

Laxmi v. Union of India and Others (2013): The ‘Acid Attack’ Case

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Introduction

Today, acid attacks are reported in almost every part of the world. If the acid comes in contact with the skin, it possesses the ability to eat away the skin tissues and burn the nose, bones, ears, lips; in some extreme cases, it even takes away the victims’ vision. Alongside the physical injuries, victims also suffer from a lot of emotional and psychological trauma. Victims often undergo depression and some even commit suicide.

In India, no specific law for acid attacks was available till 2013. However, the cases of the acid attack were on a continuous rise. Thus, the demand for a specific law for acid attacks was pertinent. The present case comes to its rescue. ‘Laxmi’ was a victim of acid attack who, intrigued by the remedy she got under I.P.C., eventually went on to file a P.I.L., seeking new law and amendment to the existing laws dealing with acid attacks.

As a result of this P.I.L., the Supreme court of India came up with guidelines relating to sale and purchase of acid to regulate its easy availability. It directed all the 28 states and 8 union territories of India to follow the issued guidelines and to regulate the sale of acid. After this judgement, acid attack is recognized as a crime under 326 A and 326 B of I.P.C.

Factual Information and Background of the Case

Laxmi Agarwal was born in a middle-class family of Delhi. In 2005, when she was 15 years old, she became a victim of an acid attack because she refused to marry Guddu, who happened to be the brother of her friend. The victim suffered severe injuries on her face and other body parts. She, along with physical injury, also faced psychological trauma.

Although, a criminal case ‘*Naeem Khan @ Guddu v. State*¹, was filed against the accused. The accused was convicted in the trial court as well as Delhi High Court, but he was soon released on bail. Laxmi thus felt a need for proper laws and punishment dealing solely with acid attacks and as a result of it, she filed a P.I.L. in the Supreme Court. The specific pleadings of the P.I.L. are discussed in detail in the following section.

¹ Naeem Khan @ Guddu v. State, (2013) S.C.C. Online Del 4050 (India).

Pleading Advanced in the P.I.L.

The P.I.L. presented by Laxmi in the Supreme Court of India majorly has three pleadings. Initially, before the P.I.L. was filed, acid was an easily available substance. Anybody without any restriction was able to buy it from nearby stores. This became a major reason for the increase in the number of cases of acid attack. Thus, through this P.I.L., Laxmi pleaded for proper regulation on the sale of acid.

In the P.I.L. Laxmi also pleaded for including acid attack as a separate crime by either enacting new laws or amending the existing laws to include acid attack as a separate crime.² Keeping in mind the increasing number of acid attacks, there was an urgent requirement for specific laws dealing solely with acid attacks because the period of punishment provided in the already existing laws such as Section 326 of I.P.C.³ did not match the gravity of the offence of acid attack. Thus, analysing the rising cases of acid attacks in India, there is an urgent need for stringent laws which impose a heavy punishment on the convicts.

Moreover, acid attack victims require great medical expense, and they also face great psychological trauma. Although, before this P.I.L., there were a lot of independent measures taken by different states and Union territories, the compensation and rehabilitation provided was highly non-uniform and also inadequate. Thus, Laxmi, in her P.I.L., pleaded to constitute a 'Victim Compensation Scheme'.

Discussion on the Inadequacy of existing Laws

The Supreme Court asked the Law Commission of India to analyse the current situation of acid attack cases in India and submit a report on the topic "The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and law for Compensation for Victims of Crime". The 226th Law Commission of India report submitted, discussed and analysed the existing laws and suggested the enactment of new laws. Furthermore, keeping in mind the suggestions made by the Law Commission of India, the Supreme Court also discussed the following existing laws in this case:

Section 307 of the I.P.C.⁴ The Law Commission analysed that under this section, courts in India tends to grant bail easily in the cases of acid attack as the intention of an attempt to murder

² Chetna Arikatti, Contents of P.I.L, Scars of Acid Attack in Criminal Law Justice System: A Case Comment, LEGAL SERVICE INDIA (May 19, 2020), <http://www.legalserviceindia.com/legal/article-1073-scares-of-acid-attack-in-criminal-law-justice-system-a-case-comment.html/>.

³ The Indian Penal Code, 1860, Act No. 45 of 1860, § 326.

⁴ *Id.*, § 307.

is extremely difficult to prove.⁵ The Law Commission of India analysed **Section 326 of the I.P.C.**⁶ and concluded that the severity of an offence like an acid attack is not matched by the punishment provided under this section.

Section 20 of the I.P.C.⁷ was also discussed and the Law Commission of India, which analysed that offences like acid attack, which include multiple types of grievous hurt are not covered in the definition given in this section.

Judgement

The Supreme Court of India issued following guidelines for buyers and sellers of acid. Firstly, a minor is not entitled to buy acid, and the seller is not allowed to sell it to him. Further, the eligible buyer has to provide a photo I.D. card and also mention the purpose before purchasing acid. Thereafter, the seller will be obligated to forward this information to the nearest police station. A report of the stock is to be submitted by the seller to the S.D.M. The S.D.M. will also have the power to seize the unreported stock.⁸

Furthermore, SC guidelines for the use of acid for research, academic and other institutional purposes include submission of a register in which the quantity, usage and purpose of acid used in these institutes are recorded.

‘The Criminal Amendment Act of 2013’ amended the I.P.C, CrPC and Indian Evidence Act to make acid attacks an offence with stringent punishment for the convict and fair compensation for the victim. As a result of this, Section 326A and 326B of the Indian Penal Code were inserted which deal explicitly with acid attacks and impose punishment for ten years, extendable up to life imprisonment. In the Indian Evidence Act, Section 114 B was inserted.

The Supreme Court of India also directed the States and Union Territories to sincerely adhere to the guidelines of the Supreme Court with regards to compensating the acid attack victim. The SC stressed upon bringing private hospitals on board and that no hospital/ clinic should refuse treatment to the victim, citing lack of specialized facilities. Appropriate actions must be taken against them if they do so.⁹

⁵ LAW COMMISSION OF INDIA, THE INCLUSION OF ACID ATTACKS AS SPECIFIC OFFENCES IN THE INDIAN PENAL CODE AND A LAW FOR COMPENSATION FOR VICTIMS OF CRIME, 226th Report 6 (May 11, 2020).

⁶ *Supra* note 3, § 326.

⁷ *Supra* note 3, § 20.

⁸ *Laxmi v. Union of India*, (2014) 4 S.C.C. 427.

⁹ *Id.*

Case Analysis

Although, the acid attack can be committed against any man or woman; however, after observing the statistics it can be safely concluded that acid attack as a crime is mostly committed against women. The petitioner in the present case of, *Laxmi v. Union of India and Ors.*, was subject to an acid attack because she refused the proposal to marry the accused. This case rightly pointed out that the laws already in force are not sufficient to tackle this act and how the accused often uses the loopholes for his benefit.

After hearing Laxmi's P.I.L., the Supreme Court not only directed the government to amend the existing laws but also issued strict guidelines which should be followed by all the states and 8 union territories of India. This case led the S.C. to deliver a revolutionary judgement which will help in lifting up the situation of acid attack victims. It will also result in reducing the incidents of acid attack to a large extent. Laxmi's case also came as a relief to thousands of acid attack victims who, like Laxmi, were somehow trying to fit their case in the existing laws.

To conclude, acid attacks came up as a crime to harass women in society. It slowly became a powerful tool in the hands of male-dominated society to threaten the peaceful existence of women. Before this judgement, the victims were made to suffer a lot due to the lack of specific laws and the delay in the court proceedings. However, the Criminal Amendment Act of 2013 brought by Laxmi's P.I.L., became a ray of light to the acid attack victims, as it possessed great potential to change the scenario of acid attacks in India.