the core issues of good governance. There is an urgent need to strengthen the democratic institutions and practices that are being followed by the ruling elite.⁴

In Indira Nehru Gandhi v. Raj Narayan⁵ Hon’ble Justice Mathew has said that no political terms have been so subjected to contradictory definitions as democracy since it has become fashionable and profitable for everyone and any state to style itself in this way. In this case Justice Mathew has very well elaborated the democratic base of the country; the learned judge observed,-

**Democracy proceeds on two basic assumptions**

First, Popular sovereignty in the sense that the country should be governed by the representative of the people, that all the power come from them, at their pleasure and under their watchful supervision, Second that there should be equality among the citizens in arriving at the decision affecting them. He further said that today it is impossible to conceive of a democratic republican form of government without equality of citizens.

⁴ *Ibid*, p. 2
⁵ *AIR 1975(2) 2299*
The observations made by the learned judge are very true but the reality picture is somewhat different. Equality of status, opportunity, freedom of choice, rule of law etc are all just mere fanciful words having no relevance in today’s political life of the country.

One thing that the democratic principles are not being followed by the people in its true sense. A human being needs its two eyes to see the world properly likewise a democratic nation also needs its two eyes Independence and Integrity to see its true self. A true democratic nation should allow its citizens to speak, criticize and disagree with others. Democracy should be based on the principle of tolerance. Individuals can have their separate ideas and ideologies and democracy does not believe in curbing them but it should allow them to flourish and provide them a platform to discuss the issues relating to democratic governance.

Against this background the study represents an appraisal of the entire situation, which is prevailing in the country at present. The study represents an in-depth analysis of the problem and challenges, which our polity is confronting. It includes the study of concepts such as criminalization of politics, democracy, governance, free and fair election, judicial and legislative response to criminalization, religion and politics, role of pressure groups, rights of voters, electoral process and the role of election commission of India. The researcher hopes that the study will fulfill the desired goal and highlight the necessary issues
that are related to this problem under study. The researcher is confident that all the
issues which have been discussed here will help the other scholars in their studies.

**Reasons for selection**

The issue of criminalisation of Indian politics has been much discussed
debated and deliberated to find out the reasons and factors responsible in
criminalizing Indian politics and also to find out a solution to the problem. Uptil
now, no sufficient research works have been conducted by the social scientists on
this important issue. This reason, inter-alia, the present study proposes to examine
and analyse the working of the political parties, election process, role of election
commission in conducting free and fair poll, the legislative and judicial response to
criminalisation of politics etc which will provide an insight into the problem of
criminalisation of politics. Another reason for the selection of the subject is that
though much research works have been done on the Indian political system, no
specific work on criminalization of politics has been done hitherto.

**Importance of the study**

The present work intends to analyze the problem of criminalization of
politics and its effect on the various issues and institutions relating to working of
the government and socio-political life of the country. Criminalization of politics is
a problem which has generated from within the governmental system and is slowly
trying to paralyze every democratic institutions of this country. Criminalization of
politics has crept so deep into the system that principles and concepts like Rule
of law, political accountability, free and fair elections, democracy, freedom of speech and expression have lost their credence.

Political stability and political cleanliness is of paramount importance in any democratic country. Without a clean political environment the development of any nation will be a distant dream. Politics today has become the way to reach the corridors of power and that is what is creating a problem. In the words of the Former President of India A.P.J.Abdul Kalam what we have in India today is political politics but what we need is developmental politics. Criminalization of politics is not the result of any single reason but it is culmination of various reasons and it also does not affect only the political environment and stability of a country but it affects the entire growth of the nation. From this perspective the present study has its importance and significance in the contemporary Indian social legal and political system.

Review of literature

Indian political system is an important subject of study and research for the political scientists, legal experts and the jurists. Much works have been done on different aspects of Indian political system. The following are some of the important selected works done by the different social scientists particularly by the legal experts and jurists.

Justice V.R Krishna Iyer in his book “Law & Life” Universal Law Publication, 2008 has tried to analyse the Indian democracy and the electoral
process very closely. He has clearly mentioned the importance of the election and the power of the vote in a democratic system. The work states that Indian Parliamentary Democracy was initiated from the British system. He further said that the Indian electoral system is not free and fair. It provides scope to the criminals to enter into the floor of the Legislature. The criminals are habituated to show their Muscle power instead of power of their wit which they completely lack. They are always in search of an opportunity to create disorder, pandemonium in the House. By such actions the M.Ps and MLAs have brought a bad name to themselves by throwing all the Democratic norms to winds. Justice Iyer further submitted that in India those in government are so preoccupied with the struggle for survival in power that they have no time for addressing their attention to the problems of the people. Governance has become a casualty of the Government.

Madabhushi Sridhar in his book The Law of Expression, Asia Law House 2007 has clearly identified criminalization of politics as a serious issue threatening the very existence of Indian democracy. According to him the growing influence of mafia and enormous amount of easy money over every constitutional institution and growing need of abundant amount of money in fighting an election in the present conditions are the most worrying factors, as they threaten very purpose of electoral democracy and mechanism of representative governance. If the law does not prevent the entry of criminal elements and ill-gotten money it is not possible to protect the fabric of democracy and principle of rule of law as envisaged by our Constitution.
Subhash C. Kashyap in his book National Resurgence through Electoral Reforms (Ed) Shipra publications, New Delhi, (2003) has tried to analyze India’s electoral process. He submitted that electoral process in India is full of malpractices. He further submitted that Indian electoral process has been thoroughly polluted by the entry of the criminals. The law certainly takes care of this situation to the extent it can but it cannot eliminate the evils. In his book he also mentions that entry of people with criminal’s background into the legislature is an issue which has grave implications for the future democratic institutions. The informed sections of the public have started expressing alarm over this development. The operators of the political system are yet to address themselves to it in a meaningful way. Therefore so far no solution has emerged.

Adi. H. Doctor in his book Issues In Political Theory” Sterling publishers Ltd, New Delhi 1985 very clearly discusses the relations between power and politics and problems of liberty, justice and constitutionalism.

M. P. Jain in his book “Indian Constitutional Law” Eastern Law Company, 2008 has made a very brief statement about the problem of criminalization of Indian politics in context to a person’s right to freedom of speech and expression. In his book he has attempted to draw the attention to the relation between criminalization of politics and freedom of speech and expression and how the problem of criminalization of politics violates a person’s right to freedom of speech and expression and thereby weakens the democratic edifice of the country. He has also made a very brief analysis of the various case laws
relating to criminalization of Indian politics in relation to freedom of speech and expression.

V. Bhaskara Rao in his book “General Elections in India” Uppal Publishing House, New Delhi 1987 which is an edited version of various articles on election issues in India has highlighted the use of money power in the Indian politics and how it affects the free and fair poll process. Money power has perhaps been the biggest factor which vitiates free election in our country and it also in many ways responsible for growth of criminalization of politics. Money power casts a sinister shadow on our elections, the truth which cannot be denied.

P.D.T Achary in his book “Law of Elections” Bharat Law House, 2004, has presented a picture of elections and of various laws relating to elections. According to him, elections to be meaningful have to be free and fair. In a large country like India where thousands of candidates and a large number of political parties and electorate are involved in the process of elections, the machinery responsible to conduct the elections has a great responsibility to conduct free and fair elections.

Sharad Karkhanis in his book “Indian Politics and the Role of the Press” Vikas Publishing House, New Delhi, 1981 has tried to effectively link politics with that of the press. Press and politics both operate in the public domain and as such both are interconnected. Press is said to be the fourth pillar of democracy and because of this the duty of the press is to safeguard and upheld the truth and make
it known to public so that the people at large can exercise their rights in a more appropriate and effective manner. According to him press laws and regulations function as a very sensitive barometer of changes in political regime. has categorically stated that the three pillars on which the edifice of democracy stands are and free and fair elections, freedom of thought, expression and press and independence of the judiciary. Election laws are significant in our political system because politics and political system have their roots in the elections but this requires cleansing all sorts of evils which have crept into it failing which the political system would be polluted. According to Justice Madan the Indian election system is controlled by three ‘MP’s Money power, Muscle power and Mafia power and also four C’s, i.e. Criminalisation, Castism, Communalism and Corruption. These three MPs and four Cs have vitiated the political life of India.

Analysing the importance of the problem of electoral malpractices and criminalisation of politics in India Justice Arun Madan, Judge, Rajasthan High Court, in his Article “Electoral Reforms: Standards in Political Life” (AIR 2002, 37) has said that democracy is based on the ‘Will’ of the people, however expression of such ‘Will’ must conform to the Rule of Law. But the ‘will’ of the people has been undermined by money and muscle power. Due to criminalisation of politics money and muscle power dominate the politics of India.

Objective of the study

The present study on Criminalisation of Politics has been undertaken keeping in view the following Objectives:
(a) To study the concept of criminalization of politics;
(b) To analyze the reasons of entry of criminal elements in Indian politics;
(c) To assess the impact of criminalization of politics on the democratic set up of the country; and,
(d) To evaluate the working of various agencies and stakeholders of the law and order system and their approach to curb criminalization of politics;

Approach

A historico-analytical approach has been applied by the researcher to study the linkage between politics and criminals in order to determine the extent of criminalisation of politics in India. The historical approach has provided the important historical facts, documents, informations and past records. The informations which have been collected through historical approach are being critically analyzed through analytical approach. Since the study is based on the behavior, morality, integrity of the politicians, therefore, behavioral approach has also been followed. The study is based on structural arrangement and operations of the different administrative and political structures and as such the structural-functional approach has also been helpful in the present study. The content analysis method has also been used in this research because the comments of the leading personalities, jurists, politicians and bureaucrats have greatly enriched the actual content of this research. The study has also tried to assess the impact of
criminalization of politics over the society, so, the impact analysis process has also been followed in conducting the present research work.

**Hypothesis**

It is assumed that criminalization of politics is increasing due to peoples greed towards money power and fame, and in turn affect the socio-political fabric of the country by defying the principles of good governance and the rule of law.

**Methodology**

Methodology is the essence of study of a particular subject. Research methodology is a systematic investigation to give new knowledge about the phenomena or problem. Both primary and secondary materials are used in the preparation of the present research work.

The primary data forming the basis of the study have been collected by studying the Reports of the various Commissions and Committees having relevance to the present study. A part of the primary data have also been collected from the laws passed by the legislatures, decisions of the executives, verdicts of the judiciary in different cases relevance to the present study. Informal interviews have been conducted with the politicians, bureaucrats, jurists, leading personalities etc for collection of materials. The secondary data have been collected from the printed books, journals, articles, government publications and also from different websites. Since the present work is empirical and doctrinal in nature, methods like observation and case study has also been used in the present study.
Research Questions

In view of the objectives of the proposed study and for facilitating the process of analysis, besides testing of a Hypothesis, the following Research Questions are formulated. It is assumed that the concept of criminalization of politics has a great importance in the present day world. In this context, the present study will address the following questions:

(i) What is the extent of the impact of criminalisation of politics on the socio-political life of the country?

(ii) What are the various causes for the growth of criminalization of politics?

(iii) How to barricade the entry of criminals into the political arena?

(iv) How far the government agencies, judiciary and the various other non-governmental institutions have been able to curb criminalization of politics?

(v) How far the political parties are responsible in criminalization of Indian politics?

Organization of the study

The present study has been organized into 6 (six) Chapters.

Chapter – I i.e the present chapter deals with the Statement of the problem, its importance, reasons for the selection of the study, approach of the study, Research questions, Chapterisation of the study and methodology used for the
collection of materials, sources of materials, review of existing literatures, and social value of the study.

Linkage between politicians and criminals is solely responsible in criminalisation of Indian politics. The nexus between politicians and criminals runs deep and wide. All major political parties have liaison with underground criminals in every state. The links may differ from party to party and from state to state. A survey on the nexus in Indian states shows its pervasive nature and the manner in which it propagates. Therefore, an attempt has been made to discuss the nexus between the politicians and the criminals in Chapter-2.

Free and fair elections are an exercise central to a democratic system. But politicians and political parties do not believe in free and fair elections. The lessons drawn from the last ten general elections show that even after deployment of armed police, paramilitary forces and even the army, framing of code of conduct for political parties by the Election Commission, special security measures at near the polling booths, no human efforts or mechanical devices can ensure a free and fair election. Therefore, the role of the Election Commission and the political parties in holding free and fair election in India has been discussed in Chapter-3.

Criminalization of politics continues to be a very big concern with an increase in the number of M.Ps and MLAs with criminal records. Therefore, there is urgent need for taking some effective measures by legislative and Judiciary to
stop involvement and participation of the criminals in Indian politics, and this important aspect has been discussed in Chapter -- 4.

In Indian states, the nexus between politicians and criminals runs deep and wide. Both national and regional political parties maintain liaison between them for each other's benefits in every state of India. Though the link may differ from state to state and from party to party as such, Chapter -- 5 examines the nexus between politicians and criminals and criminalisation of politics in Assam.

Chapter -- 6 summarizes the findings of the research work by way of conclusion and recommendations.

**Social value of the study**

Very few elaborative studies have been done on the subject of criminalization of Indian politics. So, it would naturally be an important work to analyze the concept and its effect on the socio political fabric of the country. Likewise, the present research work has also discussed the following aspects keeping in mind the problem of criminalisation of politics in India.

Firstly, the various co-related issues which aids in the growth of criminalization of politics and what can be done to cleanse this menace from the society.

Secondly, it would help the people to understand their status in the society as an important subject, and,
Thirdly, the present study would make people and their representatives aware of their duties and rights.

Sources and materials

In the present research work both primary and secondary materials have been used. The materials for the research work have been collected primarily from the reports of the various Commissions and Committees on the subject and different works of various scholars. Besides this, the judgments of the Supreme Court and High Courts in India pertaining to the subject matter have been consulted. Secondary materials have been collected from the published books, journals, Articles, governmental publications, publications of the different political parties from the head office of the political parties etc.