CHAPTER - VII
PERSONALITY AND PERSONAL PROBLEMS OF THE PROSECUTOR

Introduction:

It is said that: "Necessity is the mother of invention". In the legal profession the ethical rules are necessary to maintain a professional standard because personality is that which makes person of distinct individual character. Character is necessary for the moral excellence. It is a humble estimate of our own talent as it is a moral science for Code of Conduct. Prosecutor is a trustee of the State before the Court of law, therefore character must be beyond suspicion. It acts like a torch in darkness to lead the honest and truthful life. Personation brings reputation. Therefore Charles M. Schwab said "Personality is to men, what perfume is to flowers". If prosecutor will be industrious it is fortunes' right hand as personation brings reputation. In wards of Lord Eldon "A Lawyer (so also the prosecutor) must work like hermit and walk like a horse. The lamp of wit is required to lighten the darkness of advocacy." It is sine-qua-non for equal and fair justice. Prima facie the quality of justice mostly depends upon the Judges, Prosecutors and Advocates. As an Advocate, Prosecutor is also the officer of the Court, helps and assists the Court to search out the cause of justice. Therefore Joseph Addison said that, "There is no virtue so truly great and God like as justice."
and be able to convince the Court with great zeal and caution in the above said examination which confirms the facts of their being either trustworthy or downright liars\textsuperscript{343}. It is indeed a typical job. He should not leave any stone unturned to search out the truth i.e. to elicit the truth from mouth of the witness. Prosecutor can add luster to the functions of the Court in dispensing justice. He has to maintain composure in the Court\textsuperscript{344}.

1) Necessity of Regulation for the Prosecutors:

The prosecutor is from the lawyers \textit{inter alia}. Therefore it is necessary for the regulation of behaviour, which is for advocates so also for the prosecutor as both are working before the Court to assist the Court to search out the truth. Therefore there is necessity of rules for regularization of the conduct of an advocate / prosecutor\textsuperscript{345}. As William Shakespear said "And do as adversaries do in law, strive mightily but eat and drink as friend. So also in Court : of entrance to quarrel but being in ; Bear't that the opposer may beware of thee. However rules are necessary even for the best. Self interest is a misleading factor".

In underdeveloping country like India very often legal practitioners are guilty of a questionable wrong conduct owing to ignorance. They do not know what is proper to be done. Because act against the specified rules of the Bar Council of India is misconduct i.e. act of moral turpitude, unlawful, willful forbidden act, transgression or act of dishonest intention. As there are no rules to guide them and no settled tradition to serve as an inspiration, each into him. Therefore there must be disciplinary bodies and that the profession itself should try and frame the rules for its guidance. Advocate being a public functionary any one taking to practice at Bar should have a correct knowledge of privileges as well as the ethical (rules) obligations of the members of the profession. He must be able to distinguish between right and wrong in the

\textsuperscript{344} Ibid - No. 4a, P. 243.
professional conduct. The observations of canons of legal profession will rise in the profession in public estimation it is for public good. For all the above reasons there is acute necessity to prepare a regulation to regulate the conduct of an advocate, which can be styled as ethics.\textsuperscript{346}

So also Ramkrishna Paramhansa and Buddha rely on “He is born to no purpose, who having the rare privilege of being a man, is unable to realize God in this life”.

The legal profession is dedicated to the cause of justice because administration of justice is the firmest piller of Government.

The legal profession and the laws are necessary for the well ordered society. If you destroy the Bar you will destroy the very foundation of the security and liberty of citizenry.

The Moral character of the prosecutor must have upper hand in the thing he does. Even though in Criminal law legal presumption is that “the accused is innocent”. But also justice must also be done with victim. It is equally important in criminal administration of justice. The evidence of the prosecution must rule out the hypothesis of innocence by the facts and circumstances proved in the case as ingenorantia juries non excusata ingenorantia facit excusata.

S. C. Sarkar said : fearlessness, honesty and earnestness of the prosecutor bound to elicit the administration of the judge and to gain his confidence in no time. Flattery and sub-serviency are never appreciated by the judge. S. C. Sarkar went on saying that the “high code of honour of legal profession has many rules and principles but not so as nothing which is morally wrong can be professionally correct.” The conviction of the accused can be based only upon legal grounds established by legal evidence.

A prosecutor whose personal standing is a fixture, like a golden eagle. The character will place a prosecutor in the company of good persons. The

Public Prosecutor has to see that the cause of justice is furthered instead of being frustrated.

Relying on skill as the tools of his profession must be kept in order. It is for this reason that fresh books, latest case laws and new literature of law journals is an element to consider as a means of polishing up the rusty armour and enlarging one's line. On wisdom, we build character. Every step, up the ladder of fame depends in a large measure, up on character. It is not enough to win criminal cases, by eloquent arguments, or master of invective (violent attack in words), very many can be sarcastic. The foundation of lawyers or the prosecutor's fortune is a character. It is out of sight yet never out of mind and learning. It leaves the fame of Abraham Lincoln immortal as honest lawyer. Character goes from every transaction little and large. It is built up from large and small cases. It is in attention to details. It is in integrity of remittance. It is in the quality of services and fairness of the dealings. Therefore it is necessary to see that what should be the characteristics of the prosecutor.\textsuperscript{347}

**Following characteristics are necessary virtues of the prosecutor:**

1) Prosecutors must study every case by itself \textit{inextenso} and make a clear brief on law and evidence. A lawyer so also prosecutor in Court without a brief is like a captain at sea without his chart. One with a well mastered case is strong in every emergency.

2) He must know what each witness will swear to, separately and together. Show each witness the importance of candour holding to the truth and talking in responsible manner with facts and circumstances. So woven to gather for securing the confidence, create an impression that you are in favour of truth and only truth.

3) Public Prosecutor has to open the case fully before any evidence is in. It is essential to success that a terse, clear and forcible opening be made. It should be easily comprehensible and interesting to jury now i.e. Judge. To present the State's case in clear convincing way so that the Jury / Judge may reach to a decision based on the law and evidence fully, clearly and evenly.

4) Be forcible, firm dignified and clear.

5) Never be bluffed out of Court but do not begin with bluff.

6) Brevity of facts, terseness of statements, tells best.

7) Never allow yourself to switch off i.e. you must stick up to your text.

8) Remember, Judge does not know all the facts. Let each witness be carefully examined if necessary, cross examined or re-examined until they know the effect of halting unreasonable, untruthful story and know how much stronger a fact is accompanied by circumstances.

9) Prosecutor show no uneasiness in temporary defeat. New trials frequent reversals and encouraging circumstances, may end in single success have a pokers face.

10) Drop a bad witness, cross-examine the defence witness/es to lower down his credibility. So that the Court will brand him as liar.

11) Make your evidence reach in the heart of the case.

12) The main point in law is good evidence. Witness should be tested before the trial. Hold them hard on the line of directions.

13) Avoid frivolous objections. Save your forces for main chance. Mr. Abraham Lincoln was noted for giving away small points e.g. I think we were wrong there but it is not the gist of the matter any way.

14) Speak clearly, carefully and candidly. A careful explanation is a good argument.
15) Drop all the examinations and arguments in right place. It is the pith of the story to end well. The cream of the joke is in the little things suggested half discovered, that lead to new born pleasure.

16) Let the Judge and the jury know you mean what you say. Great men have been earnest men. Great orators have been moved by their own words and arguments, till they filled their hearer with the fire of enthusiasm.

17) Consider your adversary powerful; be ready for him. It was a rule of Napoleon never to underrate an enemy. In Court trials, the enemy is usually stronger than we expects.

18) If the case turn on evidence of facts with the application of law e.g. to make any lawful demand the evidence must be within the rules of law and statute of limitations. Oral agreement is void. The true temper of the steel depends alike on the degree of heat and the correct time to cool the metal.

19) The law and the facts must be well united to make the judgment possible.

20) Public Prosecutor / Assistant Public Prosecutor should prepare the facts more thoroughly and study it, the more certain will be the result. If a case fails on law points that no one can see or prevent; counsel should never be blamed for it. But a failure on the points of facts that no one can see or prevent; counsel should never be blamed for it. But a failure on the points of facts, that could be foreseen is an act not often forgiven.

21) See that you do your work well. Hold on hard to the strong points of law and facts. 'Be thorough', Is it a formal document? Get it admitted. Never haggle over trifles, watch the main chance. The sacred calling of a lawyer imposes earnestness of manner, study and ingenuity, tact and energy and a heartful of love and loyalty for right, and with them every promise should be kept as inviolate as made under a solemn oath.\[346\]

In this profession the sole object is to discharge social obligations. Keeping in mind the high sense of humour and sincere desire to follow right. "There is no substitute for beauty of mind and strength of character."

Moreover it is for the following reasons that there is a necessity for the Code of comfort for advocates.

It has been usually said that a physician is often most careless about taking medicine. So lawyer has been the more careless about applying law i.e. rule of conduct for himself. The United States of America is the first country to guide the conduct of the profession in form of the Code of ethics.

In the legal profession there should be the regularization of the Code of legal ethics which served as a guide to the young man entering into the practice to show the right way he should go, so that in afterlife he will not depart there from. Moreover, the future of the nation is generally depending upon the maintenance of shrine justice that is also the reason for regularization of ethical or moral behaviours.

The advisability and practicability of the adoption of such Code are as follows:-

1) Under the civilized form of Government unless the system for establishing and dispensing justice is developed and maintained that there shall be continued confidence on the part of the public in the fairness, integrity and impartiality of its administration, there can be no lasting performance to the national institutions. Our profession is the keystone of the arch of the Government. Weaken this keystone by allowing it to be an increasingly subject to the corroding and demoralizing influence of those who are controlled by graft, greed and gain. A Code of ethics, adopted after due deliberation and promulgated by the bar of the country is one method of furtherance of this end.
2) With the marvellous growth and development of our country and its resources with rank of our profession ever extending filled of activities over widening the lawyer's opportunities for good and evil. They are corresponding by enlarged and the limits have not been reached with the influx of increasing number who seeks admission to the profession mainly for its emoluments have come new and changed conditions. With the ambulance chaser, shyster, the member of the bar with the system of runners, pursue their nefarious methods with no check and violates no criminal law. They hamper the administration and even at that time subvert the ends of justice. These persons are enemies of the country ragged in a priestly garment of truth, honour and integrity. All such are unworthy and place upon the rolls of the great and noble profession of law. To control those activities, necessity for the Code of legal ethics is essential.

3) Members of the bar, like Judges are the officers of the Court and like Judges should hold office only during good behaviour. It should be defined and measured by ethical standards, however high, as are necessary to keep administration of Justice pure and unsullied, such standard should be crystallized in written Code of professional ethics and a lawyer failing to confirm there to should not be permitted to practice or retain membership into professional organizations local or national. All our Bar Associations have to promote the administration of justice and uphold the honour of the profession and for this suitable and reasonable Code in time will be of practical value by leading to action through Judicial. All for the bar to subscribe to suitable and reasonable canons of ethics as condition precedent for admissions. Then Court will be in a position to enforce through suspension or disbarment as the observance of proper ethical conduct by the members of the bar admitted. Therefore the people for the welfare of the country, community and for administration of justice by constitutional provisions or legislative provisions demand that before granted valuable franchise to practice shall taken an oath to support constitution and canons of ethics established by law.
4) If it is authoritatively promulgated arise from the facts that many men
depart from honourable and accepted standard of practice early in their
careers as a result of actual ignorance of his ethical requirements of the
situation. Habits acquired when professional character is forming are
lasting in their effects.

Thus it is written of Bar Association Code of ethics should prove a
beacon light on the mountain of high resolve to lead the practitioner safely
through the snare and pitfalls of the early practice of high honourable
professional achievements.

Second as to the practicability:

1) To advance the science of jurisprudence, promote the administration of
justice and uphold the honour of the profession of law.

2) Besides, it is not impossible to crystallize ethical principles into the series
of canons applicable to the usual concrete ethical problems, which
confront the lawyer in the routine practice. Several State Bar Associations
have already done so. Rules are necessary even for the best. Self interest
is misleading factor when you have to decide on the spur of movement.
What is best is to be deemed in in the circumstances.

No advocate should forget that though he is representing a particular
client, he is an officer of the Court and owes duties to it. His office is one of
exceptional responsibility not only towards his client but also to the public. He
occupies a favoured position towards all people who appear as witnesses.

In summary it can be said that the State Code of legal ethics are in the
main sound and have a healthy moral attitude on the part of lawyers.

It is also applicable to prosecutors as both are coming from the same
branch of legal practitioner on civil and criminal side.

In this profession the object is to discharge social obligations and also
high sense of honour and conscientious desire to follow right as there is no
substitute for beauty of mind and strength of character.
Every advocate owes duty to his professional brethren in particular and to the community of legal profession in general. The interest of the profession is higher than our personal interest. The object of the trial is of course the discovery of truth.346

An advocate is under obligation to perform duty to owe to the community of the legal profession is vital. So also some duties are –

1) Keep up the best tradition of the Bar.
2) Never be a party to the lowering of standard.
3) Do not pursue your profession in the spirit of rivalry with your brother.
4) Do not underbid.
5) Do not keep out a brother legal practitioner.
6) Do not indulge in scandal mongering about a brother advocate.
7) Professional brotherhood be maintained. So also it is applicable to prosecutors.
8) Avoid unprofessional conduct.350

Bar Council of India Rules 1975 for an Advocate:

In the preamble it has been mentioned that an advocate at all times comport himself in the manner be fitting his status as an officer of the Court, a privileged member of the community and gentleman, in mind that what is lawful and moral. In his conduct conform to the rules hereinafter mentioned both in letter and spirit. The rules mentioned contain canons of conduct and etiquettes adopted as general guide.

It is a self-regulation rule prepared by the Bar Council Of India as there are no statutory rules. If there are no rules at the statute, there will be no regulation of a behaviour of an advocate. Therefore the model Code of conduct is necessary. The Code of Ethics is a method of furtherance of professional objectives.\textsuperscript{351}

Model Code of Conduct

Duty to the Court:

1) An advocate shall, during the presentation of his case and while otherwise acting before a Court, conduct himself with dignity and self-respect. He shall not be servile and whenever there is proper ground for serious complaint against a judicial officer, it shall be his right and duty to submit his grievance to proper authorities.

2) An advocate shall maintain towards the Courts a respectful attitude, bearing in mind that the dignity of the judicial office is essential for the survival of a free community. In Bulchandani V/s Suhasini Mutalik\textsuperscript{352} under section 35 professional misconduct. A petitioner Bulchandani making imputation of unfairness or bias against the Judge in open Court, he is guilty of professional misconduct under the, Advocates Act, 1961.

So also in Hema Ravishankar V/s Ravishankar\textsuperscript{353} it has been held that legal practitioner of the Bar is an officer of the Court and owes a duty to the Court ...... when legal practitioner making imputation of unfairness and bias against the Judge in open Court, he is guilty of grave professional misconduct for gross overstep the limits of propriety.

3) As advocate shall not influence the decision of a Court by any illegal or improper means. Private communications with a judge relating to an pending case are forbidden.


\textsuperscript{352} 2004(1) All Maharashtra Law Reporter, P. 124 (Bombay High Court)

\textsuperscript{353} 2004, Criminal Law Journal, P. 1205.
4) An advocate shall use his best efforts to restrain and prevent his client from resorting to sharp or unfair practices or from doing anything in relation to the Court, opposing counsel or parties, which the advocate himself ought not to do. An advocate shall refuse to represent the client who persists in such improper conduct. He shall not consider himself a mere mouth-piece of the State and client shall exercise his own judgment in the use of restrained language in correspondence, avoiding scrupulous attacks in pleadings, and using intemperate language during arguments in Court.

5) An advocate shall appear in Court at all times in the prescribed dress, and his appearance shall always be presentable.

6) An advocate shall not wear a band or gown in public places other than in Courts except on such ceremonial occasions and at such places as the Bar Council of India or the Court may prescribe.

7) An advocate should not act or plead in any matter in which he is himself pecuniary interested.

8) An advocate shall not stand as a surety, or certify the soundness of a surety for his client required for the purpose of any legal proceedings.

Duty towards the client:

9) An advocate shall not ordinarily withdraw from engagements once accepted, without sufficient cause and unless reasonable and sufficient notice is given to the client. Upon his withdrawal from a case, he shall refund such part of the fee as has not been earned.

10) An advocate should not accept a brief or appear in a case in which he has reason to believe that he will be a witness and if being engaged in a case, it becomes apparent that he is a witness on a material question of fact, he should not continue to appear as an advocate if he can retire without jeopardizing his client's interest.
11) An advocate shall at the commencement of his engagement and during
the continuance thereof make all such full and frank disclosures to his
client relating to his connection with the parties and any interest in our
about the controversy as are likely to affect his client's judgment in either
engaging him or continuing the engagement.

12) It shall be the duty of an advocate fearlessly to uphold the interest of his
client by all fair and honourable means without regard to any unpleasant
consequences to himself or any other.

13) An advocate appearing for the prosecution in a criminal trial shall so
conduct the prosecution that it does not lead to conviction of the innocent.
The suppression of material capable of establishing the innocence of the
accused shall be scrupulously avoided.

14) An advocate shall not directly or indirectly, commit a breach of the
obligations imposed by section 126 of the Indian Evidence Act.

15) An advocate shall not at any time, be a party to fomenting of litigation.

16) An advocate shall not act on the instructions of any person other than his
client or his authorized agent.

17) An advocate shall not buy or traffic in or stipulate for or agree to receive
any share or interest in any actionable claim. Nothing in this rule shall
apply to stock, shares and debentures or Government securities, or to any
instruments, which are for the time being, by law or custom negotiable, or
to any mercantile document of title to goods.

18) An advocate shall not, directly or indirectly, bid for purchase, either in his
own name or in any other name for his own benefit or for the benefit of any
other person, any property sold in the execution of a decree or order in
any suit, appeal or other proceeding in which he was in any way
professionally engaged. This prohibition, however does not prevent
Advocate from bidding for or purchasing for his client any property in
Advocate from bidding for or purchasing for his client any property which
his client may himself legally bid for or purchase, provided the Advocate is expressly authorized in writing in this behalf.

19) An advocate shall not do anything whereby he abuses or take advantage of the confidence reposed in him by his client.

20) An advocate who has, at any time, advised in connection with the institution of a suit, appeal or other matter or has drawn pleadings, or acted for party shall not act, appear or plead for the opposite party.

Duty towards opponent:

21) An advocate shall not in any way communicate or negotiate upon the subject of matter of controversy with any party represented by an advocate except through that advocate. An advocate shall do his best to carry out all legitimate promises made to the opposite party even though not reduced to writing or enforceable under the rules of the Court.

Duty to colleagues:

22) An advocate shall not permit his professional services or his name to be used in aid of, or to make possible, the unauthorized practice of law by any agency.

Restrictions on their employments:

23) An advocate shall not personally engage in any business, but he may be sleeping partners in a firm doing business provided that, in the opinion of the appropriate State Bar Council, the nature of business is not inconsistent with the dignity of the profession.

24) An advocate shall not be a full time salaried employee of any person, government firm, corporation or concern, so long as he continues to practice, and shall on taking up any such employment, intimate the fact to the Bar Council on whose roll his name appears and shall thereupon
cease to practice as an advocate so long as he continues in such employment.

25) An advocate may be Director or Chairman of the Board of Directors of a company with or without any ordinary sitting fee, provided none of his duties are of an executive character. An advocate shall not be Managing Director or a Secretary of any company.

26) An advocate who has inherited or succeeded by survivorship to, a family business may continue it, but may not personally participate in the management thereof. He may continue to hold a share with others in any business which has descened to him by survivorship or inheritance of by will, provided he does not personally participate in the management thereof.

27) Nothing is these rules shall prevent an advocate from accepting, after obtaining the consent of the State Bar Council the nature of the employment does not conflict with his professional work and is not inconsistent with the dignity of the profession. This rule shall be subject to such directives if any as may be issued by the Bar Council of India from time to time.

These rules are made for an advocate. Prosecutor also is an advocate therefore all these rules regarding the professional Ethics and maintenance of standard is applicable to the prosecutor in the capacity of an advocate for the Government.

In spite the above ethical duties following should be the special feature of the prosecutors.

**Duty of a counsel when engaged for prosecution:**

The primary intention of the public prosecutor is not to convict the accused by any means but to see that justice is done to the end. He should with hold no facts tending to prove either the guilt or innocence of the
accused. Therefore, Cock, the master of common law said "All prosecutions are conducted by the counsel representing the crown and the crown has no interest to serve other than to see that justice be done. Such counsel should not partisans, eager to convict. He is the officer of justice whose duty is to aid in arriving at truth. He owns duty to the accused as well as the State neither to adduce irrelevant nor to exclude relevant evidence. You are under hands to serve the general interest, the integrity and enlightenment of law itself.

President Woodrow Wilson, while an address to American Bar Association in 1910 said. You all are the servants of the public of the State. You under bonds to serve the general interest, the integrity and enlightenment of the law itself.\textsuperscript{354}

When engaged as public prosecutor the primary duty is not to convict but to see that justice is being done. However Justice Blackburn says in \textit{Reg v/s. Holchester}\textsuperscript{355} that it used to be considered that the counsel for the prosecution is in quasi-Judicial position to bring forward the proof of the prisoner's guilt. But with the responsibility of doing, so not the mere counsel to try to get the verdict but as an assist to Court fairly to bring out the facts. The counsel for the prosecution is to state his case before he calls the witness\textsuperscript{356}.

The following extract from the report of the committee of American Bar Association appointed to draft the "Code of Legal Ethics" it says that there would seemed to be no question that he prosecuting attorney occupying as he does in our legal system a quasi Judicial position. He should be impartial in the presentation both of facts and legal authorities in criminal cases. He is legally and morally bound to reveal both the sides of the case so to see that justice must be done and not after conviction. The duty of the defence lawyer is that a guilty man is convicted only on the legal evidence. It is not at all necessary for the prosecution that it does not lead to conviction of innocence. The suppression of material capable of establishing the innocence of the

\textsuperscript{355} 14 (10 cox 226).
accused shall be scrupulously avoided. His conduct should be morally avoided unfair litigation\(^{357}\).

**Duty to profession:**

At all times behave himself in the manner befitting his status as an officer of the Court and honourable member of the exalted profession and fine gentlemen. Evolve and encourage the spirit of brotherhood as every prosecutor owe duty to professional brotherian in particular and to the community in the legal profession. Keep traditions of the Bar and the department.

**Reflection on the present state of affairs:**

It is well known that prosecutors are selected from the practitioners as an advocate from civil, criminal etc. side i.e. from the category of an advocate. The Bar Council of India by their rule prescribed that an advocate must pass an examination degree course in law from the recognized university. Therefore to improve the standard of knowledge of law while passing the degree in law, it is necessary to the larger object of improving the standard of legal education. However, it has not been achieved. The present position is that;

1) Bar Council of India has been unduly liberal in granting law colleges even though they have not a reasonably good library, full time teaching staff and other meaningful facility to provide a meaningful legal education. At many places contributory or part time lecturers are running law colleges. Evening classes have been allowed indiscriminately, for degree course in law for employed persons. Duration of course and degree awarded are the same for day colleges and evening colleges by disregarding the recommendations of Law Commission of India. Apprenticeship has been abolished. Therefore no experience of conduction of cases in Court of law under the experienced practitioners.

\(^{357}\) Ibid - No. 13. P. 245.
2) Beside sleep deterioration in standards, lack of awareness of the nature of profession and its ethos. There should be an uniform courses of five years for study to obtain degree of law on the pattern of courses there shall be a course offered by the National Law School, University of Bangalore and 3 years diploma course for employed persons. Justice Ahmedi’s speech under heading “Repairing the Cracks Of Legal Education” He summed up, that ill equipped Law Colleges. A large body of students being drifters to the law courses on their failing to secure admission to the disciplines of their choice'. At present also in so many colleges 5 years degree course has not been started and strict test for entrance in Law College.

There is no opportunity to students to argue and express their views as in the Court by way of mute Courts. No doubt Anglo Saxon system of the law and administration of justice was improved but standard of education not developed. The rules framed by the Bar Council of India have a mandatory effect so far as qualification to the admission to the role of an advocate is concerned. It is open to the university to run Law Courses purely for the academic purposes. But if it proposes to run professional law courses, it has no option but to implement the new law courses, provided by the rules framed by the Bar Council of India

3) In connection with the prosecutors in High Court and Sessions Court 7 years experience in Civil and Criminal side is not sufficient to deal with variety of cases in various laws. In under developing countries, law has been prepared for convenience and safety of life liberty and property of the peace loving people. Moreover, 3 years experience for he appointment of Assistant public prosecutors to work in the Court of Judicial Magistrate first class is also not sufficient. He has to deal with misappropriation cases of different departments i.e. Government and non- government and come across many complicated and technical difficulties as police investigation is not to the mark. So also ten years experience for special public

---


prosecutor is not also sufficient. There should be change in it to improve the standard of conduction of prosecution side.

4) Bar council of India has framed certain rules so as to regulate the behaving an advocate so also a prosecutor befitting to his profession. However, the present State or affair is very poor. Some of the advocate or an advocate turns to be a prosecutor. Before starting his work not making any efforts to read the rules. Moreover, middle class families generally settled in this profession. Therefore their behaviour is not to the satisfaction of this profession.

Moreover, they have no good command over the language and good power of expression. Good common sense good knowledge of law and presence of mind. They do not try to acquire good quality. Therefore, they cannot be a master of facts, and bring even proper evidence on record. He must be ready with latest case laws and presidents ready before arguing his case and also to study the authorities that his adversaries are likely to cite as per the nature of the case.

5) There should be refresher course of training to the prosecutors. They needed training as they have to context variety of cases.

6) There should be one prosecutor for one Court. In present position prosecutor has to conduct case in 2 or 3 Courts allotted to him. He cannot pay attention to the cases of complicated nature and accused will get wrongful gain of acquittal. It is expected that prosecutor must do meritorious work. That is lacking.

7) Prosecution witnesses have not given proper diet money. No sitting and drinking water arrangement for them. The case has been adjourned, for no valid and solid reason and cause, harassment to witnesses must be deprecated. Engagement of an advocate in another matter cannot be ground to grant or adjournment held in Amrutblai L. Patel Vs State of Gujrat360. Besides, witness should not be harassed by the Court staff.

Witnesses are giving public service to criminal justice. He is entitled to receive all respect and protection held in Haribabu V/s State of Uttar Pradesh\textsuperscript{361}

8) Proper training to the prosecutors is needed and it must be started taking into consideration not to be the jumble of work in Court. Moreover to show proper and latest case laws on relevant point before the Court. Many citations on one point create bad impression. He should read the case well in advance. Over ruled and dissented cases must be verified.

9) Non-providing of police constable to help the witness and prosecutors to sort out to daily cases of evidence in Court for day-to-day work. So that before prosecutor going to conduct the case, he can read it at home and can sort out required material and can instruct the witnesses if they so in need.

10) Law journals and law books have not been provided to prosecutor by the department.

11) There is no provision in the Code of Criminal Procedure that prosecutor can instruct the witness as witness came to adduce evidence in the same case after long laps of time i.e. after 3 to 4 years. Unless instructed, suitable reply cannot be expected from him in cross-examination. Memory may not support him.

12) Prosecutor has no separate individual office in Court Campus. Therefore witnesses feel isolated and meritorious work cannot be performed by him.

13) Generally Court under estimate the prosecutor before defence counsel must be deprecated.

14) There is no special post of Law Officer in police department for investigating agency. So that they can come across latest changes in law and can improve the investigation.

\textsuperscript{361} 2002 Criminal Law Journal, P. 2213
15) Strike of the lawyers must be condemned.

16) The disciplinary jurisdiction shall be taken away from High Court and vested under the Bar Council of the State

17) Some prosecutors are not making efforts to understand the nature of the Judge/Magistrate and his mode of appreciation of evidence. Some are lacking to win the confidence of the Magistrate. Tactics in Court are playing important role. It saves the prosecutor from quarrel with the Court. Prosecutor should not loose temper over the trifle.

All these above difficulties arise at the time of conduction of the case point of view, which reflects the behaviour of the prosecutor. If above difficulties are not solved, it naturally affect the Judicial work as the knowledge of prosecutor fall short in comparison with defence senior counsel.

Therefore, it is necessary for the regulation of the conduct of an advocate, so also for the prosecutors. If above difficulties will be solved after that it will be easier to work for prosecutor.

Conclusion

In summing up of chapter No.7 it can be observed that what sort of professional standard has to be maintained by the Prosecutor while appearing in the Court when conducting the cases. In general professional standard has to be maintained by the Prosecutor while working before the Court so as to run the Court work smoothly. Prosecutor has to work before the Court in dignified manner. Moreover 21 necessary characteristics are mentioned in this chapter e.g. to study the case carefully, take the evidence of the witness which is necessary, not to waste the time of Court by repetition of the evidence. Do not bluff the Court, stick up the original versions, avoid evidenced of objections, speak carefully and clearly etc. So also Prosecutor owe some duty to the Court, Prosecutor should not be quarrel on silly point with the Court and with the defence counsel.
The maintain decorum before the Court Prosecutor some duties to the Court, towards the witnesses, duty towards opponent, duty towards colleague and in the last Prosecutor has to bring truth before the Court. Light has been thrown on the legal law education and how it is defective. Moreover, for improvement in investigation there is a special post of law officer in police department is necessary. So also as judges have a training centre, Prosecutors should have a training centre to improve the work while conducting the cases and handle the cases more efficiently by observing all the norms prescribed by the Bar Council of India and Maharashtra.