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Compensation for those Implicated in False Cases

What is the issue?

Besides highlighting the torment suffered by him and his family, Aryan Khan's case threw focus on the countless victims of malicious prosecution.

What is the background of the issue?

- The raid on the vessel resulted in seizure of narcotic substances and the arrest of several people.
- Even though nothing was seized, the agency made sensational claims in court about them being part of an international drug trafficking network
- It also cited messages purportedly exchanged on WhatsApp as evidence.
- A special investigation team from Delhi has now cited lapses in the initial investigation and the lack of prosecutable evidence
- It absolved Mr. Khan and five others and excluded them from the charge sheet filed recently.
- The lapses include
 - failure to video-graph the search of the ship
 - not conducting a medical examination to prove consumption
 - examining Mr. Khan's phone and reading messages on it without any legal basis

Why a person should be compensated if there is false implication?

- If there has been physical discomfort of being in jail because the person may have been in jail for many years.
- There is the mental trauma that not only a person, but also their family and children undergo.
- There is social stigma associated with arrests.
- There is a financial, social and emotional burden of being involved in a crime, which in case you were falsely accused of or maliciously prosecuted.

To know more about the need to compensate for unlawful arrests, click [here](#)

What about the instances of providing compensation for malicious prosecution?

- Sometimes there can be genuine mistakes and several instances of sedition.
- But a malicious and deliberate act on the part of an investigating officer should be viewed very seriously.

- In scientist Nambi Narayanan's case, he was acquitted 24 years after Kerala police arrested him in a fabricated spy case
- The Supreme Court gave him Rs. 50 lakh as compensation in 2018.
- The Delhi High Court on a couple of occasions has said the person needs to be compensated for having been kept in jail even though he's entitled to bail and all the papers are in order.
- The agencies sometimes err on the side of arresting while the role of the prosecutor and judicial application of mind will help against an error of judgment in prosecuting a person.

Section 66A (punishment for sending offensive messages through communication service, etc.) of the Information Technology Act has been struck down by the Supreme Court in 2015 as unconstitutional.

Do India need a new law to ensure disbursement of compensation?

- Section 211 of the Indian Penal Code talks of a false charge of offence made with an intent to injure.
- It can lead to two years of imprisonment, or up to seven years.
- This section is valid for malicious prosecutions, but further legislation for compensation would be a welcome step.
- There need to be a legislation on this respect as the amount of compensation stays at the discretion of the judiciary.⁴
- The state should have some legal or statutory responsibility and must also take responsibility in case of wrongful confinement.

Reference

1. <https://www.thehindu.com/opinion/op-ed/do-we-need-a-law-to-compensate-those-implicated-in-false-cases/article65487956.ece>



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