CHAPTER-1

INTRODUCTION

1.1. INTRODUCTION:

In the case of Ashwani Gupta v. Government of India and Others\textsuperscript{1}, it was observed by the Delhi High Court that it is State’s duty to create such conditions that are conducive to enjoy right to life with dignity and not only as an animal existence. Safe, secure and protective environment are the conditions precedent to enjoy the rights under Part III of the Indian Constitution. Not providing such conducive environment is a clear violation of constitutional mandate. This means that if a person suffers some grievous injury or loses his life without any fault on his own part, it would be considered as violation of his constitutional rights.\textsuperscript{2}

It would be safe to deduce from the above observation of the Delhi High Court that commission of crime and the resulting injuries are violation of constitutional right to life and every victim is justified in seeking remedy in the form of fair trial resulting in conviction and punishment of offender. State takes upon itself the obligation to bring the offenders to justice through the mechanism of Criminal Justice Administration. But the unfortunate outcome of all this is that the State and its agencies of criminal justice system become the substituted stakeholders in the outcome and victim is pushed in the corner. Matter become worst when because of the failure on part of State and its agencies the real offender is not brought before the justice system or the criminal case ends in acquittal because of benefit of doubt.

Victims of crime are not only forgotten in many Criminal Justice Systems especially that are adversarial in nature, but quite often the system itself re-victimizes the victims. Victims get minimal participation opportunities in the trial and also lack the needed protection. As far as redress for the trauma or the


\textsuperscript{2} Id at para 4.
harm undergone by the victim is concerned it is not only insufficient but reaches to them quite late.\textsuperscript{3}

Reflecting upon the lack of justice to victims, it was observed by the National Commission that,

\begin{quote}
“The assumption that by punishing the offender, the victim receives “Justice” is of doubtful value today because of the decreasing number of successful investigations and convictions. Given the inconvenience, delays, corruption and harassment, many victims tend to keep away from reporting crimes and sometimes there is a tendency to take law into one’s own hands.”\textsuperscript{4}
\end{quote}

National Commission emphasized upon the ‘Victim Orientation to Criminal Justice Administration’. It recommended that,

\begin{quote}
“Among the many reforms canvassed for improving criminal justice is one that advocates a victim-orientation to criminal justice administration. ‘Victim-Oriented’ includes greater respect and consideration towards victims and their rights in the investigative and prosecution processes - particularly for victims of violent crimes.”\textsuperscript{5}
\end{quote}

From victim’s point of view any Criminal Justice System that takes care of fundamental rights of victims, pays attention towards preventing victimization and provides protection to them and allows access to justice for redress can be considered as a fair, effective and efficient Criminal Justice System. It was noted by the United Nations that

\begin{quote}
“A fair, effective and efficient criminal justice system is a system that respects the fundamental rights of victims as well as those of suspects and offenders. It focuses on the need to prevent victimization, to protect and assist victims, and to treat them with compassion and respect for their dignity. Victims should also have access to judicial and other mechanisms to seek remedy for the harm they suffered and obtain prompt redress.”\textsuperscript{6}
\end{quote}


\textsuperscript{5} Id, Para 7.15.2.

It is Victims’ need that their concerns should be properly addressed within the criminal justice system but to take care of their interests with a need based approach provides them only a little relief and keep them away from claiming any rights that can impose a corresponding obligation upon the State to take care of victims’ interests.

**RIGHTS BASED APPROACH:** A right based approach is different from a need based approach. Right imposes an obligation upon the State to protect and promote respect for the rights of victims whereas in a need-based approach, Victims’ needs are taken into consideration on the basis of human gesture. This justice approach supports the contention that victims should have substantive rights that impose an obligation upon the State to ensure justice towards victims. Such a right based system talks of positive obligations of State. Mawby supported a right based approach irrespective of the consideration of victims’ needs. He stated that,

> “The fact that we accept that certain needs exist and warrant concern does not entail any obligation by the State to meet those needs. Thus, one view of the role of welfare in society is that which see statutory welfare provisions as a generous and human gesture, but involving no obligation on behalf of society to provide help. In contrast, under a ‘rights based model’, citizens have moral claims to State help, and conversely the State is obliged to acknowledge the rights of citizen with regard to welfare.”

**POSITIVE OBLIGATIONS OF THE STATE:**
The Positive Obligations of the State, though derives its force from various international covenants or human rights jurisprudence but has its base in the ‘Social Contract Theory’. These are the obligations where State is supposed to do something to avoid Human Rights violations by Non-State actors.

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Right to life is considered as the most fundamental among all Human Rights. It has been termed as the ‘Supreme right of the human being’.\textsuperscript{10} As has been referred by United Nations, ‘Right to Life’ comprises the, “duty of the State to protect human life against unwarranted actions by public authorities as well as by private persons.”\textsuperscript{11}

Police as an agency of State is supposed to provide protection to victim of crime, ensure their right to access to justice and investigate the matter fairly so as to bring the culprit to justice. Not doing the same results into violation of State’s ‘positive obligations’. When police deviates from its path of fairness and treats crime victim with an ‘institutionalised disinterest’ and without any sympathy for their miseries, victim of crime loses his trust in the Criminal Justice System.

\textbf{1.2. REVIEW OF THE LITERATURE:}

Prior literature in any research domain works like a milestone in a long journey that helps in ensuring the proper direction to the later research journey. It guides researcher into his expedition while preventing researcher from having gone astray. It further helps researcher in concentrating upon the issues in hand. Such a valuable help could not be availed due to the lack of prior research work that could relate the human rights concept with the victims of crime in Indian scenario.

The work in the field of Human Rights in India was basically centred on the acts of State against the human rights of individuals’ rather than the State role in protecting the victims’ human rights that are violated by third party violations or by the act of Non-State actors. The major work that dealt with victims’ rights were limited to the State role in providing compensation to the victims. Not much work focused on victims’ rights to be treated as Human Rights and demanding State’s role and obligation to provide protection against the third-party invasion and effective redressal for such violations. Researcher has

\textsuperscript{10}UN Human Rights Committee (HRC), \textit{CCPR General Comment No. 6: Article 6 (Right to Life)}, 30 April 1982, available at http://www.refworld.org/docid/45388400a.html [accessed 22 June 2017]

observed that there is a gap in this field that can be filled by establishing victims’ rights as Human Rights and consequently imposing certain positive obligations upon the State and its agencies.

To fill this void, legal writings in outer jurisdictions were studied and relied upon which served as a guiding light in this research area. With some limitations in terms of accessibility and availability of the foreign text and research work, whatever work was consulted for the present research work is being highlighted here in the form of review of prior literature.

BOOKS:

1. Jonathan Doak, in his book, “Victims’ Rights, Human Rights and Criminal Justice- Reconceiving the Role of Third Parties”, (2008) Hart Publishing, Oxford and Portland, Oregon, has attempted in best possible way to unite the human rights framework with the rights of victims of crime. He has mentioned in his work that till present, victims of personal violence crime were not being treated on the same platform as the victims of abuse of power were being treated. Since in the case of abuse of power, State violates the individual freedoms, therefore some sort of protection of human rights was considered necessary. In case of victims of non-state crime, an underlying presumption that State is taking care of its subjects prevented the introduction of Human Rights discourse in the field of crimes committed by non-state actor. Doak has tried to establish the fact that both types of victim, whether they are the victims of State excesses or whether they are the victims of offences committed by non-state actor, stand on the same footing. In both the cases, victim suffers a violation of his rights. In both the cases, victim is in need of recognition and redress. In his work, Doak has argued for a unified theory of victims’ rights. He argues that, “The very concept of victims’ rights rings hollow unless we reconceptualise these rights as being human rights, fully protected and directly applicable within both domestic and international legal orders.”

He argues for a radical change in the thinking about the notion of Criminal Justice System if victims’ rights as human rights are to be
considered seriously. In his work, he criticises the bipartisan adversarial system as being structurally flawed since this system consider victims’ interest as subservient to that of State. He advocates for restorative justice and inquisitorial method as a fairer means to ensure justice and provide better protection to victims.

2. Juan Carlos Ochoa S. in his book, “Rights of Victims in Criminal Justice Proceedings for Serious Human Rights Violations”, Martinus Nijhoff publisher, 06.02.2013, p.63-121, has dealt with procedural obligations of the State elaborately in cases where the acts causing violation of Human Rights were perpetrated by private individuals or the non-state actors. He has discussed the cases decided by UN Human Rights Committee, CEDAW Committee, ECtHR, IACtHR etc. Juan has emphasized upon State obligations to investigate the matter fairly and prosecute the perpetrator who impaired the enjoyment of core human rights. Juan has further emphasized upon the interdependence of ‘Protection of substantive Human Rights’ and the ‘existence and availability of procedural means needed for providing such protection.

3. Andrew Karmen in his book, “Crime Victims- An introduction to victimology, 2nd edition (1990), Brooks/Cole Publication Company, Pacific Grove, California, has studied various issues in relation to victims of crime in a scientifically objective manner. In his work, he has focused his attention towards victims of street crime. Karmen addresses victim related issues from a victimologist’s point of view. He deals with the questions such as what our Criminal Justice System can do to serve the victims of crime better. When we say about efficient functioning of Criminal Justice System, we refer its dealing with the offenders of a crime and not with the victims of a crime. He has taken under consideration the issue that how the Criminal Justice System deals with the victims of a crime. In what way police responds to a crime victim? He has argued that victim has a lot of expectations from police since police is the first agency of Criminal Justice System that come into contact with victims. Victim wants quick response, on spot first aid, thorough investigation, and best evidence capable of establishing the
guilt of the offender. He has substantiated his work with relevant research findings.

4. Leah E. Diagle’s book, “Victimology”, (2012), Sage Publication, USA, has examined how crime victimization effects the lives of victims. He has discussed the application of various theories in case of crime victimization. He has dealt with the rights given to victim by United State, Federal legislations pertaining to victims’ rights and rights in Virginia.

5. Wing-Cheong Chan edited book, “Support for victims of crime in Asia”, (2008), Routledge Taylor and Francis Group, New York is a compilation of Articles to examine the existing legal systems in Asian Countries. The work discusses the rights and role of the victim in Criminal Justice System. This work raises questions like whether giving of rights to victims are at the cost of offenders’ rights or at the cost of interests of the State? Whether the existing Criminal Justice System is capable of accommodating victims’ rights? In this edited book, the issues like victim support, victim rights and Criminal Justice System pertaining to 10 different jurisdictions namely India, China, Taiwan, Japan, Korea, Philippines, Thailand, Indonesia, Malaysia and Singapore have been critically analysed. Essays of non-Asian experts provide a theoretical framework of victim support and victim rights. He asserts for awareness in the field of victim issues to make the laws beneficial for the victims. He has stated that,

“It is a truism that laws are of no use unless their existence is made known to those who need them the most and that those who need them are assisted in taking advantage of those laws.”

It has been stated under Chapter 5, 8 and 9 of this edited book that two Asian jurisdictions, i.e., Korea and Thailand have a constitutional status with regard to victims’ issues. Chapter 2 of this volume make a reference to Malimath Committee report in Indian context. This volume consists of five sections that reflects the issues like international norms and policy perspectives, victims of crime in domestic Criminal Justice System, specific victims of crime and compensation and restorative justice.
6. Shlomo Giora Shoham, Paul Knepper and Martin Kett, edited, “International Handbook of Victimology”, (2010), CRC Press, Taylor and Francis Group, USA, provides a substantive guide to issues in victimology. This book has categorized various issues under six heads that include theoretical and historical frameworks, patterns of victimization and responses to victims among other issues. This handbook reflects the developing state of art in the field of victimology. Issues like the meaning of justice for victims, history and a theoretical structure of victimology, secondary victims and secondary victimization, victims and criminal justice in Europe, victim services in the United States provide with various aspects of victimology.

7. K. I. Vibhute edited “Criminal Justice- A Human Rights Perspective of the Criminal Justice Process in India”, (2004) Eastern Book Company, Lucknow is a compilation of essays. This work consists of 26 contributions discussing various human rights issues. This collection has dealt with the ‘human rights perspective’ of not only accused and prisoner but the victim of crime also when they come into contact with the Criminal Justice agencies of State. This collection presents a picture of how Criminal Justice Process in India deals with human rights. K.D.Gaur in his essay, “Justice to Victims of Crime: A Human Rights Approach”, discusses about compensatory schemes for victims of crime and suggest measures to make them more comprehensive. N.R.Madhav Menon in “Victim Compensation Law and Criminal Justice System: A Plea for a Victim-Orienting in Criminal Justice” advocates for victim-oriented criminal justice system with greater respect for victims of crime, then come back to the ‘Victim Compensation Scheme’ as a recognition of victims’ rights in Criminal Justice System. Prof. K.I.Vibhute in “Justice to Victims of Crime: Emerging Trends and Legislative Models in India” discusses elaborately about the legislative spirit of compensating victims of crime and criticises Malimath Committee Report for devoting a large part upon the concept of victim-justice without paying any attention towards already existing compensatory framework under Criminal Procedure Code.
Madhav Godbole in “Criminal Justice System in India- Bane of Human Rights” has mentioned that human rights of victims of violence are also important. Regarding police reform and human rights, author has mentioned that by making registration of crime compulsory, the problem of human rights violation can be effectively addressed. Author has further recommended to make human rights awareness as an integral part of police training by an interaction with the victims of human rights violations and by making them aware of judicial pronouncements. Author has further suggested for segregation of law and order duties from investigation of crime and upgradation of investigative skills of the police by imparting special training to police.

B.V.Trivedi in “Human Rights and Criminal Justice System in India: A Reflection on their Mutual Contextual Nexus” has mentioned about the violation of human rights arising out of non-registration of cases. Author has referred it as a serious form of human right violation.


Crime victims also have legitimate interests to be taken into consideration by the agencies of Criminal Justice System. Victims of crime look towards the system to respond in a reasonable manner to address the issue of their victimization. This book argues that at the time of drafting American Constitution, victims played a significant role in Criminal Justice System and now the time has come back when we are returning toward victim centric Criminal Justice System. It has been shown that how victims’ interests are being reintegrated to make the system much more victim oriented.
ARTICLES:

1. Douglas Evan Beloof, “The Third Model of Criminal Process: The Victim Participation Model”, 1999, Utah L. Rev. 289, published in Douglas E. Beloof, Paul G. Cassell, Steven J. Twist, edited, “Victims in Criminal Procedure”, Carolina Academic Press, Durham, North Carolina, (2010), U.S.A.: It has been advocated through this article that now it is the time to discuss the third model of criminal procedure - the victim participation model that is different from existing crime control model and the due process model. Crime control model emphasize upon suppression of crime whereas due process model gives importance to individual defendant and concept of limiting government power. The article emphasizes that creation of this third model depends upon the consensus in law regarding the genuineness of values enshrined in victim justice. It claims that at present there exist such a consensus upon the genuineness of victim justice values, much needed for victim justice. Creation of various rights for crime victim in USA has resulted due to the presence of such a consensus.


Victims’ rights are being recognized due to the changes taking place in the approach of human rights i.e., from negative freedoms approach to positive approach of human rights. Criminal Justice System is required to be adjusted keeping in mind the changes taking place in the field of victims’ Human Rights.

4. Jo-Anne Wemmers “Victims’ rights are human rights: The importance of recognizing victims as persons,” Temida Jun 2012, Str. 71-84, ISSN: 1450-6637, DOI: 10.2298/TEM 1202071W, originalni naucni rad. In this article, Wemmers argues that, victims do have rights and privileges and they should not be considered only as a witness to the crime as is their present position within the Criminal Justice System. Human rights should be viewed from victims’ perspective recognizing victims as persons with rights before law. To serve the cause of victim justice, these rights need not only be recognized but need to be enforced effectively.

5. M. Cherif. Bassiouni “International Recognition of Victims’ Rights”, 6 Hum.Rts.L.Rev.2032006, published by Oxford University Press, through this article tries to emphasize upon the origin of victims’ rights. The article supports the notion that victims’ rights are needed to be strengthened. Through this article Bassiouni argues that State’s obligation to respect and ensure respect for international human rights and humanitarian law is inclusive of their duty to prevent violations and to take necessary procedural measures in case it has already happened. M. Cherif Bassiouni in this article has emphasized upon ‘fair investigation’ as a part and parcel of State’s obligation. To support his contention, he has cited the case of Velasquez-Rodriguez, decided by IACtHR wherein it was held that State’s obligation includes that, “Investigations be conducted in a serious manner and not as a mere formality preordained to be ineffective.”

12 Available at http://www.doiserbia.nb.rs/img/doi/1450-6637/2012/1450-66371202071W.pdf
13 Available at http://heinonline.org
To further emphasize upon the nature of State obligation, Bassiouni has referred the case of Selmouni v. France\textsuperscript{15}, decided by the ECtHR wherein it was held that as an essential of an effective remedy it is obligatory on part of the State to conduct a thorough and effective investigation that leads towards the identification and punishment of the guilty.\textsuperscript{16}

**WEBSITES:** Websites as mentioned under the head bibliography played an important role in getting an insight into the contemporary developments occurring in the field of victim-justice. Without such an enormous help from technology, this work would have not taken place. Where researcher could not reach physically, the material collected online provided the needed support and the vast data required for this research work.

**NEWSPAPERS:** Times of India was mainly studied to find the depth of the problem and plight of victims in social context. It helped the researcher to formulate the problem.

1.3. **STATEMENT OF THE PROBLEM:**

Unsympathetic attitude of police towards victims of crime may result into further victimization of victims.\textsuperscript{17} Insensitive treatment by police results into secondary victimization of victims who had already suffered a lot due to the primary victimization. Effect of inefficient and unprofessional treatment by the police has very well been highlighted by various reports particularly in cases of sexual assault victims. In treating victims of sexual assault, police should perform an affirmative role and not a passive role.\textsuperscript{18} Insensitive attitude, such as not believing complainant’s version, insensitive questioning with victim, keeping victim in dark regarding progress of the investigation etc. result into furthering the ordeal of victim and quite often may result into loss of best


\textsuperscript{16} Id Selmouni case at para 79.


evidence against the offender. Police differently treat cases of rape by their
definition of ‘ideal rape victim’ and ‘ideal rape case’. They base their judgment
on the consistency of information, victims’ moral character, and victims’
relationship with the offender and offender’s character. In United States,
insensitive questioning and treating victim only as an evidence was found to be
the major cause of concern among the rape victims.

Research in India also indicate towards this unsympathetic attitude of police
causing further victimization of women victims. Too many time police is seen
as a perpetrator of crime, or its dealing of offences is found as being callous and
biased. Sometimes it is found that there is fabrication of evidence to protect
offender or offender’s family or sometimes police neglect the reported crime or
do not take it as a serious concern, whether the case is related with rape, bride
burning or kidnapping and abduction.

The plight highlighted for the sexual assault victims is not only limited to this
particular class of victims. In Indian Criminal Justice System, victims of crime
are facing a lot of ordeal. Incidence of first victimization is making them more
vulnerable for further victimization. The commonly faced problems include
delayed police response, no immediate protection, no protection from
intimidation or harassment from offenders, lack of sense of security due to lack
of security measures, frequent denial of access to justice, shoddy probe, lack of
scientific investigation, and above all police itself shielding the offenders.

The situation of crime victim is getting worse day by day. Their cries can be
heard every here and there. As a usual practice, we come across various such
news of victimization being faced by our fellow beings. Recently in Delhi, a
victim was killed because he protested against the molestation of his two
daughters. The grief-stricken family claimed to approach the cops too many

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19 J. Connors, “Government Measures to Confront Violence Against Women” in M. Davies
20 Lynda Lyle Holmstrom, & Ann Wolbert Burgess, The Victim of Rape: Institutional Reactions,
21 D. Kelly, “Victims’ Reactions to the Criminal Justice Response”, paper delivered at the 1982
Annual Meeting of the Law and Society Association, (Toronto, Canada, 1982), as cited by
Joanna Shapland in “Victims and Criminal Justice System” in Ezzat A Fattah (Ed.) From Crime
Policy to Victim Policy: Reorienting the Justice System, 212-213 (The Macmillan Press Ltd.,
22 Nehal Ashraf, Crime Against Women 134-8 (New Delhi: Commonwealth Publisher, 1997).
times but did not get any help. Victims of crime are left without their wounds being healed properly. To show the depth of such victimization, a few illustrations are being cited here where instead of getting some healing touch, victims of crime were not properly dealt with by the State agency.

Lack of quick response time was faced by the victims in the NH-91, gang rape case. As per the statement given by them they kept on approaching police nearly for an hour for getting protection at their emergency contact number 100, but there was no police response.

Delhi High Court emphasized upon the significance of police response time for women victims. Dealing with the PIL initiated by the Court in the aftermath of December 16, 2012 gang rape case, court directed that there should be a swift response to deal with such distress calls, High Court said that the response time should not exceed 10 minutes like a pizza boy that delivers the stuff before the guaranteed time. Delhi High Court observed that, police response time plays an important role in providing protection. The court said that it is, “Very important to check the efficiency of the police. You will have to ensure that you reach the crime scene before 10 minutes.”

Victim-witness intimidation is a usual practice in criminal cases, but still the victims are not getting any protection from police. In Delhi, a gang-rape victim committed suicide due to the intimidation by the offenders in the case. One of the offender’s family was continuously pressurising the victim to settle the matter out of court.

In Haryana, a Dalit student, faced the same ordeal of gang rape again by the same accused within three years of her first victimization, instead of getting protection from police. Accused in this gang rape case were out on bail. Despite the fact that victim was facing threat to her life, State police failed in providing protection to the victim.

23 “Man stabbed 24 times in revenge”, The Times of India, page 5, April 8, 2017.
25 “Reach Crime Scene fast like Pizza boy- HC for 10 minutes police response time”, The Times of India, page 6, June 2, 2016.
26 “Month after gang-rape, girl kills self- was pressured to settle case”, The Times of India, page 6, June 21, 2016.
Code of Criminal Procedure, 1973 provides that in cognizable cases, if there is a threat perception, then a police officer can arrest an offender without an order from magistrate and without a warrant. But in a child gang rape case, police neither provided protection, nor took any step to arrest the accused. Family members of a 12-year-old gang rape survivor alleges that they were threatened and forced to flee their village. Among the three accused, police have arrested only one accused and other accused are roaming free. Victim and her family members were beaten by the accused and his supporters, their house was ransacked and due to the threat to their life they had to go into hiding.

Taking into consideration the prevalent problem of victim-witness intimidation and threat to the life of victim-witnesses, Uttar Pradesh government has issued a notification for providing yellow identity cards to prosecution witnesses in criminal cases. This step is being taken under the “Sakshi Suraksha Scheme” (Witness Protection Programme). These cards will be issued by State prosecution department. On the basis of these cards, victim-witness can seek police protection while going for deposition. The duty of providing protection has been entrusted with the district authorities to take appropriate measures to ensure victim-witness safety.

In Bareilly, access to justice was denied to a rape survivor when on duty constable refused to lodge the FIR of victim and handed over the matter to the Panchayat.

Among the three victims of gang rape, in NH-91 gang rape case, one victim was not medically examined after the crime.

Delhi High Court, in the PIL initiated by it after December 16, 2012 gang rape case, emphasized upon the need of scientific investigation and team work when it said that police team should comprise of,

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29 “Gang rape survivor’s kin forced to leave village in Rajasthan struggle for justice”, *The Times of India*, page 9, June 27, 2016.
30 “In UP, Witnesses to get yellow ‘Safety Cards’, *The Times of India*, page 15 September 8, 2016.
31 “Panchayat ‘frees’ rapist as he touches survivor’s feet”, *The Times of India*, page 13, February 4, 2016.
32 “No Medical Test Done on Third Woman”, *The Times of India*, page 17, August 6, 2016.
“Experts, including a forensic pathologist who could determine the cause of
death by examining a corpse”.\textsuperscript{33}

Shoddy probe in human trafficking case resulted into acquittal of nine accused.
Court directed Commissioner of Police to take action against the erring
Investigating Officer and SHO, who did not scrutinise the charge-sheet for
contradictions before filing the charge-sheet in court.\textsuperscript{34}

Police shielding accused in criminal cases is a common practice. In Delhi, a sub-
inspector arrested by CBI for taking bribe during police investigation was
suspended immediately. The sub-inspector was trying to shield the accused who
was jailed for the offence of attempt to commit culpable homicide. The sub-
inspector was taking bribe of Rs. 11,000 from the brother of the accused to
modify the case so that the accused could easily be let off.\textsuperscript{35}

Under the Criminal Justice System police plays an important role of providing
protection, ensuring access to justice and conduction of fair investigation.
Proper implementation of police investigating powers make the system strong
enough to deal with the issue of rising criminality whereas misuse of police
investigating powers results into high acquittal rate and less conviction in
criminal cases thereby giving to the offender a free hand to carry on their
criminal actions.

**High Acquittal Rate:** A status report filed by Delhi Police showed acquittal
rate was more than 80% in cases decided by High Court and more than 60% in
cases decided by Session Court. This status report showed the following data
with regard to conviction and acquittal.\textsuperscript{36}

<table>
<thead>
<tr>
<th>Court</th>
<th>Cases decided</th>
<th>Resulted into Acquittal</th>
<th>Resulted into Conviction</th>
</tr>
</thead>
<tbody>
<tr>
<td>SC, HC, Trial Court</td>
<td>14,997</td>
<td>9,256</td>
<td>5,741</td>
</tr>
<tr>
<td>HC</td>
<td>725</td>
<td>588</td>
<td>137</td>
</tr>
</tbody>
</table>

\textsuperscript{33}“Reach Crime Scene fast like Pizza boy- HC for 10 minutes police response time”, *The Times of India*, page 6, June 2, 2016.

\textsuperscript{34}“Court acquits nine in trafficking case, raps shoddy probe”, *The Times of India*, page 6, June 22, 2016.

\textsuperscript{35}“7 Cops shunted out for graft, 1 suspended”, *The Times of India*, page 4, May 14, 2016.

\textsuperscript{36}“HC-Probe led to high acquittal rate- 80% of cases ended this way in 5 years”, *The Times of India*, page 7, May 5, 2016.
<table>
<thead>
<tr>
<th>Sessions Court</th>
<th>14,270</th>
<th>8,667</th>
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<td>Cases with women victims</td>
<td>3136</td>
<td>2,293</td>
<td>843</td>
</tr>
<tr>
<td>Cases with child victims</td>
<td>1456</td>
<td>969</td>
<td>487</td>
</tr>
</tbody>
</table>

Deeply disappointed by high acquittal rate Delhi High Court commented that due to the shoddy probe by investigating agencies, innocents are being sent for trial and guilty are being let off. A bench of Honourable Justice B D Ahmed and Honourable Justice Sanjeev Sachdeva referred to the “revealing statistics” and said that,

“For this reason, we have been pressing upon the need to bifurcate law and order duties so that investigation wing improves. We also stressed the need for proper scientific methodology, increase in manpower but these concerns take a back seat for governments of the day.”

Delhi High Court further made the comments that,

“People are getting raped, molested, harassed, murdered and acquittal rate is 80 to 90%. Then court is blamed for acquittals that we allowed culprit to go scot-free. But the reason is shoddy investigation by police. It means they have apprehended a criminal but because of poor quality of investigation and evidence, court acquits the criminal- because of shoddy investigation, innocent people get arrested.”

Two Judge Bench of Delhi High Court reminded that,

“Two of the most material things for any human being are life and liberty, which should never take a back seat.”

The situation cited above show the vulnerability of crime victim. When the State agency entrusted with the task of providing protection, ensuring access to justice and fair investigation does not perform its duties in accordance with the law and misuse its investigating powers to shield the accused or for some other reasons, it results into failure of State in performing its positive obligations towards victims of crime. This results into jeopardizing the Human Rights of Victims of Crime.

37 Ibid.
38 Ibid.
39 Ibid.
In this backdrop some questions arise such as what are victims’ human rights? Who is responsible for protecting victims’ human rights? What happens or what are the effects upon the human rights of victims of crime, when the protectors (police) misuse the powers?

1.4. **OBJECTIVES:**

Present research work has been carried out by the researcher keeping in mind the following objectives;

1.4.1. To ascertain whether ‘right to justice’ is a human right of victims of personal violence crimes in international context.

1.4.2. To ascertain the scope and recognition of human rights of victims of personal violence crimes in Indian context.

1.4.3. To explore the relation of investigative role of police with the human rights (right to justice) of victims of personal violence crime under Indian Criminal Justice System.

1.4.4. To identify the methodology of misuse of investigative powers by police.

1.4.5. To find out the effects of such misuse of investigative powers on the human rights (right to justice) of victims of personal violence crime.

1.4.6. To suggest measures for enhanced protection and better realisation of victims’ human rights by mandating efficient and effective role to be played by the police during investigation of the crime.

1.5. **RATIONALE OF THE STUDY:**

Most of the literature and prior research in this area that the researcher has come across, is centred around the compensatory rights of the victims of crime and on victims’ right to access to justice in terms of lodging of FIR and police reluctance or obstructing the victims’ efforts to lodge the FIR. The present research will add to the current literature by adding the knowledge with respect to victims’ other rights such as right to protection, access to justice and fair investigation that should be enforced by the police as an agency of the State.

Much of the prevalent discourse in India on victims’ human rights is anchored on negative approach of human rights wherein State is supposed not to interfere with the individual liberties. The present study by exploring the international
development in contemporary times will try to alternatively argue for positive approach of human rights wherein State is supposed to play an active role in providing protection to victims from human rights violation by the acts of non-state actors or from third party invasion into victims’ human rights. Studying human rights with this positive approach will impose certain positive obligations upon the State, to actively protect individuals’ human rights from being violated by non-state actors and to actively enforce victims’ right to justice. Positive approach of human rights will benefit the victims because they will be able to claim and assert their rights and ask the State agencies to work efficiently. This will further oblige the State and its agencies to discharge its duties in a fair and most efficient manner to further the right to justice to victims. Since after commission of the crime, victim approaches the police as a first State agency to be contacted by him, much of the trauma of the crime can be mitigated if the victim gets a fair and quality hearing from the police while recording the FIR and the ultimate justice (distributive justice) that the victim deserves is ultimately dependent upon the effective, efficient and fair investigation conducted by the police. In the light of the high prevalence of acquittal rate (up to 60%) as is reflected by the NCRB data\(^{40}\), all the discourse pertaining to the justice to the victim boils down to effective investigation. The present research will try to highlight the shortcomings, the lacunae in the functioning of the police during investigation and its effect upon victims’ human rights and will try to suggest the ways to overcome the shortcomings.

This research work tries to explore the concept of Human Rights of Victims of Personal Violence Crime by studying analytically various international instruments of human rights and prevalent practices in the field of human rights jurisprudence. The research by analysing the Constitution of India and other legislative enactments will try to find out how India is responding towards the issue of Human Rights of Victims of Personal Violence Crime in terms of right to justice and whether Constitutional ideals and other legislations are in sync with international norms as far as human rights of victims of crime are concerned.

The research will try to identify through analysis of case laws what ails the investigation within the criminal justice system that results in infringements of the rights of the victims to meaningfully access the justice. This study will locate the methodology and scope of misuse of powers by the police during investigation that results in secondary victimisation of the victim. Researcher has taken this study to highlight that realisation of victims’ human rights can be ensured in a major way by checking the misuse of police investigating powers.

1.6. LIMITATIONS OF THE STUDY:

Like any other research work, this research work has its limitations. These limitations include:

1.6.1. Time is the main constraint in any research work and it moves in its own pace permitting only limited aspects to be taken into consideration. Victims of crime is a vast category including all types of victims of bodily offences, sexual offences, property offences and among them they also include vulnerable victims and victims of state excesses. If all the victims’ types were to be included in the study the nature of the research work would have needed more time not only for exploring the varied problems but for diagnosing root causes of the problems and to find out apt remedies for the same. Hence, research is only confined to victims of personal violence crimes.

1.6.2. Initially researcher was contemplating to include empirical data to be collected form investigating agency but lack of resources also played their part due to which the nature of the research work was confined to doctrinal research. Preliminary efforts did not result in getting worthwhile responses from functionaries and data was not easily available and accessible. There was no funding for this research work.

1.6.3. Besides these basic practical impediments, there were some other conceptual constraints in Indian context. These were realised in the form of approach towards human right regime. Most of the prior literature studied, were centred on the negative approach of human rights and whatever work was done towards victims’ rights or towards victim-justice, focused on a claim of compensation from the State. It was very hard to find material that considered victims’ rights as human rights.
1.7. **HYPOTHESIS:**

Researcher has formulated following hypothesis;

“Misuse of investigative powers by police results into violation of human rights of victims of personal violence crimes.”

To check the validity of this hypothesis, researcher has framed certain research questions:

1.7.1. What are the human rights of victims of personal violence crimes?

1.7.2. What role and positive obligation has been assigned to police as a state agency in relation to victims of personal violence crimes for protecting their human rights?

1.7.3. How the investigative powers are misused by the police? and

1.7.4. Whether the misuse of investigative powers by police affects the Victims’ Human Right to Justice?

1.8. **RESEARCH METHODOLOGY:**

This research work is of doctrinal nature. Data has been collected with the help of information technology and library resources. Various conventional or non-conventional instruments of United Nations as well as regional human rights treaties along with the case laws of their monitoring bodies have been taken as a primary source to collect material pertaining to developments in the field of human rights of the victim of crime at international level. Jurisprudential analysis of these conventional and non-conventional instruments of UN, regional human rights treaties and their case laws was done. Drawing inferences from the above source, human rights of victims of crimes were identified at international level. Researcher has explored the subject matter by analytically examining the existing international instruments of human rights. This conceptual study has resulted into finding out various dimensions of Victims’ Right to Justice in the form of Victims’ Right to Protection, Victims’ Right to Access to Justice and Victims’ Right to Fair Investigation.

To study the developments at national level, Constitution of India along with the various legislative enactments have been studied as a primary source. Judgments of Supreme Court, of various High Court and lower courts have been
taken as a primary source material. Reports and recommendations of various committees and commissions have also been taken into this research. As secondary source material books, journals, academic writings, juristic writings, articles, news-paper reports that deal with the issue have been used in the study. By analysing various provisions of Indian Constitution, an attempt has been made to show the level to which Constitutional ideals are at par with international human rights norms. The analytical study of the primary and secondary sources has further been progressed to find out at what level these three identified rights (as part of victims’ right to justice) have been enshrined into our criminal law enactments. To find out the developments in India in the field of victims’ human rights, case-laws have been analysed and judicial pronouncement of Supreme Court, High Courts or of some vary prominent trial court cases have also been taken into consideration.

In the light of constitutional guidelines, the existing legislative measures have been critically examined so as to ascertain whether there is any deficiency in normative procedural laws that is preventing the Criminal Justice System from implementing the constitutional ideals into reality in favour of victims of crime. In the next step, research is carried out with the help of descriptive methods to explore the investigative role entrusted to the police as a state agency. This is followed by applying the case-analysis method to few significant judicial pronouncements to find out the cause of the violations of victim human rights during investigation of the crime. At this stage various methods of police misuse of investigative powers have been contextualised and categorized.

Last stage of this research work has been completed with the help of analytical methods where on the basis of content analysis of case laws, effects upon the human rights of victims of crime have been identified to draw attention to the consequences of the abuse of investigative power. By applying method of comparative of international norms vis-à-vis Indian legal institutions, some suggestions have been formulated.

All throughout the work analysis of case laws have played a prominent role in ascertaining victims’ rights, in ascertaining police role, in finding out the methodology of police functioning as well as identifying the effects upon the human rights of victims of crime. The study has been done with the help of analytical, critical, descriptive and comparative research methods.
1.9. **OPERATIONALIZATION OF CONCEPTS:**

The hypothesis formulated for the purpose of this research work can be tested by studying the human rights of victims of crime and effect of misuse of investigative powers by police upon these human rights, if any. For this purpose, three terms need to be defined i.e., who is a ‘victim? What is meant by ‘personal violence crime’? And what is meant by ‘misuse of investigative powers’?

1.9.1. **VICTIM DEFINED:**

For the purpose of this research work, the term ‘victim’ has been taken as the victims of crime committed by non-state actors.

Separovic has defined victim as,

“Victims are persons threatened, injured or destroyed by an act or omission of another man. Suffering may be caused by another man or another structure where people are also involved.”

The term ‘victim’ is frequently used in a loose manner by journalists, politicians or in social dialogues, irrespective of its specific legal implications.

Sometimes, States, to protect its own fabric or to save its own interests or due to public policy reasons try to find out only the most deserving among all the victims to provide them the benefit of various rights. Policymakers often tend to formulate the definition of ‘victim’ in social terms. The social construction of the term ‘victim’ excludes majority of the individuals who have suffered some injury or harm due to the commission of a crime.

From lawyers’ point of view, the use of the term ‘victim’ though sometimes seems non-problematic such as in case of murder, but sometimes it may be contentious because its acceptance may be fatal to the concept of presumption of innocence and may indicate towards the guilt of the accused e.g. in rape cases giving the status of ‘victim’ to a complainant infers the act as ‘done without consent’ and may be injurious to the rights of the defendant. Because of this

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44 Id at 301.
reason, lawyers prefer to choose terms such as ‘injured parties’, ‘plaintiffs’ or ‘complainants’.

On the other hand victims’ rights supporter contends that to provide protection to victim’s rights during the Criminal Justice Process, it is necessary to accord the status of victim to a person who complains about suffering a harm on account of a crime. Treating victim as a ‘non-victim’ at par with the status of an accused as ‘non-offender’, on the basis of analogy, should be avoided. Presumption of innocence or being a non-offender protects the interests of an accused while a presumption of being a non-victim (if exercised), may not protect the interests of a victim.

The term ‘victim’ has been defined in a number of ways so as to protect the interests of the victim as well as not to affect adversely the rights of the offender.

In USA, ‘victim’ is a person who has suffered harm directly and proximately due to the commission of a federal offense.

In Arizona, victim is a person who has suffered a criminal offense and includes his lawful representatives in case of his death or incapacitation resulting from the criminal offense.

In Wisconsin, ‘victim’ is a sufferer of a delinquent act and in case this person is a child than his parent or guardian, in case of a person physically or emotionally unable to exercise his rights a family member, or in case of a deceased, a family member or a person with which such victim resides and in case of an incompetent person, a guardian appointed for him shall be considered as victim.

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49 Wisconsin Constitution, Art. 1 (938-02), available at
The concept of ‘victim’ is much wider under various International Human Rights Instruments. These instruments acknowledge victim’s status as an undoubted injured party.\textsuperscript{50}

UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985)\textsuperscript{51} defines ‘victims’ as

“persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.”\textsuperscript{52}

Principle A 2 widens this definition by including the sufferer of those crimes whose offender has not been identified, apprehended, prosecuted, convicted and by including the immediate family members or dependents etc.

“A person may be considered a victim, under this Declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term also includes, where appropriate, the immediate family or dependents of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.”\textsuperscript{53}

Principle 8 of the 2006 Basic Principles and Guidelines on the Right to a Remedy and Reparation defines ‘victim’ as

“Victims are persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law. Where appropriate, and in accordance with

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\textsuperscript{52} Id, Principle A, 1.

\textsuperscript{53} Id, Principle A 2.
domestic law, the term ‘victim’ also includes the immediate family or dependents of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.” \(^{54}\)

Article 1 of European Framework Decision on the Standing of Victims in Criminal Proceedings defines ‘victim’ as

“a natural person who has suffered harm, including physical or mental injury, emotional suffering or economic loss, directly caused by acts or omissions that are in violation of the criminal law of a Member State.”\(^{55}\)

Article 1 of the UN Convention on Justice and Support for Victims of Crime, Abuse of Power (Draft) defines victim as,

“(1) ‘victims’ mean natural persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering or economic loss or violations of fundamental rights in relation to victimizations identified under ‘scope’.

(2) a person is a victim regardless of whether the crime is reported to the police, regardless of whether a perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term ‘victim’ also includes, where appropriate, the immediate family or dependents of the direct victims and persons who have suffered in intervening to assist victims in distress or to prevent victimization.”\(^{56}\)

Its scope under Article 2 covers those cases also where the natural persons are victims of violations of State criminal laws. Article 2 discusses its scope and is wide enough to cover the natural persons who are victims of acts or omissions

\(^{54}\) Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, UN DOC A/ RES/60/147, at V (8), available at http://www.ohchr.org/EN/professionalinterest/Pages/RemedyAndReparation.aspx


that are in violation of either National criminal laws or violations of international human rights norms.\textsuperscript{57}

After Second World War, much attention was paid to the victims of abuse of power. Victims of non-state crime or ordinary crime were not paid any attention but nowadays it is being recognized that both types of victims suffer due to the violation of their rights and both types of victims need some recognition and redress.\textsuperscript{58}

In India, ‘Victim’ has been defined under Section 2 (wa)\textsuperscript{59} of the Code of Criminal Procedure, 1973. According to this Section,

“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.”

For the purpose of present research work, ‘victim’ is a person against whom some bodily offence has been committed by a Non-State actor.

1.9.2. PERSONAL VIOLENCE CRIME:

For the purpose of this research work, researcher has used the term ‘personal violence crime’. Under this head researcher has dealt with some of the offences prescribed under Chapter XVI, of Indian Penal Code, 1860. These are the offences in relation to which a police officer can take action without an order from a magistrate or a warrant.

Police powers in relation to recording of information, initiation of investigation and arrest of the suspects have been dealt with under the provisions of the Code of Criminal Procedure, 1973. Section 41 of the Code of Criminal Procedure, 1973 provides under what circumstances a police officer may arrest a person without a warrant. Among the various condition prescribed under this section, first one is the nature of the offence. It prescribes that for the use of this section, offences should be a cognizable offence. Section 154 (1) of the Code of

\textsuperscript{57} Ibid.


\textsuperscript{59} Inserted by the Code of Criminal Procedure (Amendment) Act, 2008, w.e.f. 31.12.2009.
Criminal Procedure, 1973 provides a mandatory duty of the police to register any information pertaining to the commission of an offence, provided the alleged offence is a cognizable offence. Section 156 of the Code of Criminal Procedure, 1973 gives the power to police to investigate any case without the order of a Magistrate provided the offence is a cognizable offence.

It is clear from these provisions that police can take action on its own if the offence alleged to have been committed is a cognizable offence. Therefore, it becomes necessary to ascertain that among the various offences dealt with under Chapter XVI, of Indian Penal Code, 1860 ‘Offences Affecting the Human Body’, what all offences come in the category of cognizable offences.

First schedule of the Code of Criminal Procedure, 1973 classifies the offences into two categories i.e., cognizable or non-cognizable. A bare perusal of this schedule makes it clear that barring a few offences all offences dealt with under Chapter XVI, of Indian Penal Code, 1860, ‘Offences Affecting the Human Body’ fall under the category of cognizable offences.

This being the position, researcher intends to include all cognizable offences prescribed under Chapter XVI, of Indian Penal Code, 1860 in to the term ‘personal violence crime’ for the purpose of this research work.

1.9.3. MISUSE OF INVESTIGATIVE POWERS:

The term ‘misuse of investigative power’ has been taken to denote the acts or omissions of police in performing its duties as prescribed under the law.

It was held in Kenya case that qualities of police acts that constitute misuse include,

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60 Causing miscarriage under section 312, voluntarily causing hurt under section 323, voluntarily causing hurt on grave and sudden provocation and not intending to hurt any other than the person who gave the provocation under section 334, assault or use of criminal force otherwise than on grave provocation under section 334, assault or use of criminal force with intent to dishonour a person otherwise than on grave and sudden provocation under section 355 and assault or use of criminal force on grave and sudden provocation under section 358 of the Indian Penal Code, 1860.
‘Neglect, omission, refusal and/ or failure of the police to conduct investigation’. 61

Distinguishing between ‘Dereliction of duty’ and ‘Misconduct’, it was made clear by the Supreme Court in the case of Dayal Singh 62 that,

“Dereliction of duty or carelessness is an abuse of discretion under a definite law and misconduct is a violation of indefinite law. Misconduct is a forbidden act whereas dereliction of duty is the forbidden quality of an act and is necessarily indefinite. One is a transgression of some established and definite rule of action, with least element of discretion, while the other is primarily an abuse of discretion.” 63

It was stated in the case of State of Punjab v. Ram Singh 64 that,

“The ambit of these expressions had to be construed with reference to the subject matter and the context where the term occurs, regard being given to the scope of the statute and the public purpose it seeks to serve.” 65

For the purpose of this research work, misuse of investigative powers means and include the erroneous exercise of the discretion and abuse of powers given to police for investigation from Sec 154 to Sec.173 Cr.P.C that may result into the instances of not registering the first information report timely or creating hurdles or obstructions in the process of lodging FIR; not providing the needed protection to the victim from being intimidated by the accused; not informing the victim about the investigative progress; manipulating the contents of the FIR and not investigating the matter fairly; unprofessionally collecting the evidence and dealing with the evidence in order to shield the offender.

1.10. PLAN OF STUDY:

The study comprises of the following chapters inclusive of this first chapter i.e., introduction.

63 Id at para 21.
65 Ibid.
CHAPTER 1. INTRODUCTION:
The first chapter explains the nature of the problem that has to be studied. It further reflects upon the literature that was consulted in the research. It sets out the objectives that has to be achieved. It explains the rationale of the study. It further tries to elaborate the limitations of this research work. It provides the hypothesis formulated and research questions framed for the purpose of this study. It shows in detail the methodology adopted by the researcher throughout the research work and in arriving at the conclusion and finding the solution of the problem. Some specific terms that needed to be defined in the context of this research work, have been operationalised in this chapter. In the last, this chapter makes a plan for the whole work by providing a chapter plan or plan of study.

CHAPTER 2. HUMAN RIGHTS OF VICTIMS OF PERSONAL VIOLENCE CRIMES IN INTERNATIONAL PERSPECTIVE
The objective of chapter 2nd is to ascertain and identify the Human Rights of Victims of Personal Violence Crimes in international context. With this aim, the researcher has gone through various provisions of United Nations and Regional Human Rights Instruments (both conventional and non-conventional) and case laws of their monitoring bodies. This analysis helps in finding out the current state of victim’s rights as well as emerging trends in the field of human rights of victims of crime.

Researcher has studied and analysed these instruments and case laws in a systematic manner. This chapter consists of four sections. First section of this chapter defines victim and then goes through the early phase of development of victims’ rights when victimology occupied its due place in the legal field with a victim centric approach. Second section pertains to that phase when victims’ rights were being recognized as human rights. This section studies how human rights should be interpreted while ensuring justice for victims of crime. Third section tries to ascertain these Human Rights with the help of existing international norms and emerging trends in this area. This section first enumerates the instruments that play a vital role in the field of victims’ Human Rights. The instruments related to the United Nations Treaties have been studied at the first place. Then Case laws of monitoring bodies have been taken into consideration that further reflect upon the position of victim in these instruments by giving an apt interpretation to the related provision of the concerned treaty.
After this the non-conventional instruments of United Nations and then the regional treaties along with the case laws of their concerned monitoring bodies have been taken into consideration. In section four of this chapter, three human rights of the victims of crimes, their concepts and certain features were identified after analysing all these instruments and case laws. These rights are identified as ‘Right to Protection’, ‘Right to Access to Justice’ and ‘Right to Fair Investigation’ as part of victims’ right to justice. These are the rights where police plays an important role and any misuse of its investigative powers may lead towards failure of victim’s right to justice.

CHAPTER 3. HUMAN RIGHTS OF VICTIMS OF CRIME IN INDIA
The third chapter evaluates the status of victims’ human rights (as identified in second chapter) in Indian context. With the help of determinant features of the three identified human rights in the second chapter, researcher tries to ascertain the status of human rights of victims of crime in India. This chapter consists of four parts. In its first part, researcher tries to find out whether international norms pertaining to human rights of victims of crimes are applicable in Indian Context. On the basis of an analytical study of constitutional and legislative material, judicial pronouncements and recommendations of various committees and commissions researcher in second part of this chapter has tried to identify victims’ right to justice (inclusive of victims’ three identified rights i.e., victims’ right to protection, victims’ right to access to justice and victims’ right to fair investigation) in India. This study at one hand shows the areas where legislative enactments are lacking in fulfilling the constitutional ideals, and on the other hand provides the initiatives taken by the judiciary to ensure justice to victims of crime. In the third part of this chapter, researcher tries to ascertain the status of these rights as highlighted by various commissions and committees in their respective reports. In the last part of this chapter, researcher has made an attempt to find out why despite all these constitutional mandate and judicial pronouncements, victims are in a poor state? This study leads towards the neglect being paid by the State in performing its positive obligations towards victims of crime.

CHAPTER 4. ROLE OF POLICE AND VICTIMS’ HUMAN RIGHTS
Fourth Chapter looks into the police role in relation to Human Rights of victims of crime. Researcher has tried to systematically study this role by dividing this
chapter into four sections. First section looks into what role has been assigned to the police for protection of the human rights of victims of crime as per the mandate of international instruments. Second section tries to find out how this police role has been defined in national context by studying police specific guidelines such as Code of Conduct for the Police in India. Third section goes in depth by looking into the provisions of Criminal Procedure Code 1973 to find out police role in ensuring fair investigation. Last section of this chapter tries to ascertain the role in the light of Victims’ Human Rights Jurisprudence with the help of judicial pronouncements in this field.

CHAPTER 5. MISUSE OF INVESTIGATIVE POWERS BY POLICE: METHODS AND ITS EFFECTS UPON HUMAN RIGHTS OF VICTIMS OF CRIME

Fifth Chapter consists of two sections. First one deals with the methodology of misuse of police powers at different stages of investigation. In this first section researcher has tried to show that how police misuse its investigative powers by taking into consideration the methodology being used by the police to misuse its investigative powers at different stages of investigation. Second section pertains with the effect of this misuse upon the human rights of victims’ of crime. Whether this ‘misuse’ obstructs, delays, denies or effects in any other manner the free flow of justice under Indian criminal justice system towards victims of personal violence crimes? This part consists of an analytical study of case- laws to know how this misuse of investigative powers adversely affect the human rights of victims of crime.

CHAPTER 6. CONCLUSION AND SUGGESTIONS:

In the last chapter i.e., conclusion and suggestion research has tried to analyse all the material studied in various chapters of this work and to arrive at a just and logical conclusion. On the basis of this research work researcher has suggested some measures to make the system more victim-oriented.