“I would like that to be known; these facts are in the summary which I think is a very good one”

Johns Sherman Cooper

Chapter Seven
SUMMARY AND CONCLUSION

7.0.0. INTRODUCTION

The present study “An examination of access to justice – A Study of Acquitted Murder Cases in Three Districts Tirunelveli, Tuticorin and Kanyakumari” is a Qualitative study. It is from the indirect victims’ perspective that the acquittals in the murder cases in the three districts of Tirunelveli, Tuticorin and Kanyakumari between 1995 and 2010 are studied and analyzed, to suggest possible ways to improve rendering of justice to such victims. The investigation can be improved to ensure conviction, which in turn would help, rather satisfy the indirect victim directly.

7.1.0. NEED FOR THE STUDY

The U.N Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985 classifies the rights of victims into four categories. This U.N. Declaration is the first major effort by the United Nations to spell out specifically the rights of victims of crime and abuse of power and obligation of the Nations and Governments to protect and ensure these rights. The rights of the victims have been classified and brought under four specific heads as follows under the Declaration.

The first category of rights is the ‘Access to Justice and Fair Treatment’. According to this category of rights, victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided by the national legislation, for the harm that they have suffered. Judicial and administrative mechanisms should be established and strengthened where necessary, to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims should be informed of their rights in seeking redress through such mechanisms. The
responsiveness of judicial and administrative processes to the needs of victims should be facilitated by a few mechanisms.

The mechanisms are: 1) informing victims of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved and where they have requested such information. 2) Allowing the views and concerns of victims to be presented and considered at the appropriate stage of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national Criminal Justice System. 3) Providing proper assistance to victims throughout the legal process. 4) Taking measures to minimize inconvenience to victims to protect their privacy when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf from intimidation and retaliation. 5) Taking steps to avoid unnecessary delay in the disposition of cases and the execution of orders or decrees granting awards to victims. 6) Instituting informal mechanisms for the resolution of disputes including mediation, arbitration and customary justice or indigenous practices. These should be utilized where appropriate, to facilitate conciliation and redress for victims (Compendium of U.N.1992).

A Roman doctrine states, “it is better to let the crime of a guilty person go unpunished than to condemn the innocent.” In simple terms it means that it is worse to convict innocent people than to acquit guilty. In the US Supreme court case from 1895, Coffin Vs U.S, Justice White interpreted this doctrine and opined that it was wrong to morally compare two phenomena presupposing that such a thing is possible with respect to some common moral standard. It would be grossly inadequate to quantify certain conceptions of criminal justice and state that it is better to reduce the number of false convictions rather than to reduce the number of false acquittals. Despite the lack of sound rationale as evidenced by Justice White’s arguments, many Criminal Justice Systems including the Indian Criminal Justice System continue to believe that the Roman doctrine is sound and follow the adversarial system.

In an essay that analyzes this doctrine, Vidar Halvorsen provides a perfect analogy in statistics wherein the false conviction is analogous to Type 1 error or the
error of accepting a false theory, and false acquittals are analogous to Type 2 error or the error of rejecting a true theory. Any attempt to reduce Type 1 error increases the probability of Type 2 error. Accordingly, an attempt to reduce the number of false convictions by raising the threshold of evidentiary support for any conviction is likely to increase the number of false acquittals. The Criminal Procedure Code 235 (1) stresses that the threshold of evidence be raised beyond reasonable doubt so as to reduce the risk of faulty convictions. By raising the standard of proof, more criminals (murderers) are likely to be acquitted, weakening the deterrent impact of the Criminal Justice System and thus increasing the by-acts of crime like murder. On this basis, the researcher has probed the reasons for acquittal of murder cases in the three southern districts of Tamil Nadu in a specific span of time.

The current study is part of this analysis and is restricted to the districts of Tirunelveli, Tuticorin and Kanyakumari. Issues that this researcher attempts to examine are:

1. Whether to formulate the major reasons of acquittals in each examined murder cases in Tirunelveli, Tuticorin and Kanyakumari Districts?
2. Is there any difference between the demographic variables with regard to the reasons for acquittal of the accused and the direct victims of examined murder cases of Tirunelveli, Tuticorin and Kanyakumari District?
3. Is there any association between the demographic variables with regard to the reasons for acquittal of the accused and the direct victims of examined murder cases of Tirunelveli, Tuticorin and Kanyakumari District?
4. Is there any correlation between the different reasons for acquittal in Tirunelveli, Tuticorin and Kanyakumari districts?

7.2.0. STATEMENT OF THE PROBLEM

To pursue the study, “An examination of access to justice – A Study of Acquitted Murder Cases in Three Districts Tirunelveli, Tuticorin and Kanyakumari”, available indirect victims were personally interviewed, besides examining and analyzing the judgment copies of the acquitted murder cases. Culling out the reasons
for acquittals of those cases in Tirunelveli, Tuticorin and Kanyakumari districts in Tamil Nadu is the scope of the thesis.

7.3.0. OPERATIONAL DEFINITIONS OF THE TERMS USED

EXAMINATION OF ACCESS TO JUSTICE

For the purpose of the study it was assumed that the indirect victims are denied access to justice when the examined murder cases are acquitted. Victims of criminal offences often face significant barriers when seeking to access justice. Victims may face long delays, prohibitive costs, and insufficient enforcement of laws and lack of available, affordable and trustworthy legal representation. The indirect victims in this study found it extremely difficult to access justice. The judgment copies of acquitted murder cases were examined, as when a case is acquitted naturally and obviously the indirect victims (kith and kin of the deceased) are denied justice.

VICTIMS

Victims are those killed and tortured, those bereaved and maimed, those assaulted and raped, those injured in battle and by mines, those abducted and detained, the banned and the homeless, those intimidated and humiliated. In this study victims are those who are killed and bereaved.

DIRECT VICTIMS

Direct victims are those who have suffered the direct effects of violence and have been killed. Direct victims are the base of indirect victims. In this study the investigator has analyzed only the indirect victims.

INDIRECT VICTIMS

Indirect victims are those who are linked to direct victims in such a way that they too suffer because of that link. Indirect victims are the family members of a direct victim. Relatives often experience extreme hardship and pain because of the killing of a family member, through serious socio-economic deprivation, bereavement, the loss of the breadwinner, missed educational opportunities, family breakdown, police intimidation or humiliation.
ACQUITALS

Acquittals of examined murder cases that took place in a given period of time, 1995 to 2010 in the three districts of Tirunelveli, Tuticorin and Kanyakumari.

Acquittal means that a person is not guilty of whatever crimes he has been accused of. It is a setting free from the charge of an offence by verdict, sentence, or other legal process even though he has done the crime. An acquittal is one of the two possible verdicts in a criminal court case.

MURDER

It is defined in 300 IPC that except in the cases, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death.

If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused.

If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death.

If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid. (Indian Penal Code, 1862).

In 302 IPC, punishment for murder is stated, that whoever commits murder shall be punished with death or imprisonment for life and shall also be liable to fine. (Indian Penal Code, 1862).

Examined Murder Cases

Murder cases that took place in a given period of time, to say, 1995 to 2010 in the three districts of Tirunelveli, Tuticorin and Kanyakumari, due to various reasons such as family disputes, caste and communal clashes, sudden provocation and wreaking vengeance.

7.4.0. OBJECTIVES

1. To study the demographic variables of the accused and the direct victims of the examined murder cases of Tirunelveli district.
2. To study the demographic variables of the accused and the direct victims of the examined murder cases of Tuticorin district.

3. To study the demographic variables of the accused and the direct victims of the examined murder cases of Kanyakumari district.

4. To study in depth the content of the judgment copies of the examined murder cases in Tirunelveli, Tuticorin and Kanyakumari districts with respect to the credence given to Mens-rea (Intention-Motive) preparation, attempt and commission of the crime while pronouncing the judgment.

5. To identify the paucity in access to justice for the available indirect victims of crime on the basis of the analysis of reasons for acquittals.

6. To formulate the major reasons that led to acquittals in the examined murder cases in Tirunelveli, Tuticorin and Kanyakumari districts.

7. To find out the correlation between the different reasons for acquittal in Tirunelveli, Tuticorin and Kanyakumari districts.

8. To find out the association between the demographic variables with regard to the reasons for acquittal of the accused and the direct victims of examined murder cases of Tirunelveli district.

9. To find out the association between the demographic variables with regard to the reasons for acquittal of the accused and the direct victims of examined murder cases of Tuticorin District.

10. To find out the association between the demographic variables with regard to the reasons for acquittal of the accused and the direct victims of examined murder cases of Kanyakumari District.

11. To find out the difference between the mean ranks of the reasons for acquittal of Tirunelveli, Tuticorin and Kanyakumari Districts.

12. To find out the difference between the demographic variables with regard to the reasons for acquittal of the accused and the direct victims of examined murder cases of Tirunelveli District.
13. To find out the difference between the demographic variables with regard to the reasons for acquittal of the accused and the direct victims of examined murder cases of Tuticorin District.

14. To find out the difference between the demographic variables with regard to the reasons for acquittal of the accused and the direct victims of examined murder cases of Kanyakumari District.

7.5.0 HYPOTHESES

1. There is a significant association between the demographic variables with regard to the reasons for acquittal of the accused of the examined murder cases of Tirunelveli district.

2. There is a significant association between the demographic variables with regard to the reasons for acquittal related to the direct victims of the examined murder cases of Tirunelveli district.

3. There is a significant association between the demographic variables with regard to the reasons for acquittal of the accused of the examined murder cases of Tuticorin district.

4. There is a significant association between the demographic variables with regard to the reasons for acquittal related to the direct victims of Tuticorin district.

5. There is a significant association between the demographic variables with regard to the reasons for acquittal of the accused of the examined murder cases of Kanyakumari district.

6. There is a significant association between the demographic variables with regard to the reasons for acquittal related to the direct victims of Kanyakumari district.

7. There is a significant difference between the mean ranks of the reasons for acquittal of the examined murder cases of Tirunelveli, Tuticorin and Kanyakumari districts.
8. There is a significant difference between the demographic variables with regard to the reasons for acquittal of the accused of examined murder cases of Tirunelveli district.

9. There is a significant difference between the demographic variables with regard to the reasons for acquittal related to the direct victims of Tirunelveli district.

10. There is a significant difference between the demographic variables with regard to the reasons for acquittal of the accused of examined murder cases of Tuticorin district.

11. There is a significant difference between the demographic variables with regard to the reasons for acquittal related to the direct victims of Tuticorin district.

12. There is a significant difference between the demographic variables with regard to the reasons for acquittal of the accused of examined murder cases of Kanyakumari district.

13. There is a significant difference between the demographic variables with regard to the reasons for acquittal related to the direct victims of Kanyakumari district.

7.6.0. SUMMARY OF FINDINGS

MAJOR FINDINGS

7.6.1. Objective One

Frequency of the accused and direct victims of the examined murder cases in Tirunelveli District

1a. Mean, median, mode and standard deviation for the demographic variables of the accused of the examined murder cases of Tirunelveli district with regard to age is 1.00, 1.00, 1 and .000 respectively. Mean, median, mode and standard deviation for the demographic variables of the accused of the examined murder cases of Tirunelveli district with regard to caste is 33.87, 32.00, 32 and 8.157 respectively. Mean, median, mode and standard deviation for the demographic variables of the accused of the examined murder cases of Tirunelveli district with regard to religion is 2.73, 3.00, 3
and .683 respectively. Mean, median, mode and standard deviation for the demographic variables of the accused of the examined murder cases of Tirunelveli district with regard to occupation is 1.07, 1.00, 1 and .302 respectively.

2a. The frequency of the accused of the examined murder cases with regard to age in Tirunelveli district shows that 35% of the homicide acquittals between 20-30, 49% between 30-40, 7% between 40-50, No acquittals is found between 50-60 years and 1% is found in between 60-70 years.

3a. The frequency of the accused of the examined murder cases with regard to caste in Tirunelveli district shows that 40.5% of the homicide acquittals were from Backward Caste, 46.4% acquittals were from the Most Backward Caste and 13.1% were from Schedule Caste and Schedule Tribe.

4a. The frequency of accused of the examined murder cases with regard to religion in Tirunelveli district shows that 94.0% of the homicide acquittals were Hindus, 4.8% of the acquittals were Christian and 1.2% of them were Muslims.

5a. The frequency of the accused of the examined murder cases with regard to occupation in Tirunelveli district shows that 2.4% of the homicide acquittals were unemployed, 48.4% of them were laborers, 2.4% were doing small business, 34.5% of the acquittals were from agriculture as occupation, 1.2% were land owners, TASMAC salesman and students.

6a. The frequency of the victims with regard to age in Tirunelveli district shows that 30.2% of the direct victims of Tirunelveli district are between 20 and 30 years, 36.3% of the direct victims are between 30-40 years old, 5% of the direct victims are between 40-50 years and 7% is in between 50-60 years.

7a. The frequency of the direct victims with regard to caste in Tirunelveli district shows that 45% of the direct victims are from the backward caste, 35% from the most backward class and 15% from the scheduled caste and tribe.

8a. The frequency of the direct victims with regard to religion in Tirunelveli district shows that 94% of the direct victims were Hindus and 6% of them are Christians and no Muslims were in the indirect victim category.
9a. The frequency of the direct victims with regard to occupation in Tirunelveli district shows 1.2% of the direct victims are drivers, 8.3% of them are unemployed, 1.2% of them are children, 44% falls in the category of labourers, 14.3% are housewives, 28.6% agriculturists and 1.2% of them TASMAC salesman and students.

7.6.2. Objective Two

**Frequency of the accused and direct victims of the examined murder cases in Tuticorin District**

1b. Mean, median, mode and standard deviation for the demographic variables of the accused and available indirect victims of the examined murder cases in Tuticorin district with regard to age are 36.24, 35.00, 30 and 6.682 respectively. Mean, median, mode and standard deviation for the reasons for acquittals with regard to caste is 2.29, 2.00, 2 and .584 respectively. Mean, median, mode and standard deviation for the reasons for acquittals with regard to religion is 1.16, 1.00, 1 and .413 respectively. Mean, median, mode and standard deviation for the reasons for acquittals with regard to occupation is 36.24, 35.00, 30 and 6.682 respectively.

2b. The frequency of the accused of the examined murder cases with regard to age in Tuticorin district shows that 39% of the homicide acquittals were between the age group of 20-30 years, 47% were between 30-40 years, 32% were between 40-50 years, no acquittal is found between 50-60 age category and between 60-70 age category.

3b. The frequency of the accused of the examined murder cases with regard to caste in Tuticorin district shows that 77.4% of the homicide acquittals are from backward caste, 16.1% acquittals are from the most backward caste and 6.5% are from scheduled caste and scheduled tribe.

4b. The frequency of accused of the examined murder cases with regard to religion in Tuticorin district shows that 85.5% of the acquitted are Hindus, 12.9% of the acquitted are Christian and 1.6% of them are Muslims.

5b. The frequency of the accused of the examined murder cases with regard to occupation in Tuticorin district shows that 58.1% of the acquitted are of the labour
category, 6.5% are doing small businesses, 1.6% comes under category of housewife, and 33.9% of the acquitted are from agricultural background.

6b. The frequency of the direct victims with regard to age in Tuticorin district shows that 26% of the direct victims are between 20-30 years, 58.2% of the direct victims are between 30-40 years, 7% of the direct victims are from 40-50 years and 7% between 50-60 years old and 1% between 60-70 years.

7b. The frequency of the direct victims with regard to caste in Tuticorin district shows that 1.6% of the direct victims belong to other caste, 77.4% of the direct victims are from the backward caste, and 12.9% most backward class and 8.1% scheduled caste and tribe.

8b. The frequency of the direct victims with regard to religion in Tuticorin district shows that 90.3% victims are Hindus and 8.1% are Christians and 1.6% Muslims.

9b. The frequency of the direct victims with regard to occupation in Tuticorin district shows 1.6% of the victims are drivers, 1.6% of them unemployed, 1.6% are children, 1.6% working as teachers, 1.6% politicians, 50% are labourers, 8.1% are doing small scale business, 8.1% housewives, 24.2% agriculturists and 1.6% students.

7.6.3. Objective Three

Frequency of the accused and direct victims of the examined murder cases in Kanyakumari District

1c. Mean, median, mode and standard deviation for the demographic variables of the accused and direct victims of the examined murder cases in Kanyakumari district with regard to the age are 43.33, 44.00, 38 and 6.676 respectively. Mean, median, mode and standard deviation for the reasons for acquittals with regard to caste is 2.63, 2.00, 2 and .964 respectively. Mean, median, mode and standard deviation for the reasons for acquittals with regard to religion is 1.50, 1.00, 1 and .630 respectively. Mean, median, mode and standard deviation for the reasons for acquittals with regard to occupation is 0.00.
2c. The frequency of the accused of the examined murder cases with regard to age in Kanyakumari district shows that 44% of the homicide acquittals are between 30-40 years, 48% are between 40-50 years, 19% are between 50-60 years, no acquittal is found between 50-60 years and between 60-70 years old.

3c. The frequency of the accused of the examined murder cases with regard to caste in Kanyakumari district shows that 3.3% belong to other caste, 60.0% of the homicide acquittals from backward caste, 6.7% acquittals are from the most backward caste and 30.0% are from schedule caste and schedule tribe.

4c. The frequency of the accused of the examined murder cases with regard to religion in Kanyakumari district shows that 56.7% accused are Hindus, 36.7% are Christian and 6.7% are Muslims.

5c. The frequency of the accused of the examined murder cases with regard to occupation in Kanyakumari district shows that 6.7% of the acquitted are drivers, 3.3% are petty thieves, 3.3% are doing illegal liquor business, 46.7% are laborers, 6.7% are doing small business, 26.7% are fisherman and 6.7% are housewives.

6c. The frequency of the direct victims with regard to age in Kanyakumari district shows that 11% of the victims of Kanyakumari district are in between 20-30 years, 33.4% of the victims are between 30-40 years, 42.5% victims are 40-50 years and 18% 50-60 years.

7c. The frequency of the direct victims with regard to caste in Kanyakumari district shows that 6.7% of the victims belong to other caste, 53.3% backward caste, and 10.0% most backward class and 30.0% from the scheduled caste and tribe.

8c. The frequency of the direct victims with regard to religion in Kanyakumari district shows that that 60.0 % of the victims are Hindus and 30.0 % of them are Christians and 6.7 % are Muslims.

9c. The frequency of the direct victims with regard to occupation in Kanyakumari district shows that 3.3% are Indian medicine practitioners, 3.3 are petty thieves, 3.3% are in the illegal liquor business, 50.0% are working as laborers, 23.3% fishermen, 10.0% housewives and 6.7% students.
7.6.4. **Objective Four**

The investigator analyzed in depth the content of the judgment of each case in Tirunelveli, Tuticorin and Kanyakumari district with respect to the credence given to *Mens-rea*, preparation, attempt and act of the crime while pronouncing the judgment and formulated **forty-four reasons as reasons for acquittal** which are detailed below:

1. Key witnesses turning hostile
2. Lack of eye witnesses
3. Non-refreshing of witnesses
4. Contradictions in First Information Report
5. Contradictions in the witnesses’ statements
6. Failure to explain overt acts
7. Fear of Retaliation – key witnesses
8. Authentication of complaints (dual complaints)
9. Failure to examine independent and neighboring witnesses
10. Failure to establish motive
11. Failure / delay in preparing Rough Sketch
12. Failure to seize relevant material evidence from the SOC
13. Failure to send seized materials for chemical examination
14. Failure to mark all material evidences before the court
15. Failure to file original documents before the court
16. Failure to connect the weapon of offence and the accused
17. Failure to connect the accused with the crime
18. Non-examination of connecting witnesses
19. Medico-legal flaws
20. Non-tallying of the injuries with the medical officer’s version
21. Weapon not matching with the injury
22. Delay in lodging FIR
23. Delay in sending the FIR to the court
24. Delay in sending other documents / statements of witnesses to the court
25. Failure to obtain 164 Cr.P.C. statements corroborating 161 (3) Cr.P.C. statement
26. Improper Test Identification Parade
27. Failure to summon Magistrate to depose (TI Parade/ 164 Cr.P.C.,)
28. VAO preferring FIR complaint – failure to adopt procedure
29. Extra Judicial Confession – non-maintenance of records
30. Obtaining EJC after commencement of investigation
31. Flaw in filing the finger print examination report
32. Confession not observing sec.24 IEA
33. Failure to examine scientific Aid Witness – Photographer
34. Failure to use scientific Aid to investigation
35. Utilization of the dog squad / failing to submit report
36. Unrealistic way of investigating cases
37. Improper inquest report
38. Stereotype witnesses
39. Hypothetical statement
40. Apt and Prompt perseverance
41. Table investigation
42. Lack of knowledge of Police Officers / Not refreshing before deposition
43. Failure to maintain co-ordination with the judiciary and Medical Officer
44. Failure of the prosecution in explaining the lapses
Reasons for acquittal of case be divided into three

A) Poor usage of forensic evidence
- Failure to seize relevant material evidence from SOC
- Failure to examine scientific Aid witness (eg. Photographer)
- Failure to use Scientific Aid
- Not using dog squad/failing to submit report in the court
- Failure to maintain co-ordination with judiciary and medical officers

B) Shoddy investigation
- Non refreshing of witnesses
- Contradictions in FIR + 161 (3) witnesses
- Failure to explain overt act
- Authentication of complaints (dual complaints)
- Failure to examine independent & neighboring witness
- Failure/delay in to prepare flawless rough sketch of SOC
- Failure to send seized materials for chemical examination
- Failure to file original documents before the court
- Non examination of connecting witnesses (circumstantial)
- Non-tallying of injuries with medical officer’s version
- Weapon not matching with the injuries (Lathi - Aruval)
- Delay in sending FIR to the court
- Delay in sending other documents/ statements to the court
- Failure to obtain 164 CrPC statement corroborating 161 (3) statements
- Improper Test Identification Parade
- Non summoning of the magistrate to depose (TIP/164 CrPC)
- VAO preferring FIR complaint- failure to adopt procedure
- Obtaining EJC – after commence of investigation
- Flaw in filing finger print report
- Improper inquest report & Usage of stock witnesses
- Stereotype witnesses & Hypothetical statements
- Apt & prompt persuasion & Table investigation
- Failure of prosecution in explaining the lapses (eg. FIR delay)

C) Delay / failure to identify the Suspect / Criminal
- Insufficient evidence
- Delay in preparing flawless rough sketch of SOC
- Lack of eye witnesses
- Non-establishment of motive
- Failure to mark all the material evidences before the court
- Failure to connect the weapon of offence and the accused
- Failure to connect the accused with the crime
- Medico legal flaws (eg. Time of death)
- Failure to explain overt act
- Delay in sending other documents/ statements to the court
- Failure to obtain 164 CrPC statement corroborating 161 (3) statements
- Improper Test Identification Parade
- Non summoning of the magistrate to depose (TIP/164 CrPC)
- VAO preferring FIR complaint- failure to adopt procedure
- Obtaining EJC – after commence of investigation
- Flaw in filing finger print report
- Improper inquest report & Usage of stock witnesses
- Stereotype witnesses & Hypothetical statements
- Apt & prompt persuasion & Table investigation
- Failure of prosecution in explaining the lapses (eg. FIR delay)

D) Insufficient Evidence
- Insignificant percentage
- Lack of eye witnesses
- Non-establishment of motive
- Failure to mark all the material evidences before the court
- Failure to connect the weapon of offence and the accused
- Failure to connect the accused with the crime
- Medico legal flaws (eg. Time of death)
- EJC- non maintenance of records by VAO
- Unrealistic way of investigating case
- Lack of knowledge of Police officers/ Depose before court/ Not preparing before deposition

Figure: 7.1 Diagrammatic Representation of the different Reasons for Acquittal
Reason for acquittal of case be divided into three
7.6.5. Objective Five

CASE STUDY

Tirunelveli

A case analysed in Tirunelveli district - flaws

1. The prosecution had failed to connect the crime with the criminal through an appropriate witness.

2. The prime fact, the victim was last seen in the company of the accused was not brought out through any of the witnesses.

3. Witness no 4 or 5, who saw the accused taking the victim in his bi-cycle could have been cited as eye witnesses to connect the crime with the criminal.

4. The investigation had failed to connect the missing links of evidences, leaving the court to decide in favour of the accused.

Tuticorin

A case analysed in Tuticorin district - flaws

1. The credibility of the eye witnesses was suspected in this case as the trace evidences on the witnesses were not collected.

2. The contradictory statements of the witnesses in the chief and cross examination clearly indicate the failure on the part of the prosecution to refresh the memory of the witnesses.

3. Non production of the reports of the fingerprint expert in the court is another lacuna in this case.

4. The addition and deletion of the number of accused in the Final Report was not properly accounted through a special report to the court.

5. Through the deposition of the witnesses the court presumed that this FIR was a post investigative FIR.

6. The confession statements were not recorded before appropriate witnesses. In this case, the prosecution had failed to collect material evidence, refresh the memory of the witnesses, produce documentary evidence in the court, failed to explain addition and deletion of accused in the final report.
Kanyakumari

A case analysed in Kanyakumari district - flaws

1. The prosecution had failed to mark the exact place of occurrence.
2. The prosecution had failed to refresh the memory of the witnesses regarding the hurling of bombs during the group clash.
3. The prosecution had failed to enquire the witnesses in the case in counter simultaneously.
4. The occurrence took place on the sea shore in the group clash; but in over enthusiasm, the police fixed it in a coconut grove.
5. Delayed registration of the case, delay in sending the FIR to the court and etc facts had badly affected the case.
6. The reason for delay in commencing investigation of the case in counter was not rightly accounted for in the deposition of the IO.

7.6.6. Objective six

The investigator formulated the major reasons by studying each secondary data in depth in Tirunelveli, Tuticorin and Kanyakumari districts. Correlation matrix (mentioned below) revealed that there was no relationship between the different variables. Therefore the investigator proceeded to group the reasons into categories on the basis of discussion with the professionals, experienced police officials, judiciary, researcher’s focus group discussions, expert opinions and the guide. The investigator gathered the evidence, analyzed and sequenced six reasons for acquittal which is detailed as follows.

1. Imperfect Investigation
2. Failure to Produce Experts Opinion
3. Inordinate delay in launching prosecution
4. Entire burden lies on the prosecution
5. Lack of knowledge of trend
6. Violation of natural justice
7.6.7. Objective Seven

The correlation matrix found that the reasons for acquittal like non-refreshing of witnesses, failure/delay in preparing rough sketch of the SOC, medico legal flaws (Time of death), delay in sending other documents/statements to the court, in Extra Judicial Confession non maintenance of records by VAO, Obtaining EJC – after commencement of investigation, failure to examine scientific aid witness (Photographer), Hypothetical statements, Lack of knowledge of police officers not preparing before deposition and failure of prosecution in explaining the lapses (FIR delay) show positive correlation.

Correlation matrix for the forty-four reasons reveals that there was no relationship between the different variables. Hence, it means that each variable is distinct and all the variables together constitute the universe of reasons for acquittal for the population taken up for the study.

7.6.8. HYPOTHESES TESTING

MAJOR FINDINGS

H1: There is no significant association for the Reasons for Acquittal with regard to the demographic variables of the accused of the examined murder cases of Tirunelveli District.

H2: There is no significant association for the Reasons for Acquittal with regard to the demographic variables related to the direct victims of Tirunelveli District.

H3: There is no significant association for the Reasons for Acquittal with regard to the demographic variables of the accused of the examined murder cases of Tuticorin District.

H4: There is no significant association for the Reasons for Acquittal with regard to caste and religion related to the direct victims of Tuticorin District.

H5: There is no significant association for the Reasons for Acquittal with regard to the demographic variables of the accused of the examined murder cases Kanyakumari District.

H6: There is no significant association for the Reasons for Acquittal with regard to the demographic variables related to the direct victims of Kanyakumari District.
H7: There is a significant difference between the mean ranks of the reasons for acquittal of the examined murder cases of Tirunelveli, Tuticorin and Kanyakumari Districts.

H8: There is no significant difference between the Reasons for Acquittal and the demographic variables of the accused of the examined murder cases of Tirunelveli District.

H9: There is no significant difference between the Reasons for Acquittal and the demographic variable related to the direct victims of Tirunelveli District.

H10: There is no significant difference between the Reasons for Acquittal and the demographic variables of the accused of the examined murder cases of Tuticorin District.

H11: There is no significant difference between the Reasons for Acquittal and the demographic variable related to the direct victims of Tuticorin District.

H12: There is no significant difference between the Reasons for Acquittal and the demographic variable of the accused of the examined murder cases of Kanyakumari District.

H13: There is no significant difference between the Reasons for Acquittal and the demographic variable related to the direct victims of Kanyakumari District.

7.7.0. LIMITATIONS OF THE STUDY

- The study was limited only to the judgment copies of murder case acquittals during the period, from 1995 to 2010.

- Limited number of indirect victims was taken as samples due to various impediments like caste and communal dispute, brewing enmity with the offenders family, post traumatic stress disorder, social stigma, wreaking vengeance, fear of retaliation and most of the indirect victims have shifted their residences on account of change of vocation, occupation, matrimonial / and maternal houses.

- The secondary data was collected only from three districts of Tamil Nadu like Tirunelveli, Tuticorin and Kanyakumari Districts.
The sample was limited to only seventy in Tirunelveli, sixty two in Tuticorin and thirty in Kanyakumari Districts.

A 360 degree probe on the secondary data like the study on present victim status, social acceptance on the victim would have been ideal to judge the actual distribution of justice.

Due to time constraint only 5% of the judgment copies were taken as samples and the results obtained.

The limited number of victims contacted were hesitant to divulge their experience, talk about their feelings and access to justice and problems faced during the case trials.

Some of the case files had little details about the victims, including their names and basic information.

Procuring the judgment copies – case files - was a laborious process.

7.8.0. RECOMMENDATIONS OF THE RESEARCHER

The investigator suggests the following recommendations in the light of the research findings.

7.8.1. To the Prosecution:-

- Prompt and proper registration and investigation of the cases before the material evidences are destroyed.

- The investigating agency should make it a point to examine the neighbouring witnesses as the legal maxim says, “Lax imdendit vicinum vicinin fecta scire”, which means the law presumes that one neighbor knows the act of another.

- Submission of the final report u/s 173 Cr.P.C. within the prescribed time frame.

- The Police department may have an exclusive wing for the investigation of homicide cases as in the case of western countries, which should be given additional training during the basic training. Selected personnel should be given the option of joining this wing as in the case of Andhra Pradesh, which selects police officers for intelligence work.
Emphasis should be given to the scientific method of investigation as in the case of European countries rather than relying upon the traditional methods. The criminals have adapted to modern techniques and possess modern equipment. The investigating team should be adequately equipped, which should be replaced from time to time.

Investigation charges should be disbursed at the earliest when claimed.

Production of witnesses and execution of non-bailable warrants to be done promptly.

7.8.2. To the Judiciary

- The cases brought to the court by the prosecution side may be taken on file at the earliest and charges framed.
- Frequent adjournments should be avoided.
- The court boycotts should not affect the disposal of the case.
- The working hours of the court, vacations may be reconsidered.
- As the legal maxim says, “Judicia est Judicare secundum allegata at probala”, which means it is the duty of the judge to decide according the nature of allegation and the proof. So while delivering judgment, the merits of the case, the reliability of the deposition too should be taken into consideration.
- Victim compensation should be made mandatory in tune with Cr.P.C. 357,358 and 359.
- The police, prosecution and the Judiciary has to be sensitized on the victims’ plight and need for support.
- Victims should be given fair treatment, both at the investigation stage and the trial stage. Instead of seeing them only as the witnesses; they should be seen as victims, who suffered harm. Utmost care should be taken to avoid subjecting them to secondary victimization during the prolonged trial.
- Delivery of the judgment to be made at the earliest as said in the legal maxim “boni Judicia est Judicium sine dilatiore nondare execution”, which means it is the duty of a good judge to cause execution to issue on a judgment without delay.
The following recommendations will help law enforcement agencies to avoid these traps:

- Ensure that investigators and their managers are aware of these problems through case study-based training (see Cory, 2001).
- Encourage an atmosphere of open inquiry, and ensure investigative managers remain impartial and neutral.
- If possible, defer reaching conclusions until sufficient data has been collected.
- Avoid tunnel vision. Consider different perspectives and encourage cross-fertilization of ideas.
- Organize brain-storming sessions and seek creativity rather than consensus.
- Ensure that investigative managers are willing to accept objections, doubts, and criticisms from team members for betterment of the investigation and speedy disposal of the case.
- Encourage investigators to express alternative, even unpopular, points of view. Assign the role of devil’s advocate to a strong team member.
- Consider using subgroups for different tasks and facilitate parallel but independent decision-making.
- Consider using motivation to do the best i.e., by rewarding the investigating officers on a successful prosecution.
- Recognize and delineate assumptions, inference chains, and points of uncertainty. Always ask, “How do we know what we think we know?”
- When appropriate, obtain expert opinions and external reviews, and give them proper consideration.
- Conduct routine systematic debriefings after major crime investigations. Organize a full-scale “autopsy” after an investigative failure.
- Encourage and facilitate research into criminal investigation failures and how they might be prevented (see Stelfox & Pease, 2005).
- Establish and fund, through legislative action, a crime victims’ rights ombudsman to:
  a) Investigate claims that an entity has violated a crime victim’s rights.
b) Document findings in a report to the subject entity and the victim. In cases in which rights are violated, the report will include recommendations to correct errors and improve responses to victims. Recommended remedies may include development of policies and procedures and other measures necessary to prevent future violations.

c) When necessary and appropriate, in cases in which a victim’s rights have been violated, bring complaints to the entity responsible for those violating or issue public reprimands for rights violations.

d) Ensure ombudsman immunity.

- Establish and fund a universally accessible statewide automated victim information notification system for statutorily required victim notification, through a commercial off-the-shelf solution, to significantly improve victim notification.

- Conduct a comprehensive, statewide needs assessment to document crime victims’ rights violations and to further assess the experiences of crime victims’ interactions with the criminal justice system and service providers.

- Request all criminal justice programs in institutions of higher learning and criminal law and criminal procedure classes in law schools to include education about crime victims’ constitutional and statutory rights.

- Request the court to: A) create a rule of criminal procedure that requires the restitution amount to appear on the Judgment and Sentence (J&S) or to explain why the restitution amount is not on the face of the order and B) create prose forms and guidelines to facilitate victim enforcement of restitution.

- Develop and implement, through continuing education programming and other professional training opportunities, standardized curricula for the judiciary, prosecutors, and law enforcement about:
  
  a. Victims’ constitutional and statutory rights.
  b. Impact of crime on victims that necessitates those rights.
c. Diversity, cultural, and orientation issues that influence how victims universally access and interact with law enforcement, the criminal justice system, and victim service providers.

➢ Tribunals need to be brought closer to the people (courts should be decentralized and made accessible to all).

➢ Mechanisms for interfacing existing laws and institutions with local community initiatives are vital (integrating community-based systems, empowering poor people, NGO or government interventions, providing education).

➢ A network of accountability mechanisms (independent and effective court systems, ombudsman systems, parliamentary committees) should be created gradually in each state.

➢ Combating corruption requires the establishment of a special network to address crimes of corruption as well as stressing the role of civil society.

➢ Judiciary must be independent (able to resist all forms of pressure) and accountable (in public and private conduct). Constitutional laws should ensure this and a ‘judicial ethos’ is to be encouraged.

➢ Legal systems must be transparent and open to media scrutiny. Journalists and media workers benefit from legal training and expertise.

➢ Communication should be in simple regional language so that the common man can understand the instructions / grand and act on their own.

7.9.0. RECOMMENDATIONS OF THE STUDY TO IMPROVE SERVICES FOR CRIME VICTIMS

➢ Develop, implement and maintain a statewide website and toll-free number as tools for crime victims to learn about victims’ rights and services.

➢ Develop and implement an ongoing, statewide media campaign to increase crime victim and public awareness of victims’ rights and services and to advertise a crime victims’ rights website and toll-free number.

➢ Prohibit the sharing of location and contact information of crime victims of enumerated crimes without the prior approval from the victim.
Provide additional funding to entities that receive state funding, including central funding managed by state agencies, to work with local community members to translate and edit outreach and awareness raising materials into languages and formats most appropriate and effective for diverse communities.

Provide funding to help agencies, both public and nonprofit, to come into compliance with the Indians with Disabilities Act to accommodate victims with disabilities.

Provide funding to state and tribal prosecutors earmarked for expert testimony in order to support victim statements and behavior.

Request ongoing training for victim service providers receiving state funding including central funding managed by state agencies about:

a) Victims’ constitutional and statutory rights.

b) Impact of crime on victims that necessitates those rights.

c) Diversity, cultural, and orientation issues that influence how victims universally access and interact with law enforcement, the criminal justice system, and victim service providers.

The adversarial system should be abolished and the system should be neutral to both victim and accused.

Awareness should be created in the society to support the law enforcers and the prosecution to establish justice.

The lost property when recovered may be handed over to the victim without much delay and through simplified procedures.

The secondary victimization in the hands of the prosecution in the form of lengthy procedure should be avoided.

7.10.0. SCOPE FOR FURTHER RESEARCH

The findings of the present study may serve as a basis for further research; a few suggestions are given below.

The study can be extended to the acquittals of all other cognizable crimes.
A study can be conducted by having primary data collected directly from the accused and victims.

A study can be conducted taking other than these factors as reasons for acquittal and access to justice.

The study can be extended to more number of districts in Tamil Nadu.

The same study can be extended to a larger population of acquittals and victims.

The study can be extended to districts of other States.

The study can be extended to find out the relationship of the accused with the victim after acquittal.

The study can be simplified by studying the acquittals of one district alone.

The study can be extended by going through the contradictions of the witnesses in the chief examinations and cross examinations during the trial.

The study can be extended in scrutinizing the reason for the witnesses turning hostile.

The study can be extended into the possible threat perception faced by the witnesses.

CONCLUSION

A surprising, salient feature emerged from the research: the most popular conception is this: the increasing number of acquittals is to be placed at the door step of the investigating agency and the judiciary. But, though unbelievable, it has come to light that it is the victims themselves who indirectly precipitate such acquittals. A close study of the 44 reasons for the acquittals, grouped into 6 categories, further put under 3 heads, suggests that the victims play a vital role. The predominant reasons for such acquittals are: a) The victim witnesses turning hostile; b) Non-examination of connecting witnesses; c) Lack of eye witnesses which result in scuttling the whole issue.

Such a finding automatically leads to the inevitable question: why are victims pushed to distance by themselves from the Criminal Justice System? The most obvious reasons are: 1) the sidelined status which makes the victim the most
dispensable element in the case; 2) the poverty that makes justice a dream; 3) the sense of fear of retaliation and intimidation from the perpetrator or the power at his / her disposal; 4) the resigned acceptance of the fact that the system is a protector of the rich and the powerful; and 5) the secondary victimization at various steps and the disillusioned conclusion that the have-nots have no say, whatsoever, in the dispensation of justice.

In the light of these findings, the need of the hour is to protect the gate-keeper of the crime. This warrants: 1) confidence-building measures, 2) providing necessary provisions to make the victim a deciding factor in trials, and 3) creating awareness about the ways and means to approach the criminal justice system, expediting the procedure so that cases are dispensed without delay.

Further research on victims can be aligned on these lines, since, in-depth studies on these aspects will go a long way in strengthening the system which should be the hope of the victim. Research findings focused on the victim can help the awareness creators and also policy makers, because from the recent Delhi student rape case one understands the impact of creating awareness. How and at what levels the awareness campaign should start can itself be a topic of research.