

## **Adequate time for a probe - Investigations in Heinous Offences**

### **What is the issue?**

- Taking cue from Andhra Pradesh's Disha Bill of 2019, Maharashtra government recently proposed Maharashtra Shakti Act of 2020.
- The legislations gain attention given the provision of reduced period of investigation.

### **What is the Disha Bill?**

- Disha Bill mandated completion of investigation within 7 working days for "heinous offences" where "adequate conclusive evidence" is available.
  - These include cases such as harassment of women, sexual assault on children, and rape.
- The apex court has already ruled in favour of the prosecutrix's statement alone (if credible) being sufficient to convict an accused.
- Forensic evidence is corroborative in nature in this regard.
- Given this, the interpretation of "adequate conclusive evidence" by the police shall remain a problem.
  - The police, in fact, are concerned primarily with collection of all evidence relating to the offence.
  - It is only for the court to evaluate whether the available evidence is sufficient to convict the accused.
- Notably, Disha Bill has been withdrawn temporarily by the A.P. government following queries by the Centre, before it could get presidential assent.

### **Why is it important?**

- Though the Disha bill is withdrawn it is important to look into it as more States may legislate to reduce the period of investigation.
- Taking a cue from Disha, the Maharashtra government recently announced that it would enact a law to deal with similar cases.
- The proposed Maharashtra Shakti Act of 2020 will have stern punishment for offences of sexual assault.
- It will also have a provision to complete investigation within 15 days.

### **How do investigations go about?**

- Generally, the time of investigation depends on the severity of the crime, the number of accused persons and agencies involved.
- It includes -
  - examination of the scene of crime by the investigating officer (IO) and forensic expert
  - recording the statement of the victim (by the IO and the judicial magistrate) and witnesses
  - medical examination of the victim (at a place where a female doctor is available) and accused persons
  - collecting documents relating to age from parents, local bodies and school (in case of child victim and delinquents)
  - DNA findings of the forensic science lab (FSL)
  - test identification parade of accused persons (if initially not named)
  - seizing weapons of offence
  - the arrest of accused persons; etc
- This is besides the fact that in many cases of rape, the victim remains under trauma for some time and is not able to narrate the incident in detail.
- The speed and quality of investigation also depends on whether a police station has separate units of investigation and law and order.
- It also depends on the number of available IOs and women police officers, and the size and growth of the FSL and its DNA unit.

### **What is the ideal time for investigations?**

- As per the Criminal Procedure Code (CrPC), investigation relating to offences punishable with imprisonment up to 10 years must be completed within 60 days of detaining the accused.
- For offences with higher punishment (including rape), it is to be done within 90 days.
- If this fails to happen, then he or she shall be released on bail.
- To speed up the process, the CrPC was amended in 2018.
  - The period of investigation was reduced from 90 to 60 days for all cases of rape.
- Though every investigation has to be completed without unnecessary delay, there is no upper limit to complete investigation when the offenders are at large.
- Each investigation is guided by its own set of facts and circumstances.
- Two gruesome cases of sexual assault and murder are important to mention in this regard.
- First, in the 'Nirbhaya' case, the police filed a charge sheet on the 18th day of its reporting.
- No effort was spared to nab the criminals and the case was rigorously

supervised.

- However, in the recent Hathras case, the police took more than 90 days to file a charge sheet.

### **What is the way forward?**

- Investigation of sensitive offences should be done expeditiously.
- However, setting narrow timelines for investigation creates scope for procedural loopholes which may be exploited during trial.
- Therefore, instead of fixing unrealistic timelines, the police should be given additional resources so that they can deliver efficiently.

**Source: The Hindu**

