

A Study on Prosecuting Officers in Siliguri Court with Reference to the Code of Criminal Procedure, 1973.

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Abstract

In an adversarial system of criminal investigation, which India follows Prosecuting an accused is always a challenging and complex task. The criminal justice system consist of the police, prosecution, courts and correctional administration. All this organs needs to be working in tandem to ensure smooth running of the criminal administration. A prosecuting advocate has to aptly balance between the victim's right and that of maintaining strictest impartiality where he works as agent of justice and not as the mouthpeice of the State. The rights of the accused under Indian Criminal Jurisprudence flows from being the Constitutional rights to be ensconed under the The Code of Criminal Procedure,1973. The victim right under The Code of Criminal Procedure,1973 is not explicit enough. It merely provides the definition of victim without underlying the representational right properly only to engage an advocate of his/her choice.Barring the stage of appeal a criminal proceeding can be segregated into three parts broadly, investigation inquiry and trial. A very critical position in the criminal justice system is that of the prosecutor.Every organised society has a well developed prosecution system to prosecute those who break the society's establish legal rules. The objective of any criminal trialis to investigate the crime and decide the accused's guilt or innocence, and it is the prosecutor's primary responsibility to assist the court in determining the truth of a case. As a result, the prosecutor is required to carry out his duties in a fair, fearless and responsible manner. This author seeks to discern the fact, as to what are the statutory safeguards and limitation offered to a prosecutor in every stage of criminal proceeding under the before mentioned code. The prosecutor are given a very limited power within Code of Criminal Procedure Code, 1973. This author has interviewed prosecutors in the magisterial and sessions court of Siliguri.The interview was done using tool of questionnarie. The prosecutors are all for better and enabling powers and duties. Prosecutors are task with the delicate job of

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assisting the court in finding and taking a criminal proceeding to a logical conclusion. They are tasked with being an agent of justice in criminal proceedings. This author suggest certain changes and modification within the criminal code to remove the hindrance and which shall augment in better administration of justice.

Keywords: Prosecutors, Court, Criminal Justice System, Police, Investigation Inquiry, Trial.

I. Introduction: Nature, Scope and Importance

In India, the Constitution has provided the organs of State, namely the legislature, the executive and the judiciary. The efficient working of these organs depends on honest and efficient personnel that man these organs and the political ideology the nation chooses to follow. Article 50 of Indian Constitution states that the State shall take steps to separate the judiciary from the executive in the public service of the State. 'The legislature and the executive are politically partisan bodies and are committed to certain policies and programmes which they wish to implement. Therefore, they cannot be trusted with the final power of constitutional interpretation. They would often seek to bend the Constitution to their own views and accommodate their own policies. The constitution would thus become a plaything of the politicians².' Prosecutors are personnel who assist in the administration of criminal justice. Administration of Criminal justice does not centre on conviction of the accused but also invokes protecting the interest of the society and victims. It is an inclusive concept. Prosecutors are influential at every stage of criminal proceeding. They decide what offences the accused person should be charged with, whether to seek pretrial custody, and what sentence to ask for. However, prosecutors unlike defence counsel, have an ethical obligation to seek justice balancing the interest of the victims of crime, society, and those accused of crimes. They represent the public and are not mere mouth pieces for law enforcement agencies. Their role is neither adversarial to the accused and definitely not the victim. The Indian Penal Code, 1860 is a substantive law with the Code of Criminal Procedure, 1973 which is the foremost procedural law of the country. As per section 4 of the Code of Criminal Procedure, 1973 all offences

² M.P JAIN, INDIAN CONSTITUTIONAL LAW 1668 (8th edition Lexis Nexis, 2018).

under the Indian Penal Code are to be inquired into, tried and investigated as per the provisions of the code. The sub-section appended to further states that 'all offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences'. The Code of Criminal Procedure, 1973 has explained what kinds of offences are to be tried by which Courts. The Criminal procedural Code, 1973 also has specified various classes of Prosecutors or Prosecuting officers for various trial courts and also the High Court. After the enactment of the Constitution there was no change in the working of the Prosecutors till the year of 1973. That the appointment and functioning of the Prosecutors in District and Sub-Divisional Courts was supervised by the concerned District Superintendent of Police of the district till 1973. That prior to 1-4-1974 when the old Code of Criminal Procedure 1898, was in force, prior to the trial stage a police officer not below the rank of inspector would even conduct the prosecution. The only caveat was that the concerned police should not be below the rank of inspector and should not have taken part in the investigation of the case of which he is prosecuting. The traces of this can be found under section 302 of the Code of Criminal Procedure, 1973.

The Supreme Court in *Sheo Nandan Paswan v State of Bihar & others*³ cautioned that even though prosecutors have a duty to represent the executive for trying the offender and it is broadly their responsibility to see that the trial results in conviction, they need be extremely concerned about the outcome of the case. They act as officers of the court and are obliged to ensure that the accused person is not unfairly treated. The High Court of Delhi, in *Jitendra Kumar v State*⁴ warned that in performance of his duty he can prosecute the accused, but he cannot assume the role of a prosecutor. It is no part of his duty to secure conviction at all costs. The Public Prosecutor should act fairly and impartially and must be conscious of the rights of the accused. The duty of a public prosecutor to not assume the role of spokesperson of the state is vital in trial as well in the stage of inquiry of the case.

³ AIR 1983 SC 194.

⁴ *Jitendra Kumar v. State (NCT of Delhi) & others* on 12 Nov, 1999.

Prosecutors also have a role in narrative building. Since they present the state's case in criminal trials, they build narratives of criminality and criminalization. In doing so they are influenced by intrinsic and extrinsic factors. Such as their faith, inner morality and social upbringing and responses. Daniel Richman describes them as "adjudicative gatekeepers "who play a key role in translating criminal "law on the books " to criminal "law in action". Such narratives are especially harmful in cases involving alleged terrorist activities and anti -nationals, where anxieties about the security of the state already haunt the imagination of those in criminal justice system and ordinary citizens. Thus, public prosecutors who support criminal justice reform can be a powerful force for altering the culture of under trial detention.

II. Prosecutors: Appointment and Function

India follows the adversarial form of investigative system unlike the inquisitorial system where the prosecutors are involved with the investigation at every step of investigation. The prosecutors formulate an opinion and influence the investigation, which opens the scope for check and balances. They act as a caution bar to investigative excesses. The term 'Prosecuting officer' is used in widest amplitude under the Code of Criminal Procedure, 1973. It means a person, by whatever named called, appointed to perform the functions of a Public Prosecutor, an Additional Public Prosecutor or an Assistant Public prosecutor. Moreover in an amendment to Section 24⁵ of the Code of Criminal Procedure, 1973, a victim too can engage a lawyer of his/her choice who could only assist a Prosecutor in criminal proceedings, but at all relevant times has to work under the direction of such prosecutor.

The Supreme Court in *Shrilekha Vidyarthi v State of U.P.*⁶ stated that the function of the Public Prosecutor relates to a public purpose entrusting him with the responsibility of acting only in the interest of administration of justice. Public prosecutor, Additional Public Prosecutors and Assistant Public Prosecutors along with Special Public Prosecutors are appointed under section 24 & 25 of Code of Criminal Procedure Code 1973. There is also a provision for Directorate of Public

⁵ Ins .by Act 5 of 2009, sec. 3 (w.e.f 31-12-2009).

⁶ AIR 1991 SC 537 (547).

Prosecution under section 25A of Code of Criminal Procedure 1973. The Public Prosecutor, Additional Public Prosecutor and if appointed Special Public Prosecutor are appointed to conduct cases in Sessions Court or in Special Courts having power akin to the Sessions Court (example NDPS Court & POCSO Court). The Additional Public Prosecutor also conducts cases in Assistant Sessions Judges Court. The Assistant Public Prosecutors act as prosecuting officers in the court of Magistrates. Then now as for the appointment of prosecuting officers is concerned, for every High Court, the Central and the State Government respectively with the consultation with the High Court appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutor to carry out the brief in respect of the concerned government before the High Court. However, for the appointment of Prosecuting officer in lower judiciary the same is regulated by the State Government through District Magistrate except for the case where the Central Government is involved (the Union of India is prosecuting) or where there is a regular cadre of prosecuting officers is available. On contrary the District Magistrate in consultation with the Sessions Judge prepare a panel of names fit to be appointed as Public Prosecutor or Additional Public Prosecutor and even Assistant Public Prosecutors. The eligibility criteria for Public Prosecutor & Additional Prosecutor are seven years of practice whereas for Assistant Public Prosecutor is three years and Special Public Prosecutor is ten years of practice. Since Prosecutors are integral part of criminal proceedings they have an important role to play in the use and application of Criminal Procedure Code. Since they are government appointees, they often cannot remain indifferent to government ideologies. Hence it is important to understand and observe how they apply the Criminal Procedure Code to their day to day litigation work. In the case of *Subhash Chandra Vs. Chandigarh Administration*⁷ it was held that the Public Prosecutor who alone is entitled to pray for withdrawal from Prosecution under section 321 of Code of Criminal Procedure, 1973 is to act not as a part of executive but as judicial limb and in praying for withdrawal he is to exercise his independent discretion even if it incurs the displeasure of his master affecting continuance of his office. To speak briefly about the functions of the Prosecutors under the Code of Criminal Procedure, 1973, one must first take into account that the criminal procedural code, other than the appeal, revision or reference part can be segregated into three parts. Broadly speaking the parts are investigation,

⁷ (1980) 2 SCC 155.

inquiry and the trial. Investigation is the sole domain of the law enforcement agencies and the role of prosecutors first comes in the time of inquiry. The role of a prosecutor is very important at the hearing of bail application in a non-bailable case before the commencement of the trial and also thereafter. It is a statutory mandate to hear the Prosecutor while hearing a pre-arrest or post arrest bail application, where the offence alleged prescribe a punishment with death, imprisonment for life or any punishment over seven years. At the stage of inquiry if new evidence is collected by the investigating officers or the enforcement agencies it is put forward by the prosecutor before the Court of Law. Any application is it of seeking police custody, or an application for search seizure or warrant of any kind or that of a prayer for proclamation or attachment is made by the Prosecutor on behalf of the State. In a case which is tried in a Court of Session, the prosecutor shall open the case by describing the charge brought against the accused. That every Prosecutor be it in a Sessions Court or Magistrate Court examines the witness, cross-examines the witness of the accused/accuseds person. The prosecutor leads the argument of any criminal proceedings. A very important role of the Prosecutor is to formulate an opinion, whether an approver has deposed truly before a court of law. If the Prosecutor certifies otherwise, the accused can lose the status of the approver. That though the Prosecutor has been vested with considerable power under the Code of Criminal Procedure and also under various criminal minor Act's yet there is always an executive control over the Prosecutors.

III. Why Siliguri Court is a Subject of Study for Prosecution Story?

Siliguri is a unique place not only in the State of West Bengal, but also in India. It is fondly called the 'chicken neck of the country'; the reason is for the geographical location in which it is situated connecting the entire north-east with the rest of the country. Due to its presence near three international borders namely of Bangladesh, Nepal, Bhutan and being a commercial hub it is prone to various cross-border crimes, along with traditional and interstate crimes. Though administratively from 5TH August 2012, a large portion of Siliguri Sub division barring Phansidewa, khoribari and parts of Naxalbari bloc, entire Siliguri Municipal Corporation area, with a large portion of Rajganj Block, constitute what is today called the Siliguri Metropolitan area. Due to administrative impasse and lack of political will and consensus, Siliguri still houses a Sub-Divisional Court. It has five First class Judicial Magistrate Courts including the court of

Additional Chief Judicial Magistrate, three Additional District & Sessions Judge's Court including one Fast Track Court the other two Courts also discharges the function of Special Courts, one adjudicating cases related to NDPS Act 1985 and the other of POCSO Act 2012. There are also two civil courts, a Junior Division and one Senior Division Court, the latter also is designated as the Assistant Sessions Judges Court and a special CBI court hearing only cases arising out of the Prevention of Corruption Act. Yearly Siliguri Court receives approximately 5000 to 6000 number of cognizable cases a year and a variety of them making an interesting case for academic study. Being a sub divisional Court, it has around 25 (twenty five) number of Additional Public Prosecutor and four number of Assistant Public Prosecutor. The Additional Public Prosecutor conducts the cases in Additional District and Sessions Judges Court, Special Courts and Fast Track Court and Assistant Sessions Judge's Court. The Assistant Public Prosecutor conducts the cases in the first class Judicial Magistrate Court along with the court of Additional Chief Judicial Magistrate. Every year as stated before somewhere between five thousand to six thousand cases are investigated, inquired and tried in Siliguri Court making an interesting study of how, if any structures within the Code of Criminal Procedure exerts pressure upon the public officers of the lower judiciary. The writer herein also tries to discern if there is any extraneous pull and constraints in working of the prosecuting officers. Probably in our Indian Political map there are very few sub-divisional areas with such a cosmopolitan character as Siliguri. Invariably due to the demographics there are various socio- cultural and political bodies representing its concerned constituencies, also throwing up a challenge for law enforcing agencies. This confluence of law, politics and various factors influencing it and how do common citizenry engage, conform or confront with the realms of law in this particular area makes the study distinctive.

IV. Limitation of the Study

In India, where there are about 680 district courts, and some thousand sub divisional Courts, there is still no unified data collection grid and hence most of the decisions, order and judgments of the trial Courts goes without any notice and hence never gets reported. Though very recently even in the District and Sub-Divisional Courts concrete effort are being made by the Concerned High Court to develop the e- courts system where all the order of the courts is being uploaded.

The problem herein is structural. Under the Code of Criminal Procedure, 1973 the respective High court is under the statutory duty to supervise and monitor the lower judiciary (the District and Sub-Divisional Courts). The High Courts and Supreme Court are courts of record. A particular case of the lower judiciary if goes for appeal or any other proceedings in Higher Judiciary has then only the chance of being reported and thereafter notified. That law and order is a State subject, though by virtue of the second entry to the Concurrent List, both the Central Government and the respective State Government can legislate upon the matters relating to Code of Criminal Procedure and hence the Prosecutors. India is a union of states, and with the changing landscapes, the political landscape also changes effecting the administration of justice. Practically hence it is impossible to collect data on all prosecuting officers in the country be it a Central or the State Government appointee. The data collected herein can be amplified and attributed to at least Prosecuting officers all over West Bengal.

V. Detailed Methodology and Data Analysis

The researchers' main objective herein is to understand whether the Prosecutors face any kind of impediment in performing their duty and also whether they need further enabling power under the Code of Criminal Procedure 1973 to further the cause of justice. Therefore, the objective of this survey is to find the responses of prosecutors to questions raised in the questionnaire framed for the purpose of field study.

The universe the researcher faces of a finite nature but of a considerable size. Only those Prosecutors present and were willing alone were interviewed. The technique of survey was through close ended questionnaire. The responses received during the survey were recorded in writing. Samples in this report have been collected from Siliguri Sub-Divisional Court within Darjeeling district within state of West Bengal. The survey was done by way of interviewing Prosecutors of Siliguri Court. That 10 (ten) prosecutors was interviewed for the purpose of the present pilot field work. The survey at the Siliguri Court was conducted between 23 August 2021 to 27 August 2021 at Siliguri Court premises. That all the 10 (ten) prosecutors were met and asked questions. The report shows the opinion of all the prosecutors interviewed. The report does not reflect the opinion of the researcher. The report of the survey is presented hereinafter. .

1) Do you think that some more enabling power is needed to be endowed with prosecutors under Code of Criminal Procedure 1973?

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10	Total Yes	Total No	Total	Yes %	No %	Pie Chart
Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	9	1	10	90%	10%	

Blue – Yes

Red – No

That as manifested from the above graphical representation when the question to the set of 10 (ten) number of prosecutors was asked as to” Do you think that some more enabling power is needed to be endowed with prosecutors under Code of Criminal Procedure 1973?”. That the overwhelming number of prosecutor’s answers were in affirmative ie 90% of them wanted more enabling powers while one was satisfied with the current scheme of powers delegated to them under Code of Criminal Procedure 1973.

2) Do you think the Prosecutors under Code of Criminal Procedure 1973 can conduct themselves freely without any pressure or hindrance whatsoever?

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10	Total Yes	Total No	Total	Yes %	No %	Pie Chart
Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	Yes	8	2	10	80%	20%	

Blue – Yes

Red – No

That has manifested from the above graphical representation when the question to the set of 10 (ten) number of prosecutors was asked as to” Do you think the Prosecutors under Code of Criminal Procedure 1973 can conduct themselves

freely without any pressure or hindrance whatsoever?”. That majority of prosecutors i.e. 80% said that they can perform so, whereas 20% of the prosecutor said that they work and perform under some pressure whatsoever.

3) Do you think the Prosecutors face resistance from Police/Executive if they conduct themselves independently to any proceeding or trial?

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10	Total Yes	Total No	Total	Yes %	No %	Pie Chart
No	Yes	No	No	Yes	Yes	No	No	No	Yes	8	2	10	80%	20%	

Blue – Yes

Red – No

That as manifested from the above graphical representation when the question to the set of 10 (ten) number of prosecutors was asked as to” Do you think the Prosecutors face resistance from Police/Executive if they conduct themselves independently to any proceeding or trial? That 40% respondent answered in affirmative while 60% said there was no such resistance from the police or executive.

4) Do you think the Prosecutors face resistance from Police/Executive if they conduct themselves independently to any proceeding or trial?

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10	Yes	No	Total	Yes %	No %	Pie Chart
Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	9	1	10	90%	10%	

Blue – Yes

Red – No

That as manifested from the above graphical representation when the question to the set of 10 (ten) number of prosecutors was asked as to” Do you think that the

Prosecutors as in inquisitorial form of investigation must be given power to take part in investigation under Code of Criminal Procedure 1973?”. That 90% of the respondent affirmed the fact that the prosecutor must be given a role to play in investigation as per their counterpart in countries that follow inquisitorial form of investigation while one out of ten i.e. 10% answer was in negative.

5) Do you think that Prosecutor appointments must be in tandem with judicial appointments to maintain high standards of conduct in their conduct under Code of Criminal Procedure 1973?

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10	Yes	No	Total	Yes %	No %	Pie Chart
Yes	Yes	Yes	No	No	No	Yes	No	No	Yes	5	5	10	50%	50%	

Blue – Yes

Red – No

That as manifested from the above graphical representation when the question to the set of 10 (ten) number of prosecutors was asked as to” Do you think that Prosecutor appointments must be in tandem with judicial appointments to maintain high standards of conduct in their conduct under Code of Criminal Procedure 1973?”. That 50% of the respondent agreed with the view of such appointment and the rest 50% of the respondent was against such scheme of things.

6) Do you think that the investigating agency should be accountable to the Prosecutor for shallow investigation?

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10	Yes	No	Total	Ye %	No %	Pie Chart
Yes	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	8	2	10	80%	20%	

Blue – Yes

Red – No

That as manifested from the above graphical representation when the question to the set of 10 (ten) number of prosecutors was asked as to” Do you think that Prosecutor appointments must be in tandem with judicial appointments to maintain high standards of conduct in their conduct under Code of Criminal Procedure 1973?”. That 50% of the respondent agreed with the view of such appointment and the rest 50% of the respondent was against such scheme of things.

7) Do you think that a complete overhaulment of Code of Criminal Procedure 1973 is needed from adversarial system to inquisitorial system?

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10	Yes	No	Total	Yes %	No %	Pie Chart
Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Yes	8	2	10	80%	20%	

Blue – Yes

Red – No

That as manifested from the above graphical representation when the question to the set of 10 (ten) number of prosecutors was asked as to” Do you think that a complete overhaulment of Code of Criminal Procedure 1973 is needed from adversarial system to inquisitorial system?”. That 80% of the respondent answered in affirmative and the rest 20% of the respondent negated the idea of any sweeping changes to the Code of Criminal Procedure Code 1973.

8) Do you think that a cognizable crime which is non bailable and prescribes punishment over seven years must be only investigated by specialized investigating agency?

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10	Yes	No	Total	Yes %	No %	Pie Chart
Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	9	1	10	90%	10%	

Blue – Yes

Red – No

That as manifested from the above graphical representation when the question to the set of 10 (ten) number of prosecutors was asked as to “Do you think that a cognizable crime which is non bailable and prescribes punishment over seven years must be only investigated by specialized investigating agency?” That 90% of the respondent was of the view that investigation of heinous crime must be conducted by a specialized agency be it a dedicated investigating agency or specialized unit within the police itself and 10% of the respondent negated the above view expressed by their own colleagues.

9) Do you think that there must be a comprehensive witness protection scheme under Code of Criminal Procedure 1973?

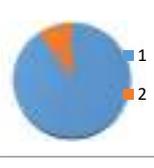
R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10	Yes	No	Total	Yes %	No %	Pie Chart
Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	9	1	10	90%	10%	

Blue – Yes

Red – No

That as manifested from the above graphical representation when the question to the set of 10 (ten) number of prosecutors was asked as to “Do you think that there must be a comprehensive witness protection scheme under Code of Criminal Procedure 1973?” That 90% respondent was of the view that there needed to be a comprehensive witness protection scheme while 10% respondent found the idea not suitable for the cause

10) Do you think the Prosecutor should be given a discretionary power to take a call whether to prosecute or not to prosecute at the commencement of trial?

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10	Yes	No	Total	Yes %	No %	Pie Chart
Yes	No	Yes	9	1	10	90%	10%								

Blue – Yes

Red – No

That as manifested from the above graphical representation when the question to the set of 10 (ten) number of prosecutors was asked as to “Do you think the Prosecutor should be given a discretionary power to take a call whether to prosecute or not to prosecute at the commencement of trial? That 90% respondent was for the discretion call for the prosecutors while 10% respondent was against any such idea whatsoever.

VI. Conclusions and Suggestions

That the findings of the pilot survey throw light to a very illuminating problem that has surfaced within the working of the prosecutors. That the survey reveals that the prosecutors feel under powered while prosecuting under the Code of Criminal Procedure 1973. That they want a complete and sweeping change under Criminal Procedure Code 1973, with power such as to take part in conducting investigation. The prosecutors want to make the investigating agency accountable to them for any shallow investigation. That overwhelming number of respondent/prosecutors were of the view that heinous crime (offences which are non bailable & prescribes punishment over seven years), must be investigated by a specialized investigating agency be it a separate one or within the police itself. That majority of respondent/prosecutors was also of the view of a comprehensive witness protection scheme and that for giving the prosecutors with the discretionary call whether to prosecute an accused or not after a charge sheet has been filed. That though most of the prosecutors suggested to the fact that they

face no amount of hindrance in working freely from the dictates of police or executive or any pressure whatsoever. That contrastingly 90% of them want more enabling powers and 80% prosecutors want complete overhauling of the Code of Criminal Procedure.

The main objective of criminal justice system is to deliver fair justice to the victim of offence and also to deter and reform the criminals. In other words, we can define criminal justice system as the system of law enforcement that is directly involved in apprehending, prosecuting, defending, sentencing, and punishing those who are suspected or convicted of criminal offence. The criminal Justice System in India is a legacy of the British. Fair and expeditious justice delivery warrants a change now. The investigation is the backbone of the fair and accurate justice delivered following the process of trial in criminal justice system, but there are several questions raised on the investigation done by the Police authority more often than not for their shallow investigation. The main objectives of criminal justice system must be delivery of fair justice as no any criminal could be spared and no any innocent person could be convicted. Criminal justice process must follow the principle of natural justice.

The investigation of a criminal case, however good and painstaking it may be, will be rendered fruitless, if the prosecution machinery is indifferent or inefficient. One of the well-known causes for the failure of a large number of prosecutions is the poor performance of the prosecution. In practice, the accused on whom the burden is little engages a very competent lawyer, while, the prosecution, on whom the burden is heavy to prove the case beyond reasonable doubt, is very often represented by persons of poor competence, and the natural outcome is that the defence succeeds in creating the reasonable doubt on the mind of the court. The most notorious problem in the functioning of the courts, particularly in the trial courts is the granting of frequent adjournments on most flimsy grounds. This malady has considerably eroded the confidence of the people in the judiciary. Adjournments contribute to delays in the disposal of cases.

That to conclude one must say that the Indian court particularly the criminal prosecution side is infested with plethora of problems and faces myriad challenges. To suggest a few measures which will go in at least in functioning of prosecutors more freely and independently are as follows;

1. That the appointment of Prosecutors in the lower rung of the judiciary, up to the District and Sessions Court must be in tandem with judicial appointment.
2. That the condition regulating their service must be to ensure the fact that the prosecutor can work freely without any executive or political interference.
3. That there must be due training programme for the prosecutors for enabling them for betterment and enhancing their prosecuting skills and logic.
4. That each district must be clustered and must be under separate Directorate of Prosecution, for better monitoring of the prosecution in district and sub divisional courts.
5. That the office of the Directorate of Prosecution in the state must be segregated and its jurisdiction must be streamlined into separate territorial jurisdiction in the state and each directorate of prosecution must not cover more than five districts.
6. That each office of the Directorate of Prosecution spread over the state must comprise, not only seasoned, experienced lawyers or prosecutors but legal scholars, retired judges of criminal courts and a man well versed in modern gadgets and technology to arrest modern day crime emanating from the use of technology.
7. That for a shallow investigation the investigating officer or for that matter for an incompetent prosecution the prosecutor as the case may be must be liable and accountable to the office of Directorate of Prosecution.
8. That Directorate of Prosecutors office in state must be given a constitutional sanctity or statutory guidelines, much in the line of Comptroller and Auditor general making it answerable before the state assembly and submitting its report annually to the state assembly.