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The Crime & Justice Gazette

NEWSLETTER BY GNLU CENTRE FOR RESEARCH IN CRIMINAL JUSTICE SCIENCES

"I aimed at his back and pulled the trigger five times and all hell broke loose in my mind."

"I am innocent. They are killing me."

"Here came cyanide, which was used as a murder technique in this case."

"If a prosecutor gets caught cheating, he is either re-elected or elevated to the bench. Our system never holds a bad prosecutor accountable." – John Grisham

Source: Wikipedia

I will send you another bit of innerds: **Jack the Ripper, 1888**

MESSAGE FROM THE CENTRE-HEAD

On the auspicious day of Vijayadashmi, May the truth always win and good triumph over evil.

It is my utmost pleasure to write this message in the first edition of the Crime and Justice Gazette, a newsletter by the GNLU Centre for Research in Criminal Justice Sciences. It becomes more relevant today when we all celebrate the festival of truth, courage & bravery. These qualities are a must for every criminal case that is to be instituted, investigated and tried.

Our Hon'ble Director Sir, Prof Dr. S. Shanthakumar, who laid the foundation of this centre, two years before, made its mandate clear that GCRCJS should bring out study, research and training in every aspect of criminal justice and the present Newsletter, is one step ahead in the same direction.

This is the result of the hard work of our student team, which has infinite zeal and never ending motivation. I wish the team every success and also hope that this newsletter will fill the gap of information in the field of Criminal laws for its readers. My best wishes to the student convener (Nihal), who has made this newsletter a reality, to the editors, to every team member as contributors, and every reader, who will let us know improvements and enable further excellence in this endeavor.

Dr. Anjani Singh Tomar

MESSAGE FROM THE TEAM

The GNLU Centre for Research in Criminal Justice Sciences, ever since its inception, is making continuous efforts to improve the culture of Research and Analysis in the field of Criminal Law and Justice System. The Centre has seen new heights in the past three months after the new team for the Academic Year 2021-22 was constituted. In the said time, we have managed to successfully conduct one National Essay Writing Competition; a Certificate Course on Cyber Crime, Cyber Forensics and Law (in collaboration with National Forensic Sciences University, Gandhinagar and Police Academia Interactive Forum); three sessions of “Crime & Justice: A Discourse Series” on some of the pertinent topics having great contemporary relevance; several research posts for our instagram page. The centre provides a platform for a holistic research environment and aims to further knowledge and academic discussions about the multifaceted dimensions of criminal science.

GNLU Centre for Research in Criminal Justice Sciences is committed to achieving a goal of motivating law students to do research, especially in criminal law. And, for the same here we are with our first ever newsletter 'The Crime & Justice Gazette' which aims to cover contemporary developments as well as criminal law cases and events from the past.

We would like to express our heartfelt gratitude to our Hon'ble Director Sir, Prof Dr. S. Shanthakumar, for his unwavering support, as well as our Faculty Convenor, Dr. Anjani Singh Tomar, for believing in us and encouraging us to pursue our research in every possible direction.

Disclaimer

The authors' opinions expressed in the newsletter are their own, and neither GCRCJS nor GNLU is responsible for them. The case briefs solely summarise the current state of the cases' verdicts or orders, and do not cover anything with respect to future proceedings or appeals.

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PREFACE

Criminal law is a dynamic study of law that undergoes development at every curve of dawn. This newsletter attempts to encapsulate the recent advancements in criminal law through various judgements, book reviews and report analysis.

A review of the NCRB Report 2020, as well as an examination of its inadequacies has been provided by the author. The case of Dhananjoy Chaterjee, the first capital punishment case of the twenty-first century, has been given a new perspective based on newly acquired facts, followed by a critical examination of present environmental legislation in India and a suggestion to criminalize it. The gruesome case of Cynide Mohan, as well as the shocking circumstances of John Lenon's assassination, have been examined in depth. The newsletter is furthered by a discussion of the 125 years old murder mystery where the perpetrator, alias Jack the Ripper, murdered several women and we are still no closer to discovering who he was. In addition, we have a review of the Pelican Brief, a novel with heart-pounding action and suspense, written by John Grisham, well known for his acclaimed legal thrillers, followed by a crossword puzzle where you can test your grasp of criminal law concepts.

RECENT DEVELOPMENTS

Geo Varghese v. State of Rajasthan and Another (2021 SCC OnLine SC 873)

In the Supreme Court of India

A reprimand for indiscipline is not the same as abetting a "hypersensitive" student to commit suicide.

Section 306 of Indian Penal Code, 1860

The mother of a Class 9th student, who committed suicide, alleged that the PT Teacher harassed and humiliated her son in front of a crowd, causing him to refuse to attend school. The deceased had also left a note stating "Needed Justice" along with the name of the PT Teacher.

The appellant- physical trainer was a member of the Disciplinary Committee and therefore responsible for the overall discipline of the students in the school. It was alleged that the boy generally used to bunk his classes and was warned by the appellant and other school staff several times. On 25.04.2018, he was caught bunking classes again and on account of the persistent act of bunking classes, the teacher reported the same to the principal of the school, who informed the parents of the boy to come to the school.

The court held that, for the offence of abetment of suicide, there should be either direct or indirect acts of incitement to the commission of the offence of suicide. Mere allegations of harassment of the deceased by another person would not be sufficient in itself unless the allegations are of such a nature that compelled the commission of suicide.

Furthermore, the court also held that the person committing suicide was hypersensitive, and the allegations attributed to the accused i.e. reprimanding a student for his indiscipline would not have ordinarily provoked a student to commit suicide. Therefore, it is unsafe to hold the accused guilty of abetment of suicide.

Madhav v. State of Madhya Pradesh (2021 SCC OnLine SC 613)

In the Supreme Court of India

Appeal allowed and conviction under Section 302 r/w Section 34 of the Indian Penal Code 1860 against the accused set aside as the police investigation in the case was carried out under political pressure.

Section 313 of Code of Criminal Procedure, 1973
Sections 147, 148, 149, 302, 326, 450 of Indian Penal Code, 1860

The informant (A2) is the sister of Accused 3 and the wife of Accused 1. The opposite party's case alleged that all the three accused had attacked A1's brother who subsequently died. To cover the offence, A2 had taken the deceased to the hospital and gave the police false information of the crime by stating that the offence was committed by other persons, specifically Kailash and Ruia Yadav. The quarrel between A1 and the deceased prompted the three accused to attack the deceased consequently. The trial court convicted the accused under Section 302 read with Section 34 of the IPC which the HC too agreed with. The informant, unsatisfied, appealed to the SC.

Source: Bar & Bench

The SC noted that the investigation started not from the accused mentioned in the FIR rather from the informant herself and her family. Further, the admissions of the investigating officer and the testimony of the main witness were contradicting to each other as the case was turned around against the informant herself while the IO stated that the ASP himself told to implead the accused mentioned in the FIR as a witness instead of accused. This was due to the ruckus created by Yadav's community when the real culprits were arrested. Thus the Apex Court allowed the appeal and acquitted the three accused while holding that the investigation was done with *mala fide* intention only to protect the real culprits though expressly mentioned in the FIR.

State v. Shashi Tharoor (CNR No. DLCT11-000512-2019)

Rouse Avenue District Courts, New Delhi

Shashi Tharoor (the accused) was discharged under Sections 306 and 498-A of the Indian Penal Code, 1860.

Sunanda Pushkar (the deceased), who was married to Shashi Tharoor (the accused), suspected that her husband was having an affair with Mehr Tarar, a Pakistani journalist. This led to frequent fights between husband and wife. On the day before Sunanda Pushkar died, she and Mehr Tarar openly quarrelled on Twitter with Sunanda making allegations that Mehr was an ISI agent who was stalking her and Mehr calling these allegations 'absurd'. Their tweets were deleted from Sunanda's Twitter timeline hours later. The next day, Sunanda was found mysteriously dead in Room No. 345 of New Delhi's Hotel Leela Palace.

Special Judge Geetanjali Goel of Rouse Avenue Court, Delhi observed that none of the reports submitted by the Doctors and Autopsy Board confirmed the cause of death as suicide. She said that there was neither prima facie wilful conduct nor insufficient evidence to show that the accused drove the deceased to commit suicide. The court also observed that marital disagreements cannot be taken as abetment.

Velladurai v. State (2021 SCC Online SC 715)

In the Supreme Court of India

A suicide attempt by a husband and wife in which the husband survived but the wife died, cannot be deemed abetment to suicide on the husband's part.

Section 363, 366 and 306 of Indian Penal Code, 1860

The Appellant was married to the deceased 25 years before the incident and there was an argument between the deceased–wife of the appellant on the day of the incident. Following this, both the appellant and the deceased drank pesticide. However, the appellant survived, but his wife died. A complaint was made against the appellant, alleging that he had intimate relations with another lady and that caused the couple to fight. The same conviction under Section 306 of the IPC was upheld by the High Court.

While observing in the case, the Division Bench of M.R. Shah and Aniruddha Bose stated that abetment by a person occurs when a person instigates another to do something. Instigation can be established when the accuser's actions or omissions produced conditions in which the deceased had no choice but to commit suicide. According to the Supreme Court, no evidence was found that suggested abetment or the appellant's direct participation in inciting the dead to commit suicide. On the contrary, in this case, the appellant attempted suicide and drank pesticide as well.

As a result, the Apex Court held that in the judgement of both the High Court and the Trial Court, they erred in convicting the accused for the offence under Section 306 IPC.

Union of India v. Md. Nawaz Khan [Criminal Appeal No. 1043 of 2021 (Arising out of SLP (Crl) No.1771 of 2021]

In the Supreme Court of India

The mere absence of possession of the contraband with the accused cannot be a ground for granting bail.

Section 37(1)(b)(ii) Narcotic Drugs and Psychotropic Substances Act, 1985

Three people were apprehended with 3.3 kg of heroin in their vehicle when they were searched in the presence of a gazetted officer according to the guidelines provided in Section 50 of the NDPS Act, 1985. The defence lawyer argued that the contraband was discovered concealed in the vehicle and it cannot be concluded that the respondents were in conscious possession of the contraband. The Supreme Court denied the plea for bail, citing the seriousness of the case and the amount of contraband seized.

According to the apex court, the test for granting a bail u/s 37(1)(b)(ii) is not fulfilled in the present case. Referring to past judgements, the court opined that the knowledge of possession of contraband must be derived from the facts and circumstances of the case. It was highlighted that the criterion of conscious possession would change in a public transportation car with numerous people versus a private vehicle with a few people who knew each other. The court set aside the High Court order, based on these reasons.

Harshvardhan Yadav v. State of UP and Another (ICL 2021 (8) All. 112)

In the Allahabad High Court

The court in this case noted for a clear and precise legal framework for dealing with instances in which the accused gets consent for sexual intercourse under the false promise of marriage.

Section 376 of the Indian Penal Code, 1860
Section 3(2)(5) of the SC/ ST Act, 1989

The victim/woman is a police constable from a scheduled caste who was summoned to a hotel by the appellant-accused to finalise their wedding and prepare paperwork for it; nevertheless, while in the hotel room, he allegedly raped her. She then registered the FIR on the same day, and she has confirmed the FIR version in her statements to the IO under Section 161 and to the magistrate under Section 164 of the Criminal Procedure Core, 1873. However, the hotel's management and a waiter both denied the claimed event in their testimonies.

The court observed that the case concerned a single act of sexual intercourse and that the FIR was filed on the very same day. Further, the Court noticed that the victim was in love and that there was a familial hindrance in their marriage, as indicated by the appellant-accused, and therefore the Court deemed it logical that she travelled to the hotel because the appellant asked her to come for a conversation about preparing paperwork for their court marriage. Also, the Court held that the accused never intended to marry the victim and had ulterior intentions, and had made a fake vow to marry merely to fulfil his desire, and that, the Court stated would come under the realm of cheating and playing deceit to get consent for sex.

Bhagwan Narayan Gaikwad v. State of Maharashtra (2021 SCC OnLine SC 748)

In the Supreme Court of India

Compromise, if entered at the later stage of the incident or even after conviction, can indeed be one of the factors in interfering with the sentence awarded to the accused thus compromise cannot be taken to be a solitary basis for the reduction of sentence.

Section 326 of the Indian Penal Code, 1860
Section 149 of the Indian Penal Code, 1860

When the injured victim was returning to Malegaon from Tembhurni on a bicycle, the appellant (accused in the case) along with 11 others attacked him with a sickle and chopped off his right leg below the knee and right forearm below the elbow. During the trial, the Court found all the 12 accused persons guilty and convicted them for an offences punishable u/s 326 r/w/s 149 of IPC, and each of them was sentenced to undergo 7 years rigorous imprisonment and fine in the sum of Rs. 1000. However, on appeal, the Bombay High Court upheld conviction only against 5 of the 12 accused including the appellant. Further, the victim and accused came to a compromise after conviction which was set aside by Supreme Court and reduction in sentence denied.

Giving punishment to the wrongdoer is the heart of the criminal delivery system and thus to give any benefit to the accused of the alleged compromise for interfering in the sentence awarded by the High Court is not permissible under certain circumstances.

ANOMALIES IN THE NCRB 2020 REPORT

ADITYA DALAL

The National Crime Records Bureau (hereinafter "NCRB") very recently published in its 'Crime in India' Report of 2020 where it presented vital statistics and information about the incidence, reporting, and commission of various crimes under the Indian Penal Code (hereinafter "IPC") and Special or Local laws in the territory of India in the year 2020.

One must note carefully, while reading and interpreting the report, that due to the imposition of a lockdown from 25th March 2020 to 31st May 2020 caused by the proliferation of Covid-19 and the difficult situation posed by the pandemic, the free movement of people was curtailed to a large extent wherein people were forced to remain in their homes to practice social-distancing. This implies lesser incidence and reporting of crime between the said period because people did not leave their homes and therefore had very meagre possibilities for the commission of a crime. Even after the lockdown relaxations were eased and citizens got a chance to go out of their houses, due to social distancing norms and various other directives of the Government such as the imposition of Section 144 of the Code of Criminal Procedure, 1973, there was a lesser likelihood for the commission of some crimes.

Source: Fort Worth Star- telegram

However, neither the imposition of a strict lockdown nor a curfew thereafter meant that there were no or negligible amounts of crimes committed or reported. There were still high crime rates but perhaps at a marginally lower rate as compared to the rates recorded in 2019 or 2020.

It becomes pertinent to take note of the striking facts presented by the NCRB 2020 Report. A total of 66,01,285 crimes were reported in 2020 and the crime rate per population of one lakh has dramatically increased from 385.5% in 2019 to 487.8% in 2020 which highlights the continued presence of criminal elements in society. This shocking increase is perhaps anomalous because the troublesome situation posed by the pandemic should have ideally led to a decrease in the overall crime rate. This essentially implies that India as a country has to face severe concerns not just of the pandemic and vaccination drives but also to recharge its law enforcement and criminal justice system to combat the increasing crime rate.

Another striking feature of the report that has to be paid due heed is the shocking increase in cases reported and registered under Section 188 of the IPC which entails a provision regarding disobeying the order of a public servant, lawfully entitled to promulgate such an order. For an application of the said section, it is important to prove that the accused had knowledge of the order being passed and it is not necessary that he intended to cause harm. The accused can be punished with imprisonment that may extend to six months if the disobedience of the order has proven to be dangerous to public health and safety or poses a threat to human life.

An example of such an order promulgated by a public servant can be an order passed by Section 3 of the Epidemic Diseases Act, 1897 such as the order of lockdown or the mandatory rule to wear face masks while out in the open.

The cases registered under Section 188 IPC have increased from 29,469 cases in 2019 to 6,12,179 cases in 2020 which is indeed a rampant increase of 2000% from the previous year.

At the very same time, the reporting of crimes against women, crimes against children, and crimes against senior citizens has gone down by 8.3%, 13.2%, and 10.8% respectively from 2019.

The interesting results out here prove that due to change in circumstances, because of unforeseen and unfortunate events such as the Covid-19 pandemic, the crime rate of the society can fluctuate, either marginally or drastically. The pandemic has impacted all facets of society such as the economy, education, health as well as crime rate.

DHANANJOY CHATERJEE CASE:

Revisiting the First Judicial Execution of the 21st Century

VAIBHAV KESARWANI

Facts of the case [Dhananjoy Chaterjee v. UOI, (1994 2 SCC 220)]

Dhananjoy Chaterjee was a security guard in the "Anand Apartment" where the victim, Hetal Parekh used to live with her parents on the third floor of the building with apartment number 3-A. On March 2, 1990, Hetal (deceased) complained to her mother Yashmoti Parekh (PW 3) that the appellant had been teasing her on her way to and back from the school and had proposed to her on that day to accompany him to a cinema hall to watch a movie. She had also made previous complaints regarding such acts. This led the deceased's father to complain about Dhananjoy to Shyam Karmakar and requested him to replace him from the job.

After this incident, the petitioner was transferred to another apartment and another guard took his place. However, on the day of the incident when Dhananjoy had to take his duty elsewhere, he again came to the "Anand Apartment" and went to the third floor to make a call.

Later, he hastily came down and spoke with Shyam Karmakar, who asked him, "Why didn't he go?", after which he swiftly exited the building.

When the deceased's mother returned home from her regular temple visit, she discovered that the gate was shut, and after numerous unsuccessful efforts to contact her daughter, she urged her neighbours to smash down the entrance. After entering the flat, she found Hetal was lying on the floor. Her skirt and blouse had been pulled up and her private parts and breasts were visible. There were patches of blood near her head as well as on the floor.

There were bloodstains on her hands and vagina also. The doctor certified her dead, and the post-mortem report said that sexual intercourse occurred prior to her death, with the potential of rape. Following the discovery of circumstantial evidence, such as a stolen watch from the deceased's house and witness testimony, Dhananjoy was charged with Rape, Murder, and theft of watch under Section 380 of IPC.

Source: Economic Times

Analysis:

On August 14, 2004, Dhananjoy Chaterjee, a security guard in Kolkata, was hanged on the charges of raping and murdering 18-year-old Hetal Parekh.

This was the first judiciary ordered execution of 21st Century. When we review the case today, numerous dispensaries have been made by the court, and new facts and studies have come to light which could change the outcome of the case. It should be noted that the whole trial was based on circumstantial evidence and there was a heavy reliance on testification of the victim's family. This case is a living example where mass hysteria and media attention blocked off another perspective of the case where Dhananjoy may have been innocent.

Is this a huge blunder by the courts of justice where Dhananjoy Chaterjee was not given the "Benefit of Doubt"?

The current article will re-examine the case in detail and attempt to discover an alternative method to gauge the significance of new facts and evidence in this case.

Dhananjoy's last words, according to his hangman Nata Mullick, were: "*I am innocent. They are killing me*". He was seen pleading that he was always innocent, even when he was on the edge of death. The act of Murder and Rape were never proved "Beyond Reasonable Doubt" as required under Chapter 7 of Evidence Act, 1872 and there are certain new facts, theories, and dispensaries that needed to be looked at before hastily pronouncing such a sentence.

Certain facts that were not considered by the court which could prove the presence of reasonable doubt, are to be revisited once again through this article:

I Reasonable doubt between Rape and Consensual Intercourse

The post mortem report of the victim only mentioned that the victim had undergone sexual intercourse before her death. This was based on the presence of semen in her undergarments and pubic hair. However, no semen was found inside the vagina and the whole body was dressed. This opens up the possibility of consensual intercourse with someone.

The report also revealed that most of the injuries of the victim were in the face and neck area and there were no injuries in the breasts or the genitals. Considering the above facts, there can be a possibility that there was gentle and consensual intercourse between the partners, and the person who murdered and raped the victim could be altogether different.

Additionally, during the Dhananjoy case was going on in the court of law, several newspapers and media reported Hetal's age to be 14 years rather than 18 years. The case, however, cleared this up because Hetal was in her tenth grade and was 18 years old, not 14, as the media and protesters claimed.

And as per Indian laws, an 18-year adult is free to make their own decisions and get into such acts without any fear of law. It's conceivable that some people sought to set the scene and conspire against Dhananjoy by distorting such crucial information.

II Circumstantial witnesses against Dhananjoy

The liftman of "Anand Apartment" told the court that Dhananjoy was on the third floor when the victim's mother was in the temple and also when the possible murder took place. Additionally one of the public witnesses, Shyam Karmakar, reported that he and the other guard on duty when looking for Dhananjoy in the premises, called out his name. They reported that Dhananjoy leaned down from victim's flat 3-A and talked to them.

It is a general human nature that, if a person would has committed such a heinous crime as rape and murder, he would not give himself up by coming to the victim's balcony and talking to others casually. It is also not possible that during this time he got the time to dress himself up and look presentable in front of others.

Additionally, according to the research of the Indian Statistical Institute, the balcony of that floor was not visible from the place where the witnesses reported that they talked to Dhananjoy. This shows that there was a reasonable doubt on the actual presence of Dhananjoy in that apartment when the alleged murder and rape took place.

A watch was also stolen from the place of incidence, which was later found in Dhananjoy's home. However again a discrepancy arises, i.e. why will a person steal a watch after committing such a crime. These nuances were blatantly ignored by the court which impart a sense of doubt to the judgment

III Too much reliance on the statements of the victim's family

The majority of the case's details, including past incidents of Dhananjoy's misconduct, were supplied to the police by the victim's father.

According to prior inquiries, the victim's family was deemed to be orthodox and had a rigorous parenting style. It's conceivable that they discovered Hetal's intercourse with Dhananjoy and, because of feeling orthodoxically humiliated, they punished her by strangling her to death.

When a Bengali filmmaker, Arindam Sil, was researching on this incident for a film, he discovered that several witnesses fraudulently testified before the court about the incident and that Dhananjoy was unable to defend himself owing to a lack of legal assistance.

Hetal's mother failed to appear in the court to testify for Dhananjay's trial and had to be summoned several times before she finally showed up. The family sold their company in Kolkata and relocated to Mumbai, where they lived in a modest flat and avoided the spotlight during the trial and even after Dhananjoy was condemned to death.

This opens up the possibility that there was no rape of the victim and that it was a cold-blooded murder: a clear case of honour killing for that matter.

Controversial facts missed by the police

The girl had been stabbed 21 times in the chest with a knife, but no murder weapon was recovered. Furthermore, there was a three-hour delay in calling the police after the victim's body was discovered, as her mother had returned from the temple at 6:05 p.m., and the FIR was filed at 9:15 p.m. These facts cast suspicion upon the family members, as there was unreasonable negligence on their part while dealing with such an important matter.

The police solely relied on the letter submitted by the father, detailing prior incidents of Dhananjoy teasing his daughter, to prove Dhananjoy's culpability. It was later discovered that the letter was drafted after the incident took place.

The controversy surrounding this case was huge and the rushed decision by the court, due to huge media attention, was a gross miscarriage of justice.

Conclusion

With many discrepancies and new distorted information, it might be argued that the case warrants a re-examination, and the enigma behind the case should be unravelled to bring real justice to the victim.

The presence of various alternatives and total reliance on circumstantial evidence without any firm proof indicates the presence of reasonable doubt, necessitating an in-depth analysis of the newly discovered facts and perspectives.

Today's media has a huge impact on people's perspectives, and this may change how they make decisions daily. The death of Sushant Singh is a recent example of this. The media shifted all the blame for Sushant Singh's suspected suicide on his girlfriend, Riya Chakraborty. As a public personality, Rhea must have suffered a great deal of anguish as a result of the media's ploy to boost their TRP.

Media also ends up interfering with judicial procedures and evidence, as in Dhananjoy's case, when the media attempted to establish rape by displaying the victim's incorrect age, the public was incited to demand the accused's execution. The Honourable Court, in the case of Bhima-Koregaon, opined that '*the use of electronic media by the investigating arm of the state which did the task of influencing public opinion during the pendency of the investigation completely subverts the fairness of the investigation*'. The media's obligation to inform individuals about various issues and events occurring in other regions of the country is fully justified under the constitution, however, it is unjustified to instil prejudice in the minds of its viewers or readers.

TIME FOR INDIA TO REVAMP ITS ENVIRONMENT JURISPRUDENCE

SWETHA SOMU & SANIGDHA BUDHIA

Introduction

On 22 June 2021, the StopEcocide Foundation had attempted to properly define the term "Ecocide" and submitted the same to International Criminal Court so that "Ecocide" can be instituted as the fifth International Crime along with war, a crime of aggression, crimes against humanity and crimes of genocide.

"'*Ecocide' means unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those acts.*"–StopEcocide Foundation

There exist various international conventions and treaties which aim to protect the world from adverse environmental impacts such as rising sea levels, global warming, pollution, etc. Few treaties and conventions include the Paris Agreement, Kyoto Protocol and Basel Convention.

The authors start by bringing the background of environmental legislation in India and its recent developments and how these existing laws fail to achieve the objective of protecting and improving the environmental conditions. Further, the authors advocate for criminalizing the environmental laws in India by basing their views on the successful model of environmental criminalization used by the U.S. thus, concluding that a similar method of criminalization will yield a high probability of fair and equitable administration of justice against environmental offences.

Environmental laws in India

There's a wide range of legislation enacted by the Indian government, the prominent ones are the Water (Prevention and Control of Pollution) Cess Act of 1977, The Air (Prevention and Control of Pollution) Act, 1981, The National Green Tribunal Act, 2010, The Hazardous Waste Management Regulations and The Environment Protection Act, 1986.

The Environment Protection Act, 1986 ('EPA 1986') is a game-changer in the field of Indian Environmental Jurisprudence. EPA 1986 was enacted after the infamous Bhopal Tragedy incident which is still regarded as the world's worst industrial disaster claiming more than 2500 lives. Since India didn't have a developed law to deal with Environmental disasters, the government formulated EPA 1986 to have a concrete framework dealing with protection, development, and prevention of environmental degradation. The Act was introduced along the lines of The United Nations Conference on the Human Environment held in Stockholm in June 1972.

Another important statutory legislation backed by the EPA 1986 is the Environmental Impact Assessment introduced by the Union Ministry of Environment and Forests in 1994. It made it necessary for the expansion of projects or any new project to acquire an Environmental Clearance (EC). There have been 12 amendments to the EIA till now.

The recent draft EIA Notification 2020 has sparked controversies across the whole country. It has caused a wave of concern among the conservationists, environmentalists, activists, and even the common citizens. Although the new draft attempts to make the process more transparent and efficient, there are several other changes that seem to be pro-industrialist rather than pro-environmentalist.

Firstly, it has thrown out almost 40 projects like digging wells, solar thermal plants, etc. out of its ambit. These projects do not require a prior Environmental clearance. Secondly, many projects like elevated roads and flyovers, biomedical waste treatment facilities, chemical fertilizer, irrigation, and expressways are no longer required to consult the public and act upon the grievances.

The important modification brought by EIA 2020 is the allowance for ex-post-facto clearance for ongoing projects which haven't obtained the necessary environmental clearance. Now, this means that environmental destruction can be legitimized when the government issues the environmental clearance well after the damage is done.

While the world is taking more steps towards the protection and improvement of the environment, India has taken a regressive step back by modifying the EIA in favour of the industrialists. Since the pandemic and other external causes have pushed our economy spiraling down, the need for more industrial activities arose to save our economy from going into recession.

However, allowing more industrial projects at the cost of the environment will have a long-term impact. The damage done to the environment is irreparable and it affects the people living in the vicinity as well. This is evident from what happened during the Bhopal Gas Tragedy. The long term effects of that tragedy can be seen even today. Children are born with many inherent, genetic diseases affecting vital organs like the lungs, kidneys, thyroid, and nervous system which are still prevalent. Thus, a mere statute like EIA or EPA 1986 will not stop industrialists and governments from unfairly exploiting the environment for economic needs thus, the need to criminalize environmental laws in India arises.

Source: Waste to Wonder

Criminalizing environmental laws- a more stringent action?

Let us take the example of The United States of America. During the 1980s, the United States began criminalizing environmental offences According to the US Department of Justice, the agency has "registered criminal environmental indictments against 911 corporations and individuals, with 686 guilty pleas and convictions." A total of $212,408,903 had been levied in criminal penalties. There have been more than 388 years of incarceration imposed, including approximately 191 years of actual confinement.

The current institutional system of sanctions against environmental crime in India has repeatedly failed to demonstrate its effectiveness as a deterrent. Environmental infractions are typically handled through civil law in many countries of the world, as demonstrated by the Hague District Court's decision in the Shell case, in which Royal Dutch Shell Plc. was held accountable under Torts law.

In India too, corporations are held liable under civil law, and generally, a certain amount of fine or penalty is imposed upon them. But this fine is not enough to deter them from harming the environment. A corporation earning millions of dollars can easily pay a fine of some lakhs.

As a result, environmental devastation must be recognized as a crime to reduce the severity of the infractions and modify everyone's thinking. Unlike civil wrongs, crimes draw heavier punishment and have a higher level of enforceability through the courts. The fear of incarnation and heavier penalties can act as a deterrent.

When shall sanctions be imposed?

The dilemma that arises while criminalizing environmental laws is whether the sanctions should be imposed after the harm has been caused or at that time when the harm starts happening. While evaluating such a dilemma, three models come in handy: the model of abstract endangerment, the model of concrete endangerment, and the model of substantial environmental contamination.

All of these models have their own set of benefits and drawbacks, but they all raise the same question: whether a violation of any environmental law provision should be criminalized because it broke the law (administrative law component) or because it would harm the public at large (anthropocentric component).

This dilemma is then very accurately solved by the theory of "minimum culpability" as proposed by Michael M. O'Hear. He contends that there does not have to be any substantial injury to be held criminally liable. This means that sanctions for environmental damage should be imposed as soon as the harm starts happening. There should also be clear criteria for how the crimes should be punished. It is critical to remember that the purpose of criminalizing penalties for environmental law infractions is deterrence.

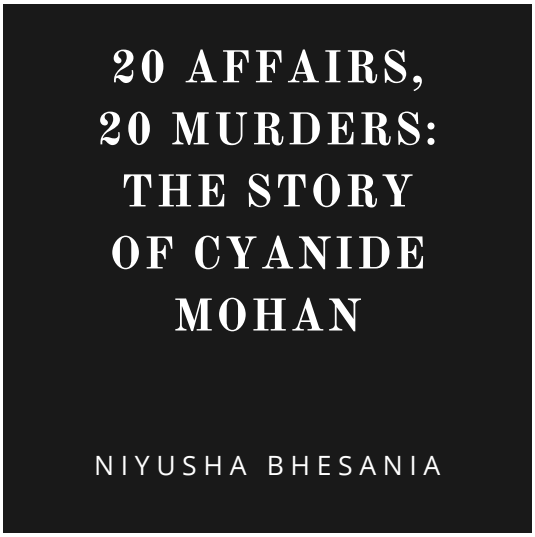
If high-cost and punishment are meted out to every environmental crime, individuals and businesses would resort to high-cost solutions to prevent effluent waste from damaging natural resources, leading to high-cost items for consumers, which would not be lucrative for the individual or the organizations. Thus, all of these factors must be considered when the Indian government draughts a suitable law.

Source: Net Zero Watch

Conclusion

It is time that India starts criminalizing environmental damages. Statutes like EIA or fines and penalties won't be enough for deterring such infractions.

Because of the harsh penalties enforced under criminal laws, criminalization has been successful in the United States, and there is a good chance that it will be successful in India as well. This would also pave the way for some form of environmental justice to emerge. Environmental justice is defined as "*equitable treatment and meaningful participation of all people, regardless of race, colour, national origin, or income, in the development, implementation, and enforcement of environmental laws, regulations, and policies.*" This would result in a sense of right and equitable distribution among everyone, regardless of their income, caste, creed, gender, or other factors, thus, bridging the divide between the two parts of society.



The Registrar General v. Mohan Kumar @ Sundar Rai @ Ananda (CRIMINAL APPEAL NO.178 OF 2015)

From 2003 to 2009, twenty women were discovered murdered in six towns spread over five districts in south Karnataka. They were in their mid-20s or early 30s. All twenty were found dead at the bus stop restrooms; the restrooms had to be broken into since they were shut from the inside, and all the twenty victims were clothed in bridal sarees with no jewellery on. Eight of the dead bodies were found at Mysore city's Lashkar Mohalla bus terminal alone, and further five from Bangalore's crowded Kempegowda bus station.

In the context of these serial killings, there was a unifying thread running across the twenty murders that matched the girth of a rope. Despite this, no one recognised any connection between the strange sightings of women's bodies at bus terminals for six years. All the twenty cases were filed in the 'unnatural deaths' and 'suspected suicides' files of at least ten police stations, with no attempt made to identify or locate the victims' relations.

While post-mortem examinations showed poisoning in all the twenty cases, only blood samples from two individuals were sent for forensic testing.

Source: Oneindia

Even after the forensic testing indicated that the poisoning was caused by cyanide (a substance that is not widely available and is almost likely not often used in suicide attempts) no alarms as such were triggered.

However, the cops were called in after a social uproar that erupted around the 19th victim, Anita Barimar, 22, of Bantwal, who mysteriously disappeared on June 16, 2009. Her family, the Bangeras, said that she had fled with a Muslim man in connection to a love affair, and a hostile demonstration of approx 150 people descended on Bantwal, intimidating to burn down the police station if Anita was not found. The cops borrowed time, hoping to solve the case in a month, and finally, the mystery was resolved.

Mohan took advantage of our Indian society's deep-rooted poverty and patriarchy. His targeted niche consisted of impoverished and needy single women who were anxious to find a husband since, in the rural Indian society, a woman is deemed "unmarriageable" once she reaches a certain age — which is rather young, even the late 20s might be problematic.

Mohan would often loiter around the local bus stops in impoverished areas and villages in India's south, studying his possible targets and seeking ladies who would fall for his charisma and accept his marriage proposal. He would then approach them and introduce himself as a government employee (a highly sought-after post in India, particularly in rural India) and belonging to the same caste as that of the targeted woman. He would then begin a love affair which would lead to the promise of marriage by elopement, avoiding the more time-consuming formality of traditional marriage and engaging the families.

He would persuade his prospects to elope with him to a blissful future after marriage with a renowned, well-employed, and pleasing gentleman after they had fallen for his love and his harmless demeanour.

It is also not unknown that gold is an important investment/savings tool for all Indians, but especially for rural Indians. A large portion of this gold/ jewellery is set aside for the marriage of the house's daughter. And that, dowry is a further issue that ails India. The fact that a woman's family is required to pay a hefty sum in cash or in-kind to the groom's family as a "tradition" and type of gift for her to travel to her new home and family as a "custom."

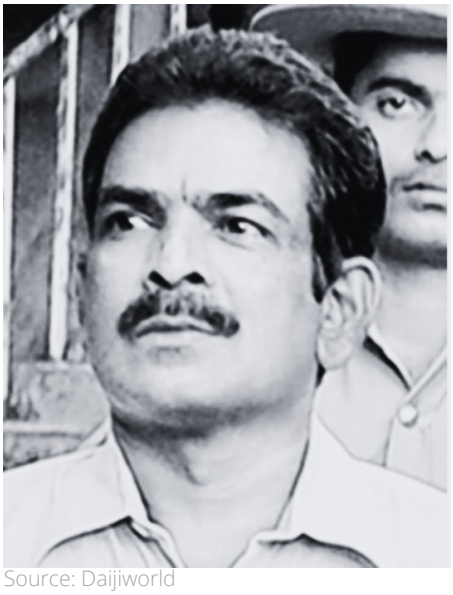
Mohan would come up with the assurance of "no dowry," which would elevate him to the status of pure demigod in the eyes of the ladies. However, he would urge them to trick some of the family's gold jewellery with them when they eloped to improve their finances and start a new life and the ladies would gladly oblige.

They would then take an overnight bus to a distant city where they planned to marry at a shrine. Mohan would make sure they stayed in an overnight lodge near the temple before the wedding. As Mohan and his potential victim got to the overnight lodge, he would make it certain that they got engaged in sexual intercourse.

Mohan was quite shrewd; he would even time the marriage when the women were ovulating. And, also ensure that there was intercourse shortly before the wedding. Premarital pregnancy is yet another major stigma in India, so this gave him a logical reason to persuade the ladies to use emergency contraception.

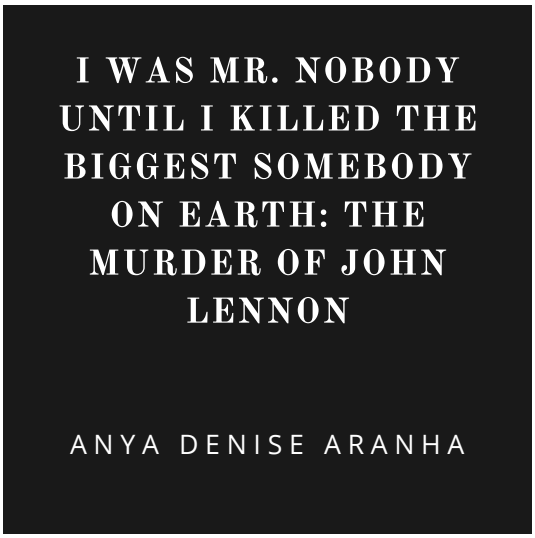
Because the women were financially and academically deprived, they were readily duped by Mohan's "advice." Hence, after the night, he would suggest they use a contraceptive to avoid pregnancy.

Here came –Cyanide, which was used as a murder technique in this case. In the pretext of contraception, he would offer them cyanide-coated pills. Not only this, but he would make sure they left all their jewels at the resort and went to the restroom only to swallow the pill. His method of persuading them to take it in the bathroom was to tell them that as a side effect of the pill, they would experience the need to urinate, and every time, the women succumbed. They would swallow the tablet and die quickly due to the cyanide coating. Meanwhile, Mohan would take the jewels and return to his village, where he would plot his next crime.



Source: Daijiworld

Then, Mohan was never referred to as Mohan Kumar again after these tales of his ruthless murdering campaign appeared in newspapers and on television. He was renamed Cyanide Mohan. He was ultimately caught in 2009 and sentenced to capital punishment. From a primary school teacher to a shrewd psychopathic killer, what happened was the creation of a criminal who nonchalantly ruined many lives and shattered many more families.



"*Dead, cold quiet, until he walked up. He looked at me... he walked past me and then I heard in my head. It said, 'Do it, do it, do it,' over and over again.*"

"*I aimed at his back and pulled the trigger five times and all hell broke loose in my mind.*"

- Mark David Chapman

By murdering John Winston Ono Lennon, an icon of the singing world and the frontman of the Beatles band, on the 8th of December in 1980 in New York City, Mark David Chapman announced the arrival of a new sort of killer: the celebrity killer.

Chapman suffered from an identity crisis and was bedevilled with persistent feelings of inadequacy and worthlessness. In fact, in 1977 in Hawaii, he attempted but failed to commit suicide.

Source: Time Magazine Website

As a young boy in the Deep South, he was fascinated by the Beatles and soon became obsessed with its leader, John Lennon after reading Lennon's biography. At the same time, he was also profoundly influenced by The Catcher in the Rye (a very popular novel by American writer J.D. Salinger). Holden Caulfield, the protagonist of The Catcher in the Rye, was a disillusioned young man who despised 'phoniness,' and Mark David Chapman identified with him. After reading this novel, he began to see Lennon as a "phoney" and stalked him for many months in New York City.

Finally, on the 8th of December in 1980, after Lennon returned from a recording session to the Dakota Building, Chapman fired 5 shots into Lennon's back with a .38-calibre pistol. Lennon died within 15 minutes of his arrival at the hospital. Chapman made no move to run after the doorman confiscated his weapon. He simply stayed put and waited for the police to come.

He confessed that he murdered Lennon to achieve notoriety and was diagnosed as psychotic. He pleaded guilty to murdering John Lennon in June 1981 and was sentenced to 20 years behind bars. He is still in prison.

One year after Mark David Chapman's murder of John Lennon, in 1981, John Hinkley Jr enrolled at Yale to stalk actress Jodie Foster on campus. As a "love offering" to Foster, he attempted to assassinate US President Ronald Reagan on the 30th of March. After 3 years of stalking actress Rebecca Schaeffer, Robert John Bardo shot her in 1989. In 1995, in a bid to take over the fan club of singer Selena Quintanilla-Pérez, ardent fan Yolanda Saldívar stalked the singer. When Selena fired her, Yolanda murdered her on the 31st of March. In 2004, a fan of the Pantera band, Nathan Gale, murdered several people at a heavy metal concert because he was upset that the band was splitting.

I WILL SEND YOU ANOTHER BIT OF INNERDS: JACK THE RIPPER

ANYA DENISE ARANHA

"How can they catch me now. I love my work and want to start again. You will soon hear of me with my funny little games. I saved some of the proper red stuff in a ginger beer bottle over the last job to write with but it went thick like glue and I can't use it. Red ink is fit enough I hope ha ha.
The next job I do I shall clip the lady's ears off and send to the police officers just for jolly wouldn't you. Keep this letter back till I do a bit more work, then give it out straight."

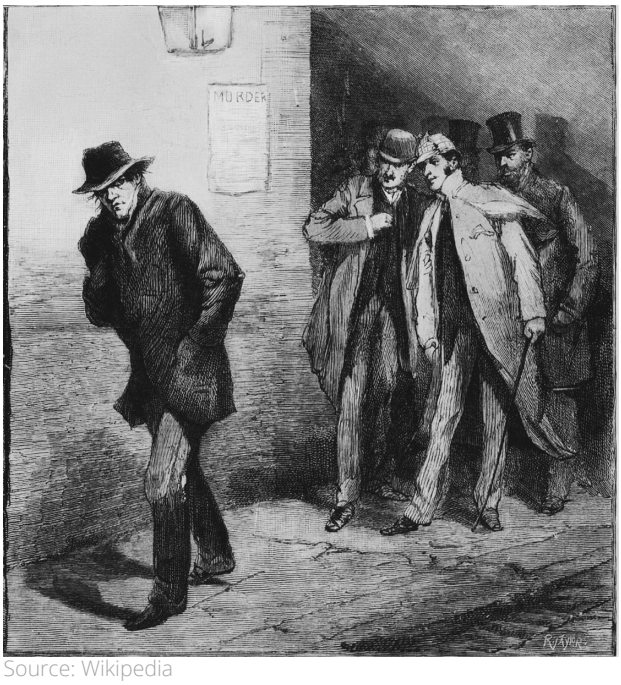
- Jack the Ripper

It all started in the summer of 1888 in Whitechapel, London, UK. At around 3:30 a.m. on the 7th of August, 1888, a cab driver spotted what he thought was a supposed female vagrant passed out with her skirts hiked up on the landing of a property near the George Yard Buildings on Whitechapel Road, between Whitechapel and Spitalfields. One and a half hours later, John Saunders Reeves, the tenant, realized that the woman had been murdered. Her autopsy showed that her throat and abdomen had been stabbed almost 40 times. Identified by her husband as Martha Tabram, it was learnt that she was a 39-year-old prostitute. It was also thought that the crime had been committed between 2 a.m. and 3:30 a.m. because Martha's body had not been on the property's landing when the tenants came home at 2 a.m.

Over the next 3 months in Whitechapel around the wee hours of the morning, 5 more prostitutes – Mary Ann "Polly" Nicholas, Annie Chapman, Elizabeth Stride, Catherine Eddowes, Mary Kelly – also known as the canonical five, were grisly murdered in a similar derogatory fashion with their throats and abdomens slashed, bodies eviscerated, organs cut off for souvenirs, genitals exposed and legs splayed.

A witness of Annie Chapman's murder revealed that Annie had been talking to a man near the crime scene half an hour before she was murdered. The man was described to be around 40 years old, dark-haired, a foreign 'shabby-genteel' appearance, with a brown deerstalker cap and overcoat. There was also a leather apron found at the scene.

This description gave rise to a tale spun by local town gossip which featured "Leather Apron", a homicidal Hebrew who preyed upon English prostitutes. Unfortunately for John Pizer, a Polish Jew and boot-maker whose nickname was Leather Apron, the media named him as a suspect of the horrendous murders. Despite scanty evidence, John Pizer was arrested but released when he was able to prove an alibi for the first two murders.



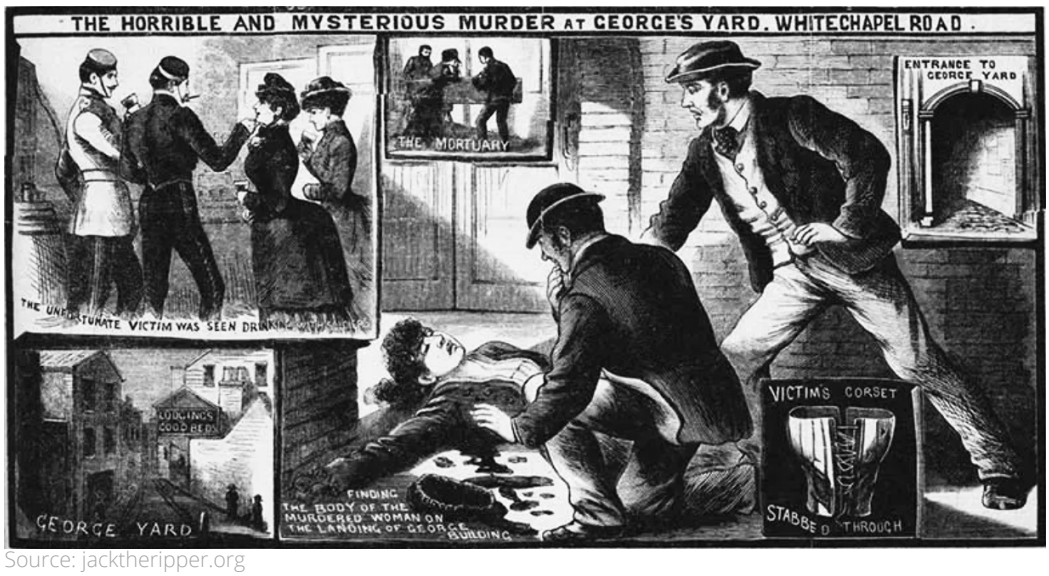
Source: Wikipedia

The amount of attention that these murders received especially from the media resulted in a flurry of fake letters to investigators. On the 27th of September, a letter from a pseudonymous individual "Jack the Ripper", which was initially thought to be a hoax, promised to clip off the ears of the next victim. Sure enough, the next victim Catherine Eddowes' earlobe was mutilated. On the 16th of October, someone sent a package containing a kidney preserved in spirits and a letter signed "From hell". Many police officers and surgeons, however, dismissed it as a prank by medical students.

Owing to a low number of eyewitnesses, scanty evidence, and press interference, the investigation was seriously hampered. The police first thought that the murders were the handiwork of local gangs. Because their detective work was getting frustrated, Frederick George Abberline, a detective who worked in Whitechapel for 14 years, was sent by Scotland Yard because they thought he would be able to use information from local criminals to identify the killer. This was to no avail. It was clear that Jack the Ripper was not a known Whitechapel offender. Moreover, he worked solo.

The case of the Ripper became a sensation. Journalists went to extremes to investigate the Ripper's murders. While some followed the police around, others dressed up like prostitutes and waited for the Ripper to appear.

It's been more than 125 years and we're no closer to finding out who the Ripper was. Detectives, writers, and armchair sleuths have named suspects like the Duke of Clarence, his physician Sir William Gull, and Polish hairdresser and psychological wretch Aaron Kosminski. Some doctors believe that Jack the Ripper was a medical professional due to his display of anatomical knowledge while removing the victims' organs and because of reports of him carrying a Gladstone bag. Others say that the Ripper did not even possess the accuracy of a butcher while cutting his victims.



Source: jacktheripper.org

It is largely accepted that Jack the Ripper lived in the East End of London. Psychology suggests that he may have suffered from chronic or episodic impotence that may have resulted in violent, sexual impulses. He might have derived pleasure from mutilating and stabbing his victims. If he was an alienated person, there is a strong reason to believe that he would have been incapable of forming intimate, romantic relationships with women which explains why he targeted prostitutes.

According to the surgeon of the Metropolitan Police "A" Division, Dr. Thomas Bond, the murderer was likely to be a "quiet, inoffensive looking" man. Dr. Bond contributed strongly to criminal profiling by employing "linkage analysis" (a method of identifying signature techniques to establish that a certain set of crimes was committed by one person) to the murders of Jack the Ripper. He saw the murders as being 'erotically motivated' because of the way the women were lying down when they were killed. His research is recognized as being ahead of its time.

Although Jack the Ripper is a sensational case, there have been serial prostitute killers before and after Jack the Ripper. In 1866 (22 years before Jack the Ripper), Joseph Philippe, a French warehouse porter, claimed to have been in a state of "erotic catalepsy" (a sexual trance/blackout) while murdering 6 prostitutes in Paris. 87 years after Jack the Ripper, between 1975 and 1980, Peter Sutcliffe a.k.a. the "Yorkshire Ripper" killed 13 women. Some of them were prostitutes. Between 1982 and 1998, the "Green River Killer" Gary Ridgway, murdered approximately 48 prostitutes in the state of Washington. When questioned, Ridgway said, "I thought I was doing you guys a favour, killing prostitutes". More recently, between 1983 and 2002, Robert Pickton, a millionaire, killed between 6 and 49 prostitutes and buried them at his pig farm in Vancouver, British Columbia.

BOOK REVIEW: JOHN GRISHAM'S PELICAN BRIEF

BHANUPRATAP SINGH RATHORE

The only thing that could replace a book – the next book

About the Author:

John Grisham, when we hear this name what comes to mind, 'A Time to Kill', 'The Firm', 'The Pelican Brief', 'Legal Thrillers', 'Suspense'? Unequivocally Yes.

John Grisham was an American author, lawyer, and legislator whose legal spine spine-chilling writings frequently excelled in the bestseller list of books and were worked into the film. Grisham was brought up in Southaven, Mississippi. After he joined the Mississippi bar in 1981, he specialized in legal subjects and served as a Democrat (1984–89) in the Mississippi state governing body. Then, at that point, enlivened by a lawsuit he saw in 1984, Grisham invested three years to compose his first novel, A Time to Kill (1989). The next novel from him was one of the best sellers – 'The Firm' and third in line was 'The Pelican Brief' and further he wrote around 34 books among which many were blockbuster novels.

About the book:

Grisham authored his third novel – 'The Pelican Brief' in 1992. The plot of the Novel goes with a female Law Student investigating and putting forward her theory about the killings of two judges of the Supreme Court. It sold around 5.5 million copies of the book in print worldwide. Further, the plot of the novel was also adapted for a movie with the same name in 1993.

As an attorney and observer of fascinating lawsuits, Grisham's genuine experience and fondness for the intricacies of law is displayed in this baffling, yet captivating book. This account of the death of two judges of the Supreme Court and a youthful Tulane law scholar's interest and dedication to untangle the crime theory, engages the reader spellbound till the final page. Justice Rosenberg, detested for his ultra-left perspectives and Justice Jensen, under supposition for his swinging between the liberal and conservative wing, both experienced a similar destiny on one October night.

Simply the day before this incident, Thomas Callahan, a teacher at Tulane Law School elaborated one of Rosenberg's dissent in a court case. His best scholar and beloved partner Darby Shaw listened to his address. After the news broke of the assassination, Callahan was stunned and enraged at the demise of a liberal Justice. While on the other side, Darby becomes determined on finding the intention and people behind the assassination with merely negligible proof she could obtain. Darby analysed many of the Supreme Court's forthcoming lawsuits and finds particularly only one theory that satisfies the broadness of evil expected to represent such frantic action as double assassination: a multibillion-dollar oil project in Louisiana that will kill off the state's dearest yet endangered bird - Brown Pelican.

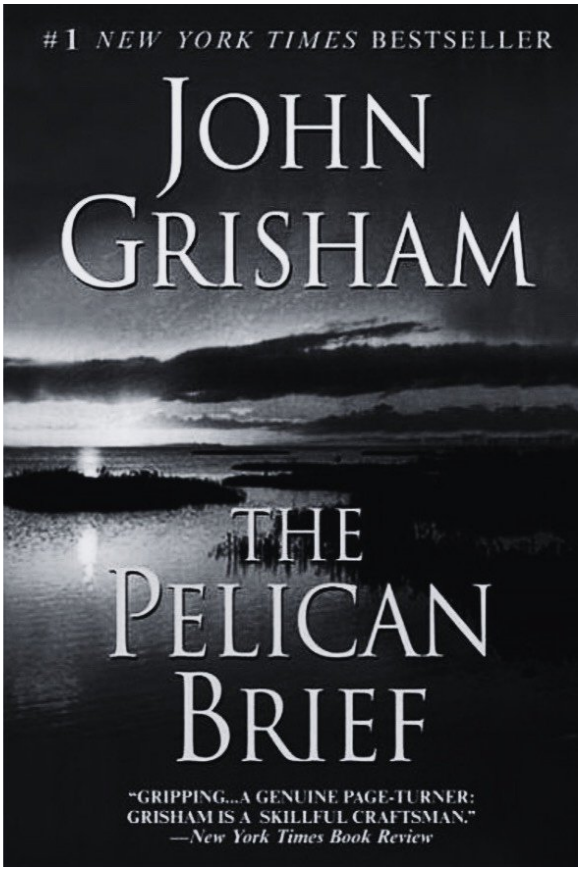
Source: Wikipedia

She compiles a brief wherein she puts forward a simple theory of the intention and individual behind the incident. The brief finds its way to the White House, the FBI, and the CIA. Then, at this point, Darby's lover, her constitutional law professor, to whom she has shown the brief, is killed in a vehicle bomb blast implied additionally to have killed Darby. Plainly her brief had been turned out to be more than a conjecture, and somebody was not in favour of the brief being uncovered. It becomes apparent that concealment is being created. Was it the conservative president who needed the two liberal judges out of his way? None knew at this point.

Darby looks for the assistance of a prominent journalist by the name of Gray Grantham to assist her with sorting out the assassination scandal. In contrast with different books by John Grisham, like The Firm, this novel is much quicker quicker-paced and an amiable read. The short lengthed chapters and steady switch in storylines keep this book continuously interesting. The dramatization of the assassination of legal luminaries blended in with the secret around the assassination keeps the readers captivated.

The reader should give close consideration to the name and play of each character as they each have a distinct yet significant role in the plot. To start with, the different characters and storylines that are told may cause the plot to appear to be disconnected, yet they are at last united to frame an intense conundrum. Throughout the majority of the novel, the reader is acquainted with numerous characters that have perused the brief and know who it indicts, but the reader is kept in ambiguity until the end. This way of composing is viable and causes the reader to remain wide awake. The writing style at the beginning of the novel visibly becomes distinct while coming to the end it. In the novel when the assassinations occur, Grisham utilizes some degree of dark humour. As the novel moves its centre of attention to Darby, Grisham's composing style eases up and the humour is not so much as dark.

Source: Goodreads



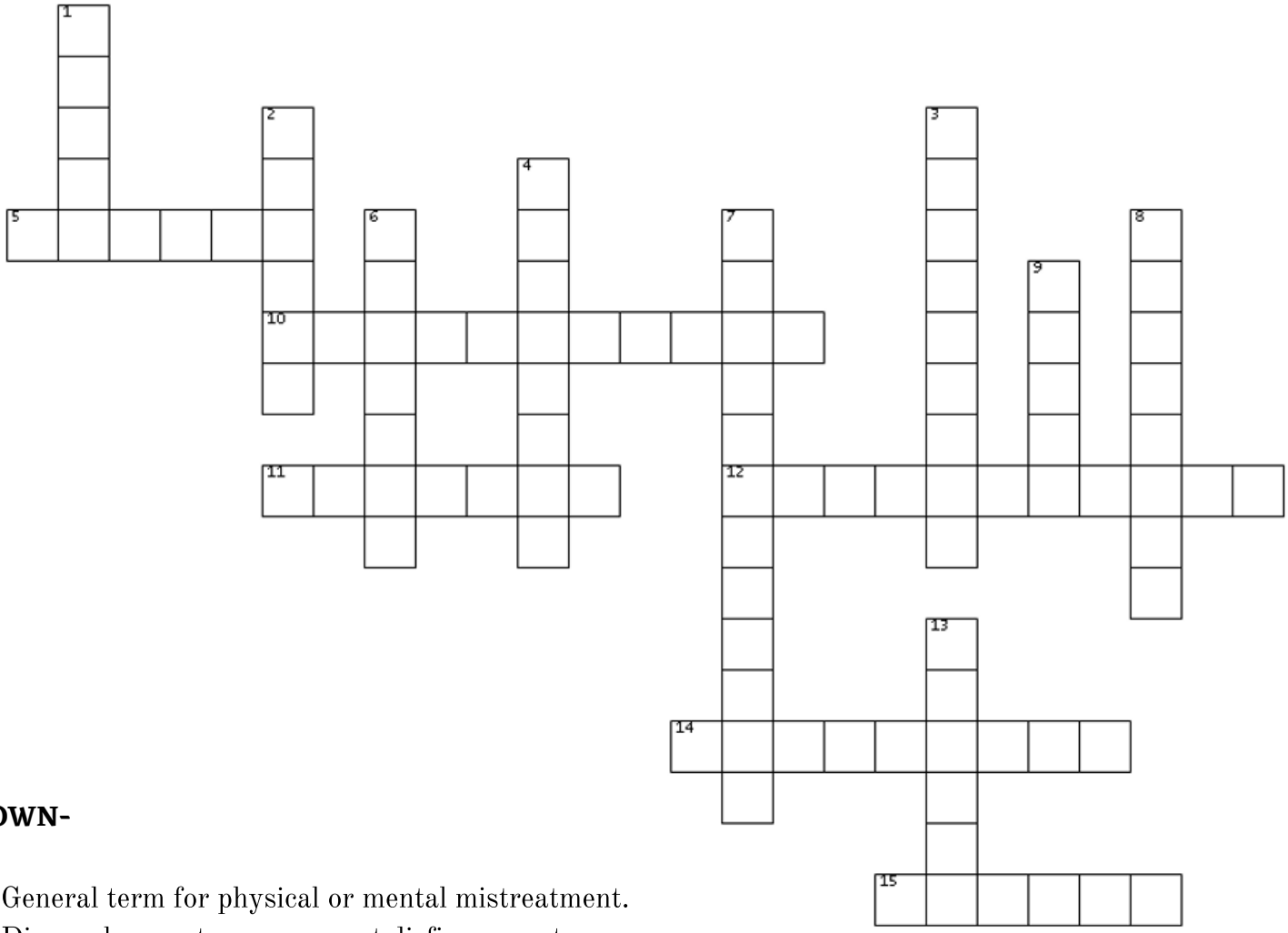
The story's vivacity pops up from Grisham's persevering depiction of Darby's feelings of terror as she escapes around the country in an entangled web of assassinators while attempting to assist Washington post journalist Gray Grantham to get the goods on the preparators in a newsbreak greater than Watergate.

The moderately quick perusing pace is repeatedly hindered by humongous words that most readers are new to. Grisham uses cogent symbolism to more readily represent the scenes in the book that feature his efficacious composing abilities. The writer utilizes imagery to represent Darby's interior clashes all through the story as it starts with her possessing long, lush red hair, however as the story advances and her life is filled with troubles, she trims and colours her hair differently on various occasions.

Towards the finish of the book when everything is settled, her lush, long and lovely hair starts to get back to its typical state. Generally, The Pelican Brief is scholarly, yet astonishing and is ideally suited for anybody keen on law or criminal mystery books. It is an absolute necessary amusement for anybody interested in law.

KNOW THE TERMS!
LEGAL TERMINOLOGY CRISS-CROSS

NIYUSHA BHESANIA



DOWN-

1. General term for physical or mental mistreatment.
2. Dismemberment or permanent disfigurement.
3. A written or printed statement made under oath.
4. A jury whose members cannot unanimously agree whether the accused is guilty or innocent.
6. A proceeding brought before a court by one party only, without notice to or challenge by the other side.
7. The unlawful killing of a human being without malice aforethought.
8. A command to a witness to appear and give testimony.
9. Malicious burning to destroy property.
13. A correctional facility of a prisoner who has served part of the term/sentence to which he or she was sentenced.

ACROSS-

5. A serious crime, usually punishable by at least one year in prison.
10. The legal procedure for sealing a record of an arrest and/or criminal conviction from public view.
11. The application of force to another, resulting in harmful or offensive contact.
12. The appearance of the defendant in court to enter his or her plea to the charges.
14. Latin, meaning "for the court." In appellate courts, often refers to an unsigned opinion.
15. Something that exists by operation of law.

Use the clues to fill in the words above. Words can go across or down. Letters are shared when the words intersect. Answers to this crossword will be shared in the next issue. STAY TUNED!

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