

“Witness Protection: An Important Measure For The Effective Functioning Of Criminal Justice Administration”¹

Prashant Rahangdale, Assistant Professor, Amity Law School, Amity University Chhattisgarh, Raipur (C.G)

Abstract

The efficacy of criminal justice administration can be adjudged by the ability of courts to punish the wrongdoer and impart justice to the victim. During the process of finding the guilt, courts rely upon the evidence adduced by the parties in the oral or documentary form. The oral evidence is submitted by the means of versions of witnesses. Witness act as a valuable source of information for the courts to bring out the guilt of the accused. The versions of witness facilitate the courts to arrive at a judicious decision. Therefore, the witness plays a prominent role in criminal justice administration. For this reason, Whittaker Chambers said, “In search of truth, he plays that sacred role of the sun, which eliminates the darkness of ignorance and illuminates the face of justice, encircled by devils of humanity and compassion.”² However, it is a bitter truth that the condition of witnesses is turning pathetic in the justice administration system day by day. The reports of inducement, threatening, harassment and intimidation of witnesses are coming every day on a rolling basis. All these incidences create fear in the mind of witnesses due to which witness hesitate to come forward to cooperate in the court process and often turn hostile. Moreover, a witness also falters due to lack of witness protection mechanism in our country. Law Commission of India in its various reports highlighted the problems faced by the witness during the course of the trial and recommended to incorporate a comprehensive policy on witness protection. Hon’ble Supreme Court of India through its judgement revamped the urge for witness protection regime in the Indian judicial system. In this research paper, the researcher seeks to highlight the problem faced by the witnesses in the criminal justice system and discuss the issue of witness protection in India.

Keywords: *Witness, Criminal Justice Administration, Hostile, Witness Protection Regime*

¹ Prashant Rahangdale, Assistant Professor, Amity Law School, Amity University Chhattisgarh, Raipur (C.G)

² <https://www.scconline.com/blog/post/tag/sit-and-cbi-probe/>

I. Introduction:-

Criminal justice administration upholds law and order in society. It ensures the protection of rights of every single person who are residing in society. It promotes peace and harmony by punishing the offender and thereby upholding the rule of law. This could be possible only by following the due process of law. The courts during the process of imparting justice to the sufferer mostly rely on the versions of the witnesses. The credible information supplied by the witness assists the court while determining the correct findings of the case. They act as an eye-opener for the judges. Therefore, the witness plays a vital role which cannot be ignored. Trial of criminal cases would not proceed without the kind cooperation of witnesses. For this reason, Jeremy Bentham an eminent jurist and English philosopher regarded “witness as an eye and ears of justice.”³

India follows an adversarial system of justice administration where witness proactively participates in the trial process. Hon’ble Supreme Court in *Swaran Singh v. State of Punjab* while discussing the importance of witness during the course of trial opines that,

*“A criminal case is built on the edifice of evidence, evidence that is admissible in law. For that, witnesses are required whether it is direct evidence or circumstantial evidence. By giving evidence relating to the commission of an offence, he performs a sacred duty of assisting the court to discover the truth. It is because of this reason that the witness either takes an oath in the name of God or solemnly affirms to speak the truth, the whole of the truth and nothing but truth. He/she performs an important public duty of assisting the court in deciding on the guilt or otherwise of the accused in the case. He submits himself to cross-examination and cannot refuse to answer questions on the ground the answer will incriminate him.”*⁴

Therefore, the witness has a prominent place in the justice delivery system. However, instead of due respect they threatened and harassed by the accused or their family members which sometimes tends them to turn hostile. This also happened due to the lack of effective witness protection regime in India. Although few states like National Capital Territory of Delhi⁵ and

³ Thakur, Rustam Singh, Evidentiary Value of Hostile Witness: Chronological Case Law Study to Address Current Position in India Available at SSRN: <https://ssrn.com/abstract=1985129>

⁴ Swaran Singh v. State of Punjab AIR 2000 SC 2017

⁵ Delhi Witness Protection Scheme, 2015

Maharashtra⁶ have their own witness protection law governing in their states. However, there was no central law on witness protection in India.

II. Who is Witness?

The term witness is not defined under the provisions of the Code of Criminal Procedure, 1973, however, its meaning can be implied from the term 'evidence' which is defined under section 3 of Indian Evidence Act, 1872. Section – 3 of mentioned the term "Evidence" as-"Evidence" means and includes-

- (1) all statements which the Court permits or requires to be made before it by witnesses, in relation to matters of fact under inquiry; such statements are called oral evidence;
- (2) all documents including electronic records produced for the inspection of the Court; such documents are called documentary evidence.

Section 3 of the Act bifurcated the term 'evidence' into two forms i.e. oral and documentary. Subsection (1) of section 3 made it clear that all statements made by the witness during the course of trial shall be called as oral evidence.

- ✦ According to Black's Law Dictionary 'witness' has been defined as: "In the primary sense of the word, a witness is a person who has knowledge of an event. As the most direct mode of acquiring knowledge of an event is by seeing it, "witness" has acquired the sense of a person who is present at and observes a transaction."⁷
- ✦ A manual on Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Organized Crime of United Nation Office of Drug and Crime define 'Witness' or 'participant' as "any person, irrespective of his or her legal status (informant, witness, judicial official, undercover agent or other), who is eligible, under the legislation or policy of the country involved, to be considered for admission to a witness protection programme."⁸

⁶ Maharashtra Witness Protection and Security Act, 2017

⁷ Bryan A. Garner (ed.) Black's Law Dictionary, West Group, St. Paul, Minnesola,(17th Ed.,1999), P. 1596

⁸ Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Organized Crime, United Nations Office on Drugs and Crime, Vienna, United Nations New York, 2008

- ★ The Witness Protection Scheme, 2018 defined the term ‘witness’ under Section – 2 (k) - which means witness is “any person, who posses information or document about any offence”.

Therefore, the witness is a person who has certain information about the commission of an offence or has a documentary record of the same.

III. Problems faced by the Witness:-

Witness imparts a decisive role in the criminal trial. They have the capacity to change the course of the trial. Therefore, the witness holds a prominent position in the criminal justice system. However, their situation in practicality is miserable. They sustain lots of pain during the course of the trial. They travel a long way from their home, waste their time and money only to assist in investigation and prosecution. Instead of due respect and care, the witness is treated inhumanly in courts. They are not provided with good infrastructural facilities. Sometimes they have wait outside the courts or in verandas for getting their turn to get testified. They are not even provided with potable drinking water or clean toilet facilities (especially for differently-abled person) in court. Apart from these hardships witness has to face unwarranted adjournments. The travel allowance or *Bhattas* which are paid to the witnesses is very low and even not feasible as per the current scenario. Moreover, witnesses are threatened, intimidated, harassed and induced by the accused to his relatives. These incidences of torture sometimes lead to the loss of life of witness or his family members. The situation becomes more worse when the witness does not find any safeguard or protective measure to save them from these occurrences. All these incidences of destitution create displeasure in the mind of the witness due to which they hesitate to come forward to support the court during the trial process. This is also one of the reasons for hostility in witnesses.

IV. Hostile witness:-

Indian criminal justice administration is facing the menace of the hostility of witnesses. Hostility is another form of perjury. Due to hostility, the very purpose of trial gets frustrated. Mr Soli J. Sorabjee, an eminent jurist and former Attorney-General of India states that “nothing shakes public confidence in the criminal justice delivery system more than the collapse of the

prosecution owing to witnesses turning hostile and retracting their previous statements.”⁹ The term hostile witness is nowhere defined under the Indian Evidence Act, 1872. However, for the purpose of better understanding, its meaning can be implied as ‘a person who gives testimony against the person who calls him as a witness in its own favour’ or ‘a person who shows a bias attitude against the party in whose favour he was called as a witness’. In all these circumstances the court declares such witness as a hostile witness. Hon’ble Supreme Court in *Gura Singh v. State of Rajasthan* has laid down that “under the common law a hostile witness is described as one who is not desirous of telling the truth at the instance of the party calling him and an unfavourable witness is one called by a party to prove a particular fact in issue or relevant to the issue who fails to prove such fact, or proves the opposite test”¹⁰. There are varied reasons due to which witness turns hostile. However, the lack of protective mechanism conceives fear and apprehension in the mind of a witness due to which they are unenthusiastic to cooperate in the court process.

V. Witness in need of protection:-

Protection of witness is one of the attributes of fair trial which is guaranteed under Article 21 of the Constitution of India. However, the condition of the witness is still worse in our justice administration system. Witnesses are induced, intimidation and threatened by the accused when they give adverse testimony against them. Moreover, witnesses are even killed if they broke the silence against the accused. All these incidences of torture majorly happened due to the lack of effective witness protection regime in our country. For this reason, Criminal have no fear of law due which they are able to impose a threat on the witness. This has also given rise to high acquittal rate and decrease in convictions in the justice administration system. Hon’ble Supreme Court in *Zahaira Habibulla H. Sheikh & anor v. State of Gujarat and Others* observed that:

“The State has a definite role to play in protecting the witnesses, to start with at least in sensitive cases involving those in power, who has political patronage and could wield muscle and money power, to avert trial getting tainted and derailed and truth becoming a casualty. As a protector of its citizens it has to ensure that during a trial in Court the witness could safely

⁹ <https://indiankanoon.org/doc/150714978/> last visited on 06/07/2019

¹⁰ *Gura Singh v. State of Rajasthan* 2001 Cri. L.J. 487

depose truth without any fear of being haunted by those against whom he had deposed. Every State has a constitutional obligation and duty to protect the life and liberty of its citizens. That is the fundamental requirement for observance of the rule of law. There cannot be any deviation from this requirement because of any extraneous factors like, caste, creed, religion, political belief or ideology. Every State is supposed to know these fundamental requirements and this needs no retaliation”¹¹.

Considering these issues it is emphasized that witness should be grant protection from these hardships and the state is bound to safeguard the right of witnesses in such sensitive issues.

VI. Witness protection laws in foreign countries:

Various developed and developing countries of the world have come up with a comprehensive policy on witness protection in their counties. The witness protection policies of a few selected countries are mentioned below:

- ✦ United States of America- The United States Federal Witness Security Program (WITSEC) prevailing in the United States of America is treated as a model for the other countries for framing witness protection laws in their countries. Therefore, it is also called as ‘*the paradigm program*.’¹² The Federal Witness Security Program was incorporated under the Organised Crime Control Act, 1970 and later on recognised under the Comprehensive Crime Control Act, 1984. The Attorney General is empowered under the program to administer and grant protection to the potential witness. The program offers protection like physical protection, identity protection, relocation of witnesses, providing accommodation, financial assistance etc. to the witness of his close associates¹³.
- ✦ United Kingdom- The United Kingdom enacted the Serious Organised Crime and Police Act, 2005 which protects a witness who is being threatened. United Kingdom police services are responsible to give protection to the witness. The Act framed various norms for admitting a person under the witness protection program. The protection which is offered under the

¹¹ Zahaira Habibulla H. Sheikh & Another v. State of Gujarat and Others (2004) 4 SCALE 375

¹² Roberts-Smith, 2000

¹³ H. Suresh, New Law Needed for Witness Protection, Combat Law, Vol. 4, Issue 1, April-May 2005, available at <www.indiatogether.org/combatalaw/vol4/issue1/witness.htm>

program includes: physical protection, identity protection, providing accommodation etc. to the witness or his family members¹⁴.

- ✦ Australia- In Australia, the Witness Protection Act (1994) provides for the provision of protection of witnesses during the trial. The National Witness Protection Programme is empowered to provide protection to the witnesses. The decision of including a person in the program shall be taken by the Commissioner of Australia Federal Police. The protection provided under the Act include: physical protection, identity protection, providing accommodation etc. to the witness or his family members.
- ✦ South Africa- Witness protection in South Africa is provided through Witness Protection Act 112 of 1988. It provides for the establishment of an Office for the protection, placement and service to the witnesses and associated persons under the Act.¹⁵ The Act empowered the establishment of Office for Witness Protection which shall provide protection (including temporary protection) to the witness or related person through the Director. After considering various factors into account, the Director shall make an order of protection by entering into a Protection agreement.¹⁶ The protection provided under the Act includes: the relocation or change of identity of, or other related assistance or services provided to, a protected person.
- ✦ Canada- Canada enacted the Witness Protection Program Act, 1996 with an objective to establish a program to enable persons to receive protection in relation to certain inquiries, investigations or prosecutions. The Commissioner shall be the chief authority to administer and maintain the Witness Protection Program under the Act¹⁷ and determine whether the witness can be admitted in the program. While making the order of protection the Commissioner shall consider factor like the nature of the risk to the security of the witness, the danger to the community if the witness is admitted to the Program, the nature of the inquiry, investigation or prosecution involving the witness etc.¹⁸ The protections which are offered under the Act include relocation, accommodation and change of identity, counselling and financial support for re-establishment or becoming self-sufficient to the witness.¹⁹

¹⁴ Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Organised Crime, p.45.

¹⁵ Object - Witness Protection Act 112, 1998

¹⁶ Section 10 - Witness Protection Act 112, 1998

¹⁷ Section 4 - Witness Protection Program Act, 1996

¹⁸ Section 7 - Witness Protection Program Act, 1996

¹⁹ Witness Protection Program Act, 1996

VII. Law Commission of India on Witness protection:

Law Commission of India is an executive body of Government of India which was constituted to provide recommendations regarding reforms in existing laws and need for any law. Time and again law commission of India has suggested and recommended to incorporate a comprehensive policy on the protection of witness in India. Law Commission in its various reports highlighted the problems faced by the witnesses during the course of investigation and trial and enlightened need of witness protection laws in India. Some reports dealing with the aspect of witness protection are discussed below:

- ✦ 14th Law Commission Report- Law commission of India in its 14th report suggested the reform in existing substantive, procedural and revenue laws. While discussing the reasons for the acute delay in criminal trials, law commission mentioned that delay majorly caused due to lack of cooperation from the public in assisting in the court process when they are called as a witness. The reason behind this non-cooperation is that witnesses faced lots of hardship when they approach the court. They travel far distance from their residence, waste their time and money and wait whole to get their turn to testify. The travel allowance which paid to witness is very less or some time it is not even paid. Due to all these reasons, witnesses are not willing to participate in the court process²⁰.
- ✦ 42nd Law Commission Report- Law Commission of India in its 42nd report suggested to rework on Indian Penal Code. The commission recommended to penalize the act of the threatening or inducement to witnesses during the course of the trial. Though, the proposed recommendation was to declare the threatening and inducement to witness as an offence but never made any efforts to provide adequate protection to the witness²¹.
- ✦ 154th Law Commission Report- Law Commission of India in its 154th report discusses the aspect of protection and facilities to witnesses in one of its chapters. The Report mentioned that the witness faced lots of inconvenience and harassment when they approach the court. Sometimes they need to seat for the whole day to wait for their turn to get examined without proper infrastructural facilities. They face unwarranted adjournments and even not paid with adequate allowances. Despite all these plights witnesses are threatened and induced by the

²⁰ Law Commission of India, Report no.14, Reforms of Judicial Administration, 16 September 1958

²¹ Law Commission of India, Report no. 42, Indian Penal Code, June 1971

accused to give testimony in their favour which in turn makes them hostile. Therefore, the witness should be provided with good infrastructural facilities in court, given daily allowances with upgraded yardsticks and adequate protection.²²

- ✦ 172nd Law Commission Report - Law Commission of India in its 172nd report recommended to review the existing provisions relating to Rape laws in India. Though the report focused on the aspect of the offence of rape, but it has suggested some reforms in the case of child abuse. The commission suggested that the testimony in such matters should be recorded by the court at the first instance and if possible the statement of victim/witness should be recorded by using modern methods like a videotape or closed-circuit television. The Report also suggested that it is the duty of the court to ensure that the victim/witness of child abuse shall not meet face to face with accused at the time of examination.²³
- ✦ 178th Law Commission Report - Law Commission of India in its 178th report discussed the problem of hostile witnesses. The report mentioned that, due to the incidence of threatening and inducement by the accused or his family member the witness turns hostile during trial process. Therefore, the Commission suggested that section 164A should be inserted in Cr.P.C to set out precautionary measures. Moreover, the Commission suggested that at the very first instance of commencement of trial, the Magistrate should record the version of witnesses to avoid any influence. Further, all the statements made by witnesses before police official shall be signed by him and send to the magistrate at the earliest.²⁴
- ✦ 198th Law Commission Report - Law Commission of India in its 198th report discussed the aspect of 'Witness Identity Protection and Witness Protection Programmes'. The report contains a comparative study of judicial pronouncements and witness protection program operating in various like USA, UK, Australia, Canada, South Africa etc. The Commission recommended that the identity of witnesses should be protected in all the serious offences wherein his life is in danger. Further, a witness can be relocated to another place with his family members until the completion of the trial and the expenditure of relocation shall be borne by the state government. A memorandum of understanding shall be signed between the witness and State making an obligation on the state to protect witness out of the court and

²² Law Commission of India, Report no. 154, Code of Criminal Procedure, 1973, 1996

²³ Law Commission of India, Report no.172, Review of Rape Laws, 2000

²⁴ Law Commission of India, Report no.178, Recommendations for Amending Various Enactments both Civil and Criminal, 2001

compel the witness to depose true statements. All the expenses under the program shall be born by the Central and the State government.²⁵

- ✦ 239th Law Commission Report - Law Commission of India in its 239th report highlighted the aspect of expeditious investigation and trial of criminal cases against influential public personalities. The report mentioned that the delay causes due to the heavy burden of work on trial courts and inordinate adjournments of proceedings. Further, due to the lack of witness protection mechanism, the complaints of the witness relating to threatening and intimidation could not be resolved. Moreover, the Commission recommended to make few infrastructural improvements in courts by incorporating separate rooms for witnesses, providing basic facilities like seating, drinking water, refreshments and toilet in the court building. The modern technologies like audio recorder should be used to record the statement of the witness.²⁶
- ✦ Committee on Reforms of Criminal Justice System (2003) – Ministry of Home Affairs appointed a ‘Committee on Reforms of Criminal Justice System’ which submitted its report on March 2003. The Committee was chaired by Dr. Justice V.S. Malimath²⁷ to review and suggest reforms in the existing criminal justice system. The Commission highlighted the problems faced by the witness during the course of the trial and recommended that the witness should be treated with due respect when they reach the court. They should be adequately compensated for the expenses they incurred to travel to court. The allowance should be reframed and they should be provided with ample of protection during the course of the trial.²⁸
- ✦ National Police Commission - Fourth Report (1980) - National Police Commission submitted its Fourth Report in the year 1980 to recommend the criteria fixed for payment of allowances to the witness and to make it practicable and the process of payment should be made simpler.²⁹

²⁵ Law Commission of India, Report no. 198, Witness Identity Protection and Witness Protection Programmes, 2006

²⁶ Law Commission of India, Expeditious Investigation and Trial of Criminal Cases Against Influential Public Personalities, Report no. 239, 2012

²⁷ Formerly, Chief Justice of Karnataka and Kerala High Courts, Chairman, Central Administrative Tribunal, Member, National Human Rights Commission, Bangalore

²⁸ Dr. Justice V.S. Malimath, Committee on Reforms of Criminal Justice System, 2003

²⁹ National Police Commission, Fourth Report, 1980

VIII. Judicial pronouncements pertaining to witness protection:

- ✦ Swaran Singh v. The State of Punjab – Hon’ble Supreme Court in this landmark judgment highlighted the problems faced the witness during the course of the trial. The witness is an integral part of the justice administration system. However, since the inception of an investigation until the completion of the trial or even after the trial witness suffers a lot. They travel a long distance to attend the court process, waste their time and money and lose their salary for the day. But in return, they get nothing other than ill-treatment and harassment. They are not even paid with an adequate travel allowance and get good hospitality in court. Instead of all these hardships, they face unwarranted adjournment and even sometimes threatened and harassed by the accused for giving testimony against them. Therefore, it is needed that the rights of the witness should be secured and they should be provided with adequate protection.³⁰
- ✦ Neelam Katara v. Union of India – In this landmark judgment Delhi High Court reaffirmed the need for protection of witnesses. While making the judgement, the High Court referred various reports of law commission and witness protection law operating in different countries and issued guidelines until any appropriate law incorporated by the government of Delhi. The guidelines mandate the police officials to provide adequate protection to the witness as per the nature of the threat.³¹
- ✦ State of Maharashtra vs Praful Desai – In this judgement, Hon’ble Supreme Court accepted the contention of the Appellant to record the testimony of witness through the technique of video-conferencing. The Supreme Court referred to section 3 of the Indian Evidence Act, 1872 and opined that the definition of ‘evidence’ includes evidence in electronic form. Therefore, in case of urgency, the testimony of a witness can be recorded through the medium of video-conferencing.³²
- ✦ Zahaira Habibulla H. Sheikh & Another v. State of Gujarat and ors. (The Best Bakery Case) – This case is also known as The Best Bakery Case. In this landmark judgment, the Apex Court observed that witness has a right to a fair trial which is also enshrined as a fundamental right under Article 21 of the Constitution of India. However, it is commonly seen that the witnesses are threatened and

³⁰ Supra note 4

³¹ Neelam Katara v. Union of India ILR (2003) II Del 377 260

³² State of Maharashtra vs Praful Desai (2003 4 SCC 601)

harassed during the course of the trial to give false testimony. Therefore, it is the duty of the state to safeguard the witness from these hardships and provide adequate protection.³³

- ✦ National Human Rights Commission v/s State of Gujarat and Ors. – Hon'ble Supreme Court in this landmark judgement discusses the aspect of a fair trial. It was mentioned that if the witness is not able to depose freely in the court of law then the very purpose of trial gets frustrated. Therefore, the court should adopt a mechanism to ensure that the witness should be provided with an environment wherein he could be able to submit his testimony without fear.³⁴
- ✦ The State of Maharashtra vs. Bandu @ Daulat – In this case before the Supreme Court an appeal was filed against the order of acquittal passed High Court in a rape trial. The Supreme Court upheld the conviction order and suggested that the state government should set up special centres for the examination of vulnerable witnesses to provide a favourable atmosphere to victim/witness to depose freely.³⁵
- ✦ Mahender Chawla v. Union of India – This is one of the landmark judgement which has opened various avenues for a comprehensive witness protection regime in India. Though there were some Acts like TADA, POTA, UAPA which provided for the provision of witness protection and even few States in India like National Capital Territory of Delhi³⁶ and Maharashtra³⁷ has their own witness protection law governing in their territories. However, there was no central legislation on witness protection. Time and again Law Commission of India and Hon'ble Supreme Court highlighted the need comprehensive policy on witness protection but it was not taken into account by the Union government. Therefore, Hon'ble Supreme Court in this landmark judgement approve a Scheme called as Witness Protection Scheme, 2018 which shall be treated as 'Law' under Article 141 and 142 of the Constitution of India until Parliament passes any appropriate law in this regard.

The Scheme was approved infamous case of self-declared Godman Aasaram, wherein he was charged with the offence of rape. In this case, during the course of an investigation and the trial, lot many witnesses were threatened and harassed and even killed. When the matter came up before the Supreme Court, it reaffirms the need for protection of witnesses and approves the Scheme which was prepared by the Ministry of Home Affairs and NLSA. The

³³ Zahaira Habibulla H. Sheikh & Another v. State of Gujarat and Others (2004) 4 SCALE 375

³⁴ National Human Rights Commission v/s State of Gujarat and Ors.(2009) 6 SCC 767

³⁵ The State of Maharashtra vs. Bandu @ Daulat (2018) 11 SCC 163

³⁶ Delhi Witness Protection Scheme, 2015

³⁷ Maharashtra Witness Protection and Security Act, 2017

Scheme aims to provide adequate protection to the witness during the course of trial and after the trial. The Scheme provides protection to the witness by categorising the threat into three categories. The witness shall be provided witness protections like identity protection, relocation of witnesses, change of identity, financial assistance under the Scheme. All the expenditure for running the programme shall be borne from a fund created by the state governments called as 'State Witness Protection Fund'³⁸.

Hon'ble Supreme Court directed that the Union of India, States government and Union Territories shall enforce the Witness Protection Scheme, 2018 in letter and spirit. The vulnerable witness deposition complexes shall be set up in each and every districts of States and Union Territories. All the guidelines of the Scheme shall adhere strictly.³⁹

IX. Conclusion:

Witness is an important component of the Criminal Justice System. They coordinate in court process by lending their testimony. It is often said that by giving evidence witness actually performs a sacred duty.⁴⁰ Therefore, they should be given due respect. However, various instances have come in light that discloses the plight of witnesses. They are not only maltreated and harassed in Courts but also faces intimidation and torture from the accused during the course of the trial. For all these sufferings they don't have any recourse. Law Commission of India repeatedly highlighted the problem faced by the witness during the course of the trial in its numerous reports. Hon'ble Supreme Court in its various pronouncements discusses the problem faced by the witnesses and acknowledges the need for facilities to be provided to them. The Supreme Court in its recent judgment also approves the Witness Protection Scheme, 2018 as there was no Central legislation pertaining to the protection of witnesses. As per the judgment the Scheme shall be treated as law until any suitable legislation is framed by the Parliament. Therefore, it is a mandate on the Union Government, State governments and Union Territories to take all the efforts and initiatives to implement the Scheme in letter and spirit.

The purpose of the Criminal Justice Administration shall only be accomplished when the witness is provided with an environment wherein he could depose freely without fear psychosis. This

³⁸ Mahender Chawla v. Union of India, 2018 SCC OnLine SC 2679

³⁹ *Id.*

⁴⁰ Supra note 4

will also assure him fair trial guaranteed under Article 21 of the Constitution of India. Moreover, the pain and distress which the witness sustain by assisting in court process can only be relieved by creating a sense of satisfaction in their mind, by giving them due respect and protection in all the stages of investigation and trial.

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