

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(1) CRA-D-484-DB of 2017

Raja

.... Appellant

Versus

State of Haryana

..... Respondent

(2) CRA-D-860-DB of 2017 (O&M)

Azad alias Ismail

.... Appellant

Versus

State of Haryana

..... Respondent

Reserved on : 23.05.2019

Date of decision : 28.05.2019

CORAM :- HON'BLE MR. JUSTICE RAJIV SHARMA
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Keshav Partap Singh, Legal Aid Counsel,
for the appellant in CRA-D-484-DB of 2017.

Mr. Kuldip Singh, Advocate, for
Mr. Ghulam Nabi Malik, Advocate,
for the appellant in CRA-D-860-DB of 2017.

Mr. Gagandeep Singh Wasu, Addl. A.G., Haryana.

* * *

RAJIV SHARMA, J.

1. Since common questions of law and facts are involved in both these appeals, i.e. CRA-D-484-DB of 2017 and CRA-D-860-DB of 2017, therefore, these are taken up together and being disposed of by a common

judgment.

2. Both these appeals are directed against judgment dated 30.01.2017 and order dated 08.02.2017, rendered by learned Additional Sessions Judge, Gurgaon. Appellants Raja and Azad alias Ismail along with co-accused Arif were charged with and tried for the offences punishable under Section 120-B, 452 and 326-A read with Section 34 IPC. Appellant Azad alias Ismail was convicted and sentenced as under :-

<i>Offence</i>	<i>Sentence</i>
Section 452 IPC	Rigorous imprisonment for three years and fine of ₹ 5,000/- and in default of payment of fine, simple imprisonment for three months.
Under Section 326-A IPC	Rigorous imprisonment for life and to pay fine of ₹ 1,00,000/- and in default of payment of fine, simple imprisonment for two years.
Under Section 120-B IPC (for hatching conspiracy to commit offence under Section 326-A IPC)	Rigorous imprisonment for life.

Appellant Raja was convicted and sentenced as under :-

<i>Offence</i>	<i>Sentence</i>
Under Section 120-B IPC (for hatching conspiracy to commit offence under Section 326-A IPC)	Rigorous imprisonment for life.

All the sentences of Azad alias Ismail were ordered to run concurrently. Co-accused Arif was, however, acquitted of the charges framed against him.

3. The case of the prosecution, in a nutshell, is that on 15.12.2014,

ASI Meenawanti (PW.16) was present in Sector 22 for patrolling and crime detection duty. She received information that in House No. D-65, Dharam Colony, Gurgaon, some body had thrown acid on a woman and a girl. She along with Constable Devender (PW.3) reached the spot. She came to know that the injured were admitted in Columbia Asia Hospital. They reached the hospital. They obtained the medical ruqa and MLC of injured Suman (PW.10) and Ruchi (PW.19). She moved an application to the doctor. The doctor declared Suman fit to make statement. She recorded the statement of Suman. According to the injured Suman, at about 1.30 PM, she, her daughter Ruchi, son Suraj and younger sister Sudha (PW.12) were present in her rented accommodation. A young boy aged about 18-20 years came and knocked at the door of their room. She opened the door. The boy stated that he was a Plumber and he was called by some one. He showed the mobile number in his mobile. She stated that she did not know who was having the said mobile number. The boy stated that the said mobile number was switched off. She closed the door. After about thirty minutes, he again came and knocked at the door. He stated that he was to go to the house of Ram Pal. She stated that no person, namely Ram Pal, was living there. In the meantime, that unknown boy threw some burning substance (*jawalansheel padarth*) from a small bottle, which he was holding in his hand, on her breast and body. Her daughter Ruchi was also standing there and the burning substance also fell on her. Then he threw the small bottle, bolted their door from outside and ran away. They raised hue and cry. Thereafter, her sister Sudha took her and her daughter to Columbia Asia Hospital. The FIR was registered. Burnt shirt of Suman and the bottle, from which acid

was thrown, were collected from the spot. These were sent for FSL examination. The accused were arrested on 19.12.2014. Their disclosure statements were recorded. Accused Azad was also got medico legally examined. He had received injuries due to burns, as per MLR dated 19.12.2014. Statements of the complainant and her daughter were also recorded under Section 164 Cr.P.C. Challan was presented after completing all the codal formalities.

4. The prosecution examined as many as 19 witnesses in support of its case. Statements of the accused were also recorded under Section 313 Cr.P.C. They denied the case of the prosecution. According to them, they were falsely implicated in the case. Accused Azad alias Ismail took the plea of alibi. He also examined DW.1 Faizan. The appellants were convicted and sentenced, as noticed here-in-above. Hence, these appeals.

5. Learned counsel appearing on behalf of the appellants have vehemently argued that the prosecution has failed to prove its case against their clients. Learned counsel appearing on behalf of the State has supported the judgment and order of the learned Court below.

6. We have heard learned counsel for the parties and gone through the judgment and record very carefully.

7. PW.1 Dr. Yogender Singh proved MLR of accused Azad alias Ismail, vide Ex.PA. He led his evidence by filing affidavit Ex.PW.1/A. According to him, on 19.12.2014, the police moved an application, Ex.PB. He gave his opinion, Ex.PC. According to his affidavit, he medico legally examined Azad alias Ismail on 19.12.2014 and found the following injuries on his body :-

1. A brownish black scab on the left side of nose, size 0.5 cm x 2 cm in vertical direction.
2. A brownish black scab with multiple area on the right hand dorsal surface near wrist size 1. 3 x 2 cm 2. 1 x 1 cm. dorsal surface of hand.

The kind of weapon was chemical. The probable duration of injury was within five days. Nature of injury was simple.

8. PW.7 Dr. Sandeep, Medical Officer, Columbia Asia Hospital, led his evidence by filing affidavits Ex.PW.7/A and Ex.PW.7/B. According to the contents of affidavit Ex.PW.7/A, injured Suman came to the hospital with alleged history of burns by acid on 15.12.2014. She was aged 26 years. On examination, burn was found present on the left side of her face, neck and thorax and both upper limbs. The initial treatment was given and the patient was referred to Higher Center. Similarly, as per affidavit Ex.PW.7/B, Dr. Sandeep examined Ruchi. She also came to her on 15.12.2014. On examination, burns were found on her left upper limb, abdomen and forehead.

9. PW.8 Dr. Ankit Gupta, Senior Resident, RML Hospital, New Delhi, tendered his evidence by way of affidavits Ex.PW.8/A and Ex.PW.8/B. According to affidavit Ex.PW.8/A, Suman was admitted to hospital i.e. RML Hospital, New Delhi, on 15.12.2014 at about 8.26 PM with alleged history of acid attack by unknown person at home on 15.12.2014. She was treated on IV fluids, dressings and antibiotic. On L/E she had around 23% mostly deep burns on neck, trunk and both upper limbs. She was discharged on 24.12.2014. She was re-admitted on 24.02.2015 for post burn raw area on neck, chest and right upper arm and

was operated on 25.02.2015 with skin grafting and discharged on 07.03.2015. Dr. Ankit Gupta testified in affidavit Ex.PW.8/B that patient Ruchi was admitted to hospital on 15.12.2014. On L/E she had around 16% burns on chest, both upper limbs and thigh. She was treated on IV fluids, dressings and antibiotic. She was discharged on 19.12.2014.

10. PW.9 Dr. Akhil also led his evidence by way of affidavits Ex.PW.9/A and Ex.PW.9/B. He proved discharge slips Ex.PN and Ex.PN/1.

11. PW.3 Constable Devender Singh deposed that on 19.12.2014, he was posted in Police Station Palam Vihar, Gurgaon. He was associated with L/ASI Meenawanti. They were present at Rejangla Chowk. They received a secret information that three persons, who had thrown acid, were coming on a motor cycle from Bajghera Fatak, Gurgaon. They put barricades at Krishna Chowk, Gurgaon. After some time, from the side of Bajghera, three boys came on a motor cycle bearing registration No. HR 26BE 1201. They were apprehended. They disclosed their identities as Raja, Azad and Arif. The motor cycle was taken into possession vide memo Ex.PF. Accused Azad, Arif and Raja made disclosure statements Ex.PG, Ex.PH and Ex.PI, respectively.

12. PW.5 Roshan Lal, Reader to learned Metropolitan Magistrate, Patiala House, New Delhi, deposed that two separate applications Ex.PK and Ex.PK/1 were given by ASI Meenawanti on 23.12.2014 for recording the statements of victims under Section 164 Cr.P.C. Shri Surjit Saurabh, learned Metropolitan Magistrate recorded the statement of victim Suman under Section 164 Cr.P.C., vide Ex.PK/2. The certificate is Ex.PK/3.

13. PW.10 Suman deposed that she was present in her room on

15.12.2014. At about 1.30 PM, a man knocked at her door. She opened the door. She noticed a man standing in front of her room. He disclosed himself as a Plumber. He showed his mobile and told her that a mobile number was switched off. She advised him to go on first floor and inquire about the necessity of a Plumber. After 15 minutes, he asked for a glass of water. She gave her water. He removed the handkerchief from his face to take water. He returned the glass and went away. After about half an hour, same man again came to her house. He enquired about the house of Rampal. She told him that she did not know about Rampal. He threw the acid on her body injuring various parts of her body. The acid affected her neck, left arm and chest right upto the navel. The accused who threw acid on her was present in the court. The witness pointed towards one of the accused, who disclosed his name as Azad. The accused went away while bolting the door from outside. He had also thrown acid on her daughter, namely Ruchi, aged about 9 years. She raised alarm. Neighbours came to their house. They opened the door. Thereafter, her sister Sudha took them to Columbia Asia Hospital. They were got admitted. Her statement Ex.PO was recorded. Previously, she used to work as domestic help in various houses. Raja used to work as a Chowkidar in Dharam Colony, where she used to work. She identified accused Raja in the court. The owners of the houses used to give her salary to Raja. Raja used to hand over the said salary to her. For the first five-six months, the accused used to pay her the salary. After that, he started misbehaving with her. He wanted to develop illicit relations with her. She refused. She left her job. Even after that, accused Raja used to stop her and wanted to talk to her. She did not respond. It is for this reason that he got

thrown acid on her and her daughter. Arif accused was also involved in the occurrence of throwing acid on her. In her cross-examination, she deposed that the police recorded her statement at 3.00 PM on the day of incident. Her statement was also recorded by one Judge. There was no requirement of the services of Plumber.

14. PW.12 Sudha is the sister of PW.10 Suman. According to her, her sister Suman and Ruchi daughter of Suman, aged about 9 years, Suraj son of Suman aged about 4-5 years and she were present in their house on 15.12.2014. At about 1.30 PM, one boy came to their house. He asked for the work of Plumber. He also asked for water to drink. Her sister Suman offered him water. He consumed water. After 30 minutes, he again came to their house. The boy told her sister that he had come to see Rampal. Her sister Suman replied that no Rampal was living there. The boy was holding a bottle. He threw the acid, which was in the bottle, on her sister Suman. Ruchi was also standing there. The acid also sprinkled on the person of Ruchi. Thereafter, that boy bolted the door from outside and ran away. She took her sister Suman and Ruchi to Columbia Asia Hospital in an auto rickshaw. Her sister Suman was working in some flat and Raja was working as a Security Guard there. Raja was not giving complete salary to her sister Suman. She identified the accused, namely Azad, Raja and Arif.

15. The statements of PW.10 Suman and PW.12 Sudha are duly corroborated by PW.19 Ruchi. She was 10 years of age at the time of recording of her statement. The learned trial court put questions to her to assess her competence to make statement. She deposed that her statement was recorded by the police vide Ex.PJ/1.

16. PW.13 Pawan deposed that he received a telephonic call from his sister Sudha on 15.12.2014 that some person had thrown acid on Suman and Ruchi. She asked him to come to Columbia Asia Hospital, Gurgaon. He reached the hospital. The police took into possession bottle of acid and cloth of his sister Suman vide memo Ex.PQ. In his cross-examination, he deposed that he reached Columbia Asia Hospital at 2.00 PM. The police was already in the hospital.

17. PW.16 ASI Meenawanti deposed that on 15.12.2014, she was posted as ASI in Police Station Palam Vihar, Gurgaon. She was present in the area of Sector 22 Market. She received information that some body had thrown acid on a lady and a girl at house No. D-86, Dharam Colony, Gurgaon. She reached the said house. She came to know that the victims had been taken to Columbia Asia Hospital, Palam Vihar, Gurgaon. Thereafter, she and Constable Devender reached the aforesaid hospital. She submitted an application, Ex.PR, on which the concerned doctor gave opinion vide Ex.PM/2 that the patients were fit to make statements. She recorded the statement of Suman, vide Ex.PO. She reached the place of occurrence. She prepared rough site plan Ex.PT. One nip having the inflammable/acid substance, Ex.P2, and one lady shirt in a burnt condition, Ex.P1, were taken into possession. These were converted into parcels. She put the seals on the parcels. The accused were arrested on 19.12.2014. Accused Azad was also having burn injuries. He was got medically examined. His MLR is Ex.PA. The victims were shifted to RML Hospital, Delhi. She moved applications Ex.PK and Ex.PK/1 before the Metropolitan Magistrate, Patiala House Court, New Delhi, on which the learned

Magistrate passed the orders Ex.PV, Ex.PV/1, Ex.PV/2 and Ex.PV/3. The learned Magistrate recorded statement of victim Suman vide Ex.PK/2. Ruchi was already discharged from the hospital. Her statement was also recorded by the Area Magistrate, Gurgaon, vide Ex.PJ/1. The case property was sent to Malkhana.

18. The precise case of the prosecution is that PW.10 Suman was present in her house. Appellant Azad alias Ismail came to her house claiming himself to be a Plumber. He was offered water. He went back and came back after about half an hour. He threw acid on PW.10 Suman as well as PW.19 Ruchi. Suman and Ruchi were taken to Columbia Asia Hospital. Thereafter, they were referred to RML Hospital, New Delhi. Suman was discharged on 24.12.2014. Thereafter, she was again admitted on 24.02.2015 for skin grafting. Ruchi was discharged on 19.12.2014. Statements of victims, namely Suman and Ruchi, were recorded under Section 164 Cr.P.C. The FSL report is Ex.PX. According to the report, sulphuric acid was detected in exhibit-1 and 2. Statements of the victims are duly corroborated by the medical evidence.

19. PW.1 Dr. Yogender Singh led his evidence by way of affidavit Ex.PW.1/A. He noticed the following injuries on the body of Azad alias Ismail :-

1. A brownish black scab on the left side of nose, size 0.5 cm x 2 cm in vertical direction.
2. A brownish black scab with multiple area on the right hand dorsal surface near wrist size 1. 3 x 2 cm 2. 1 x 1 cm. Dorsal surface of hand.

PW.7 Dr. Sandeep proved MLRs Ex.PM and Ex.PM/1. He gave his opinion

Ex.PM/2 that victim Suman was fit to make statement. In his affidavit Ex.PW.7/A, he categorically deposed that burns were found present on the left side of face, neck and thorax as well as both upper limbs of Suman. Similarly, by way of affidavit Ex.PW.7/B, he deposed that he had noticed burn on left upper limb, abdomen and forehead of Ruchi. According to him, both the victims had come with alleged history of burns by acid. PW.8 Dr. Ankit Gupta deposed that Suman was admitted to RML Hospital, New Delhi, on 15.12.2014 at about 8.26 PM. She had suffered 23% mostly deep burns on neck, trunk and both upper limbs. She was discharged on 24.12.2014 and was re-admitted on 24.02.2015 for skin grafting. Ruchi was admitted on 15.12.2014 at about 1.30 PM and discharged on 19.12.2014. She had suffered 16% burns on chest, both upper limbs and thigh. The discharge certificates of Suman and Ruchi are Ex.PN and Ex.PN/1. Other discharge reports of Suman are Ex.PN/2 and Ex.PN/3.

20. PW.10 Suman categorically deposed that Azad alias Ismail had thrown acid on her as well as on her daughter. They were admitted to the hospital. She identified the accused in the court. Her statement is duly corroborated by her sister PW.12 Sudha, her brother PW.13 Pawan, as well as her daughter PW.19 Ruchi. There was no occasion for them to falsely implicate the accused. Accused Raja was keeping a bad eye on Suman. The disclosure statements were made by the accused. Recoveries were effected. According to the FSL report Ex.PX, sulphuric acid was detected on cloth of victim Suman and the bottle recovered from the spot. PW.16 ASI Meenawanti was the Investigating Officer. She recorded the statement of Suman vide Ex.PO, after getting certificate from the doctor about fitness of

Suman. The accused were arrested. Statements of Suman and Ruchi were got recorded under Section 164 Cr.P.C.

21. It has come on record that accused Raja had hired accused Azad alias Ismail to throw acid on Suman. He had paid money to Azad. Azad has taken the plea of alibi, by relying upon the statement of DW.1 Faizan. DW.1 Faizan deposed that he was working as white wash contractor in the month of December, 2014. He was residing at house No. 242, Street No.1, Behrod, District Alwar, Rajasthan. On 15.12.2014, Azad alias Ismail was working as white washer at Masjid Wali Gali, Shahjahanpur, District Alwar, Rajasthan. In his cross-examination, he could not tell the house number of the kothi, where the white wash was going on. He had no documentary proof regarding employment of Azad alias Ismail as labourer with him for the purpose of white washing. His statement does not inspire confidence. It is settled law that once plea of alibi has been taken but not proved, it lends credence to the prosecution case that the accused was present at the time of occurrence. Their Lordships of the Supreme Court in **Binay Kumar Singh vs State of Bihar** (1997) 1 SCC 283, have held that once the prosecution succeeds in discharging the burden, it is incumbent on the accused, who adopts the plea of alibi, to prove it with absolute certainty so as to exclude the possibility of his presence at the place of occurrence. Their Lordships have held as under :-

“22. We must bear in mind that an alibi is not an exception (special or general) envisaged in the Indian Penal Code or any other law. It is only a rule of evidence recognised in Section 11 of the Evidence Act that facts which are inconsistent

with the fact in issue are relevant. Illustration (a) given under the provision is worth reproducing in this context:

"The question is whether A committed a crime at Calcutta on a certain date; the fact that on that date, A was at Lahore is relevant."

23. The Latin word alibi means "elsewhere" and that word is used for convenience when an accused takes recourse to a defence line that when the occurrence took place he was so far away from the place of occurrence that it is extremely improbable that he would have participated in the crime. It is a basic law that in a criminal case, in which the accused is alleged to have inflicted physical injury to another person, the burden is on the prosecution to prove that the accused was present at the scene and has participated in the crime. The burden would not be lessened by the mere fact that the accused has adopted the defence of alibi. The plea of the accused in such cases need be considered only when the burden has been discharged by the prosecution satisfactorily. But once the prosecution succeeds in discharging the burden it is incumbent on the accused, who adopts the plea of alibi, to prove it with absolute certainty so as to exclude the possibility of his presence at the place of occurrence. When the presence of the accused at the scene of occurrence has been established satisfactorily by the prosecution through reliable evidence, normally the court would be slow to believe any counter-evidence to the effect that he was elsewhere when the

occurrence happened. But if the evidence adduced by the accused is of such a quality and of such a standard that the court may entertain some reasonable doubt regarding his presence at the scene when the occurrence took place, the accused would, no doubt, be entitled to the benefit of that reasonable doubt. For that purpose, it would be a sound proposition to be laid down that, in such circumstances, the burden on the accused is rather heavy. It follows, therefore, that strict proof is required for establishing the plea of alibi. This Court has observed so on earlier occasions (vide Dudh Nath Pandey v. State of U.P. (1981) 2 SCC 166; State of Maharashtra v. Narsingrao Gangaram Pimple AIR 1984 SC 63)."

22. Accordingly, the prosecution has proved its case against the appellants beyond reasonable doubt. There is no merit in the instant appeals and the same are dismissed.

23. However, before parting with the judgment, we would like to observe that the increasing menace of acid attacks violates the basic human rights of the victims. Victims have absolute right to live their lives with enjoyment of dignity and honour. No person has a right to violate the enjoyment of human rights by other fellow citizens. Every person has a right to live his/her life on his/her own terms.

24. Their Lordships of the Supreme Court in **(2014) 4 SCC 427, Laxmi Vs. Union of India and others** have held that uniform compensation of ₹ 3 lakhs should be paid by all States/Union Territories to the victims of acid attack. ₹ 1 lakh should be paid immediately within 15 days. Remaining

₹ 2 lakhs should be paid within 2 months as expeditiously as possible. The authorities were directed to give wide publicity to said directions. Their Lordships have held as under:-

“12. Section 357-A came to be inserted in the Code of Criminal Procedure, 1973 by Act 5 of 2009 w.e.f. 31- 12-2009. Inter alia, this section provides for preparation of a scheme for providing funds for the purpose of compensation to the victim or his dependants who have suffered loss or injury as a result of the crime and who require rehabilitation.

13. We are informed that pursuant to this provision, 17 States and 7 Union Territories have prepared “Victim Compensation Scheme” (for short “the Scheme”). As regards the victims of acid attacks, the compensation mentioned in the Scheme framed by these States and Union Territories is un-uniform. While the State of Bihar has provided for compensation of Rs 25,000 in such Scheme, the State of Rajasthan has provided for Rs 2 lakhs of compensation. In our view, the compensation provided in the Scheme by most of the States/Union Territories is inadequate. It cannot be overlooked that acid attack victims need to undergo a series of plastic surgeries and other corrective treatments. Having regard to this problem, the learned Solicitor General suggested to us that the compensation by the States/Union Territories for acid attack victims must be enhanced to at least Rs 3 lakhs as the aftercare and rehabilitation cost. The suggestion of the learned Solicitor General is very fair.

14. We, accordingly, direct that the acid attack victims shall be paid compensation of at least Rs.3 lakhs by the State Government/Union Territory concerned as the aftercare and rehabilitation cost. Of this amount, a sum of Rs 1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government/Union Territory) to facilitate immediate medical attention and expenses in this regard. The balance sum of Rs 2 lakhs shall be paid as expeditiously as may be possible and positively within two months thereafter. The Chief Secretaries of the States and the Administrators of the Union Territories shall ensure compliance with the above direction.

15. The Chief Secretaries of the States and the Administrators of the Union Territories shall take necessary steps in getting this order translated into vernacular and publicise the same appropriately for the information of public at large. List the matter on 3-12- 2013.”

25. Their Lordships of the Supreme Court in **(2014) 5 SCC 417, Om Prakash Chautala Vs. Kanwar Bhan and others**, have held that right to reputation is an inseparable facet of Article 21. Their Lordships have held as under:-

“1. Leave granted. Reputation is fundamentally a glorious amalgam and unification of virtues which makes a man feel proud of his ancestry and satisfies him to bequeath it as a part of inheritance on the posterity. It is a nobility in itself for which a

conscientious man would never barter it with all the tea of China or for that matter all the pearls of the sea. The said virtue has both horizontal and vertical qualities. When reputation is hurt, a man is half-dead. It is an honour which deserves to be equally preserved by the down trodden and the privileged. The aroma of reputation is an excellence which cannot be allowed to be sullied with the passage of time. The memory of nobility no one would like to lose; none would conceive of it being atrophied. It is dear to life and on some occasions it is dearer than life. And that is why it has become an inseparable facet of Article 21 of the Constitution. No one would like to have his reputation dented. One would like to perceive it as an honour rather than popularity. When a court deals with a matter that has something likely to affect a person's reputation, the normative principles of law are to be cautiously and carefully adhered to. The advertence has to be sans emotion and sans populist perception, and absolutely in accord with the doctrine of audi alteram partem before anything adverse is said.”

26. We must have a deep rooted sensitivity for life. There should be respect for the private and family life of every individual.

27. Their Lordships of the Supreme Court in (2016) 3 SCC 571, Parivartan Kendra Vs. Union of India and others have held that compensation to the acid attack victims should be awarded not only in terms of physical injury, but note of victim's inability to lead a full life and to enjoy those amenities which are being robbed of her as a result of acid attack, should also be taken. The State shall upon itself take full

responsibility for the treatment and rehabilitation of the victims of acid attack as per the guidelines issued by the Hon'ble Supreme Court in (2014) 4 SCC 427. Their lordships of the Hon'ble Supreme Court in this case have awarded a compensation of ₹ 10 lakhs. Their Lordships have held as under:-

“9. In the States/Union Territories, where rules to regulate sale of acid and other corrosive substances are not operational, until such rules are framed and made operational, the Chief Secretaries of the States concerned/ Administrators of the Union Territories shall ensure compliance with the following directions with immediate effect:

9.1. Over the counter sale of acid is completely prohibited unless the seller maintains a log/register recording the sale of acid which will contain the details of the person(s) to whom acid(s) is/are sold and the quantity sold. The log/register shall contain the address of the person to whom it is sold.

9.2. All sellers shall sell acid only after the buyer has shown:

(a) a photo ID issued by the Government which also has the address of the person;

(b) specifies the reason/purpose for procuring acid.

9.3. All stocks of acid must be declared by the seller with the Sub-Divisional Magistrate (SDM) concerned within 15 days.

9.4. No acid shall be sold to any person who is below 18 years of age.

9.5. In case of undeclared stock of acid, it

will be open to the SDM concerned to confiscate the stock and suitably impose fine on such seller up to Rs 50,000.

9.6. The SDM concerned may impose fine up to Rs 50,000 on any person who commits breach of any of the above directions.

10. Educational institutions, research laboratories, hospitals, government departments and the departments of public sector undertakings, who are required to keep and store acid, shall follow the following guidelines:

10.1. A register of usage of acid shall be maintained and the same shall be filed with the SDM concerned.

10.2. A person shall be made accountable for possession and safe keeping of acid in their premises.

10.3. The acid shall be stored under the supervision of this person and there shall be compulsory checking of the students/personnel leaving the laboratories/place of storage where acid is used.

11. The SDM concerned shall be vested with the responsibility of taking appropriate action for the breach/default/violation of the above directions.

12. Section 357-A came to be inserted in the Code of Criminal Procedure, 1973 by Act 5 of 2009 w.e.f. 31-12- 2009. Inter alia, this section provides for preparation of a scheme for providing funds for the purpose of compensation to the victim or his dependants who have suffered loss or injury as a result of the crime and who

require rehabilitation.

13. We are informed that pursuant to this provision, 17 States and 7 Union Territories have prepared 'Victim Compensation Scheme' (for short 'the Scheme'). As regards the victims of acid attacks, the compensation mentioned in the Scheme framed by these States and Union Territories is un-uniform. While the State of Bihar has provided for compensation of Rs 25,000 in such Scheme, the State of Rajasthan has provided for Rs 2 lakhs of compensation. In our view, the compensation provided in the Scheme by most of the States/Union Territories is inadequate. It cannot be overlooked that acid attack victims need to undergo a series of plastic surgeries and other corrective treatments. Having regard to this problem, the learned Solicitor General suggested to us that the compensation by the States/Union Territories for acid attack victims must be enhanced to at least Rs 3 lakhs as the aftercare and rehabilitation cost. The suggestion of the learned Solicitor General is very fair.

14. We, accordingly, direct that the acid attack victims shall be paid compensation of at least Rs 3 lakhs by the State Government/Union Territory concerned as the aftercare and rehabilitation cost. Of this amount, a sum of Rs 1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government/Union Territory) to facilitate immediate medical attention and expenses in this regard. The

balance sum of Rs 2 lakhs shall be paid as expeditiously as may be possible and positively within two months thereafter. The Chief Secretaries of the States and the Administrators of the Union Territories shall ensure compliance with the above direction.”

10. On 3-12-2013, in Laxmi case, when the affidavit of the State of Haryana was placed before the Bench, in which it stated that the Government of Haryana is in the process of framing a scheme for full medical treatment, short term as well as long term, for specialised plastic surgery, corrective surgeries, providing specialised psychological treatment to the acid attack victims to help them to come out of the horror and trauma of the acid attack and their rehabilitation, this Court directed the Chief Secretaries of the States (other than Haryana) and the administrators of the Union Territories to file affidavit and indicate to this Court, the State's view in bearing 100% cost of treatment of the acid attack victims in line with the decision taken by the Government of Haryana and also with regard to framing of scheme on the lines of the Haryana Government for medical treatment at specialised hospitals having facility for plastic surgery, corrective surgery and psychological as well as other treatment to the acid attack victims. This Court further directed the Chief Secretaries of the States and Administrators of the Union Territories to issue necessary instructions to the police stations within their respective State/Union Territory that as and when an FIR is lodged with

the police relating to acid attack, the police station concerned will send a communication to the jurisdictional SDM about receipt of such information. Upon receipt of such information, the jurisdictional SDM shall then make an inquiry into the procurement of acid by the wrongdoer and take appropriate action in the matter. 11. While disposing of the writ petition in Laxmi v. Union of India³, this Court inter alia held, thus: “10. We have gone through the chart annexed along with the affidavit filed by the Ministry of Home Affairs and we find that despite the directions given by this Court in Laxmi v. Union of India¹, the minimum compensation of Rs 3,00,000 (Rupees three lakhs only) per acid attack victim has not been fixed in some of the States/Union Territories. In our opinion, it will be appropriate if the Member Secretary of the State Legal Services Authority takes up the issue with the State Government so that the orders passed by this Court are complied with and a minimum of Rs 3,00,000 (Rupees three lakhs only) is made available to each victim of acid attack.

11. From the figures given above, we find that the amount will not be burdensome so far as the State Governments/Union Territories are concerned and, therefore, we do not see any reason why the directions given by this Court should not be accepted by the State Governments/Union Territories since they do not involve any serious financial implication.

* * *

13. Insofar as the proper treatment,

aftercare and rehabilitation of the victims of acid attack is concerned, the meeting convened on 14-3-2015 notes unanimously that full medical assistance should be provided to the victims of acid attack and that private hospitals should also provide free medical treatment to such victims. It is noted that there may perhaps be some reluctance on the part of some private hospitals to provide free medical treatment and, therefore, the officers concerned in the State Governments should take up the matter with the private hospitals so that they are also required to provide free medical treatment to the victims of acid attack.

14. The decisions taken in the meeting read as follows: The private hospitals will also be brought on board for compliance and the States/UTs will use necessary means in this regard.

No hospital/clinic should refuse treatment citing lack of specialised facilities.

First aid must be administered to the victim and after stabilisation, the victim/patient could be shifted to a specialised facility for further treatment, wherever required.

Action may be taken against hospital/clinic for refusal to treat victims of acid attacks and other crimes in contravention of the provisions of Section 357-C of the Code of Criminal Procedure, 1973.

17. We, therefore, issue a direction that the State Governments/Union Territories should seriously discuss and take up the matter with all

the private hospitals in their respective State/Union Territory to the effect that the private hospitals should not refuse treatment to victims of acid attack and that full treatment should be provided to such victims including medicines, food, bedding and reconstructive surgeries.

18. We also issue a direction that the hospital, where the victim of an acid attack is first treated, should give a certificate that the individual is a victim of an acid attack. This certificate may be utilised by the victim for treatment and reconstructive surgeries or any other scheme that the victim may be entitled to with the State Government or the Union Territory, as the case may be.

19. In the event of any specific complaint against any private hospital or government hospital, the acid attack victim will, of course, be at liberty to take further action.

20. With regard to the banning of sale of acid across the counter, we direct the Secretary in the Ministry of Home Affairs and Secretary in the Ministry of Health and Family Welfare to take up the matter with the State Governments/Union Territories to ensure that an appropriate notification to this effect is issued within a period of three months from today. It appears that some States/Union Territories have already issued such a notification, but, in our opinion, all States and Union Territories must issue such a notification at the earliest.

21. The final issue is with regard to the setting up of a Criminal Injuries Compensation

Board. In the meeting held on 14-3-2015, the unanimous view was that since the District Legal Services Authority is already constituted in every district and is involved in providing appropriate assistance relating to acid attack victims, perhaps it may not be necessary to set up a separate Criminal Injuries Compensation Board. In other words, a multiplicity of authorities need not be created.

22. In our opinion, this view is quite reasonable. Therefore, in case of any compensation claim made by any acid attack victim, the matter will be taken up by the District Legal Services Authority, which will include the District Judge and such other co-opted persons who the District Judge feels will be of assistance, particularly the District Magistrate, the Superintendent of Police and the Civil Surgeon or the Chief Medical Officer of that district or their nominee. This body will function as the Criminal Injuries Compensation Board for all purposes.”

12. The above mentioned direction given by this Court in Laxmi case is a general mandate to the States and Union Territories and is the minimum amount which the State shall make available to each victim of acid attack. The State and Union Territory concerned can give even more amount of compensation than Rs 3,00,000 as directed by this Court. It is pertinent to mention here that the mandate given by this Court in Laxmi case nowhere restricts the Court from giving more compensation to the victim of acid attack, especially when the victim has

suffered serious injuries on her body which is required to be taken into consideration by this Court. In peculiar facts, this Court can grant even more compensation to the victim than Rs 3,00,000.

13. We have come across many instances of acid attacks across the country. These attacks have been rampant for the simple reason that there has been no proper implementation of the regulations or control for the supply and distribution of acid. There have been many cases where the victims of acid attack are made to sit at home owing to their difficulty to work. These instances unveil that the State has failed to check the distribution of acid falling into the wrong hands even after giving many directions by this Court in this regard. Henceforth, stringent action be taken against those erring persons supplying acid without proper authorisation and also the authorities concerned be made responsible for failure to keep a check on the distribution of the acid.

14. When we consider the instant case of the victims, the very sight of the victim is traumatising for us. If we could be traumatised by the mere sight of injuries caused to the victim by the inhumane acid attack on her, what would the situation of the victim be, perhaps, we cannot judge. Nonetheless we cannot be oblivious of the fact of her trauma.

15. From perusal of the record of the case, it is found that the elder sister suffered 28% burns on her body and 90% on her face, owing to the

alleged brutal attack on her. Due to the acid attack, the victim had undergone several surgeries, and has to undergo many more corrective and curative surgeries for her treatment.

16. Admittedly, three skin grafting surgeries were conducted by PMCH but they were all improperly conducted as testified at Safdarjung Hospital. The victim, was brought to Delhi by the petitioner and in Delhi some skin grafting surgeries were again conducted at Safdarjung Hospital for neck, lips, eyes, nose, arm, forehead and ear. Further skin grafting surgeries were also conducted at Fortis Hospital for neck, lips, nose, eye and arm. In the opinion of the victim's doctor also, she would be required to undergo multiple corrective and curative operations and medical support for the rest of her life. The victim would be required to have corrective and curative surgeries for neck, lips, eyes, nose, arm, forehead, ears, breasts and elbow. Apart from the above medical conditions/treatment, which she is required to undergo, there are many other consequences, which an acid attack brings out in the life of the victim.

17. Considering the plight of the victim we can sum up that:

(i) The likeliness of the victim getting a job which involves physical exertion of energy is very low.

(ii) The social stigma and the pain that she has to go through for not being accepted by the society cannot be neglected. Furthermore, the

general reaction of loathing which she would have to encounter and the humiliation that she would have to face throughout her life cannot be compensated in terms of money.

(iii) As a result of the physical injury, the victim will not be able to lead a normal life and cannot dream of marriage prospects.

(iv) Since her skin is fragile due to the acid attack she would have to take care of it for the rest of her life. Therefore, the aftercare and rehabilitation cost that has to be incurred will have huge financial implications on her and her family.

18. On perusal of various contentions and evidence, we find it imperative to mention that even after this Court having passed an order dated 6-2-2013 directing the Union of India and the States to implement compensation payable to acid attack victims by creation of a separate fund, only 17 States have been notified of the Victim Compensation Schemes (VCS). Out of which 7 States and 4 Union Territories have not initiated VCS. Even in those States where the Scheme has been implemented, a meagre compensation ranging between Rs 25,000 to Rs 2 lakhs is provided for medical care. And many States have not provided any compensation for rehabilitation at all. In the present case, the Government of Bihar has fixed a pitiable amount of Rs 25,000 for the victims of acid attack.

19. The guidelines issued by orders in Laxmi case^{1,2,3} are proper, except with respect to the compensation amount. We just need to ensure

that these guidelines are implemented properly. Keeping in view the impact of acid attack on the victim's social, economical and personal life, we need to enhance the amount of compensation. We cannot be oblivious of the fact that the victim of acid attack requires permanent treatment for the damaged skin. The mere amount of Rs 3 lakhs will not be of any help to such a victim. We are conscious of the fact that enhancement of the compensation amount will be an additional burden on the State. But prevention of such a crime is the responsibility of the State and the liability to pay the enhanced compensation will be of the State. The enhancement of the compensation will act in two ways:

(i) It will help the victim in rehabilitation;

(ii) It will also make the State to implement the guidelines properly as the State will try to comply with it in its true spirit so that the crime of acid attack can be prevented in future.

20. Having regard to the problems faced by the victims, this Court in Laxmi v. Union of India¹ by an order dated 18-7-2013, enhanced the compensation, stating that, "at least Rs 3 lakhs must be paid to the victims of acid attacks by the Government concerned". Therefore, a minimum of Rs 3 lakhs is to be awarded by the Government to each victim of the acid attack. In the present case, a minimum amount of Rs 6 lakhs has to be awarded to the sisters.

21. In peculiar facts of the case, we are of the view that victim Chanchal deserves to be awarded a compensation more than what has

been prescribed by this Court in Laxmi case¹. Though in this case we are not issuing any guidelines different from the guidelines issued in Laxmi case¹, we should not forget that the younger sister was also injured by the acid attack. Although her degree of sufferance is not as that of the elder one, but she also requires treatment and rehabilitation. It is to be noted that this Court in Laxmi case does not put a bar on the Government to award compensation limited to Rs 3 lakhs. The State has the discretion to provide more compensation to the victim in the case of acid attack as per Laxmi case guidelines. It is also to be noticed that this Court has not put any condition in Laxmi case as to the degree of injuries which a victim has suffered due to acid attack. In the instant case, the victim's father has already spent more than Rs 5 lakhs for the treatment of the victim. In consideration of the severity of the victim's injury, expenditure with regard to grafting and reconstruction surgery, physical and mental pain, etc., we are of the opinion that the victim (Chanchal) should be compensated to a tune of at least Rs 10 lakhs. Suffice it to say that the compensation must not only be awarded in terms of the physical injury, we have also to take note of the victim's inability to lead a full life and to enjoy those amenities which is being robbed of her as a result of the acid attack. Therefore, this Court deems it proper to award a compensation of Rs 10 lakhs and accordingly, we direct the Government concerned to compensate the victim Chanchal to the tune of

Rs 10 lakhs, and in light of the judgment given in Laxmi case we direct the State Government of Bihar concerned to compensate the main victim's sister, Sonam to a tune of Rs 3 lakhs. Of the total amount of Rs 13 lakhs, a sum of Rs 5 lakhs shall be paid to the victim and her family within a period of one month and the remaining sum of Rs 8 lakhs shall be paid to the victims within a period of three months from the date of this order. Furthermore, the State shall upon itself take full responsibility for the treatment and rehabilitation of the victims of acid attack as per the guidelines provided in Laxmi case³, vide order dated 10-4- 2015.”

28. Their Lordships of the Supreme Court in **(2016) 3 SCC 669, Laxmi vs. Union of India and others** and other analogous matters have issued directions to regulate sale of acid and other corrosive substances. Their Lordships have also highlighted setting up of a Criminal Injuries Compensation Board for acid attack victims. Their Lordships have held as under:-

“33. Insofar as the proper treatment, aftercare and rehabilitation of the victims of acid attack is concerned, the meeting convened on 14-3-2015 notes unanimously that full medical assistance should be provided to the victims of acid attack and that private hospitals should also provide free medical treatment to such victims. It is noted that there may perhaps be some reluctance on the part of some private hospitals to provide free medical treatment and, therefore, the officers concerned in the State Governments should take

up the matter with the private hospitals so that they are also required to provide free medical treatment to the victims of acid attack.

34. The decisions taken in the meeting read as follows:

34.1. The States/UTs will take a serious note of the directions of the Supreme Court with regard to treatment and payment of compensation to acid attack victims and to implement these directions through the issue of requisite orders/notifications.

34.2. The private hospitals will also be brought on board for compliance and the States/UTs will use necessary means in this regard.

34.3. No hospital/clinic should refuse treatment citing lack of specialised facilities.

34.4. First aid must be administered to the victim and after stabilisation, the victim/patient could be shifted to a specialised facility for further treatment, wherever required.

34.5. Action may be taken against hospital/clinic for refusal to treat victims of acid attacks and other crimes in contravention of the provisions of Section 357-C of the Code of Criminal Procedure, 1973.

34.6. We expect the authorities to comply with these decisions.

35. Although it is not made clear in the meeting held on 14-3-2015, what we understand by free medical treatment is not only provision of physical treatment to the victim of acid attack but also availability of medicines, bed and food in the

hospital concerned.

36. We, therefore, issue a direction that the State Governments/Union Territories should seriously discuss and take up the matter with all the private hospitals in their respective State/Union Territory to the effect that the private hospitals should not refuse treatment to victims of acid attack and that full treatment should be provided to such victims including medicines, food, bedding and reconstructive surgeries.

37. We also issue a direction that the hospital, where the victim of an acid attack is first treated, should give a certificate that the individual is a victim of an acid attack. This certificate may be utilised by the victim for treatment and reconstructive surgeries or any other scheme that the victim may be entitled to with the State Government or the Union Territory, as the case may be.

38. In the event of any specific complaint against any private hospital or government hospital, the acid attack victim will, of course, be at liberty to take further action.

39. With regard to the banning of sale of acid across the country, we direct the Secretary in the Ministry of Home Affairs and the Secretary in the Ministry of Health and Family Welfare to take up the matter with the State Governments/Union Territories to ensure that an appropriate notification to this effect is issued within a period of three months from today. It appears that some States/ Union Territories have already issued such a notification, but, in our opinion, all the

States and Union Territories must issue such a notification at the earliest.

40. *The final issue is with regard to the setting up of a Criminal Injuries Compensation Board. In the meeting held on 14-3-2015, the unanimous view was that since the District Legal Services Authority is already constituted in every district and is involved in providing appropriate assistance relating to acid attack victims, perhaps it may not be necessary to set up a separate Criminal Injuries Compensation Board. In other words, a multiplicity of authorities need not be created.*

41. *In our opinion, this view is quite reasonable. Therefore, in case of any compensation claim made by any acid attack victim, the matter will be taken up by the District Legal Services Authority, which will include the District Judge and such other co-opted persons who the District Judge feels will be of assistance, particularly the District Magistrate, the Superintendent of Police and the Civil Surgeon or the Chief Medical Officer of that district or their nominee. This body will function as the Criminal Injuries Compensation Board for all purposes.”*

29. Their Lordships of the Hon’ble Supreme Court in **(2017) 4 SCC 546, Ravada Sasikala Vs. State of Andhra Pradesh and another** have

held that the case of the acid attack is an example of uncivilized and heartless crime. Such like crime does not deserve any kind of clemency.

When there is medical evidence that there was an acid attack on the young

girl and circumstances having brought home by cogent evidence and conviction is given stamp of approval, there was no justification to reduce the sentence to the period already undergone. Their Lordships of the Supreme Court ordered the accused to pay a compensation of ₹ 50,000/- and the State to pay a compensation of ₹ 3 Lakhs. Their Lordships have held as under:-

“22. The case at hand is an example of uncivilised and heartless crime committed by Respondent 2. It is completely unacceptable that concept of leniency can be conceived of in such a crime. A crime of this nature does not deserve any kind of clemency. It is individually as well as collectively intolerable. Respondent 2 might have felt that his ego had been hurt by such a denial to the proposal or he might have suffered a sense of hollowness to his exaggerated sense of honour or might have been guided by the idea that revenge is the sweetest thing that one can be wedded to when there is no response to the unrequited love but, whatever may be the situation, the criminal act, by no stretch of imagination, deserves any leniency or mercy. Respondent 2 might have suffered emotional distress by the denial, yet the said feeling could not to be converted into vengeance to have the licence to act in a manner like he has done.

23. In view of what we have stated, the approach of the High Court shocks us and we have no hesitation in saying so. When there is medical evidence that there was an acid attack on the young girl and the circumstances having

brought home by cogent evidence and the conviction is given the stamp of approval, there was no justification to reduce the sentence to the period already undergone. We are at a loss to understand whether the learned Judge has been guided by some unknown notion of mercy or remaining oblivious of the precedents relating to sentence or for that matter, not careful about the expectation of the collective from the court, for the society at large eagerly waits for justice to be done in accordance with law, has reduced the sentence. When a substantive sentence of thirty days is imposed, in the crime of present nature, that is, acid attack on a young girl, the sense of justice, if we allow ourselves to say so, is not only ostracised, but also is unceremoniously sent to “Vânaprastha”. It is wholly impermissible.

24. *In view of our analysis, we are compelled to set aside the sentence imposed by the High Court and restore that of the trial court. In addition to the aforesaid, we are disposed to address on victim compensation. We are of the considered opinion that the appellant is entitled to compensation that is awardable to a victim under CrPC. In Ankush Shivaji Gaikwad v. State of Maharashtra¹⁹, the two-Judge Bench referred to the amended provision, 154th Law Commission Report that has devoted entire chapter to victimology, wherein the growing emphasis was on the victim.*

25. *In Laxmi v. Union of India, this Court observed thus: (SCC pp. 430-31, paras 12-13)*

“12. Section 357-A came to be inserted in

the Code of Criminal Procedure, 1973 by Act 5 of 2009 w.e.f. 31-12- 2009. Inter alia, this section provides for preparation of a scheme for providing funds for the purpose of compensation to the victim or his dependants who have suffered loss or injury as a result of the crime and who require rehabilitation.

13. We are informed that pursuant to this provision, 17 States and 7 Union Territories have prepared "Victim Compensation Scheme" (for short "the Scheme"). As regards the victims of acid attacks, the compensation mentioned in the Scheme framed by these States and Union Territories is un-uniform. While the State of Bihar has provided for compensation of Rs 25,000 in such Scheme, the State of Rajasthan has provided for Rs 2 lakhs of compensation. In our view, the compensation provided in the Scheme by most of the States/Union Territories is inadequate. It cannot be overlooked that acid attack victims need to undergo a series of plastic surgeries and other corrective treatments. Having regard to this problem, the learned Solicitor General suggested to us that the compensation by the States/Union Territories for acid attack victims must be enhanced to at least Rs 3 lakhs as the aftercare and rehabilitation cost. The suggestion of the learned Solicitor General is very fair."

26. The Court further directed that the acid attack victims shall be paid compensation of at least Rs 3 lakhs by the State Government/Union Territory concerned as the aftercare and rehabilitation cost. Of this amount, a sum of Rs 1

lakh was directed to be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government/Union Territory) to facilitate immediate medical attention and expenses in this regard. The balance sum of Rs 2 lakhs was directed to be paid as expeditiously as possible and positively within two months thereafter and compliance thereof was directed to be ensured by the Chief Secretaries of the States and the Administrators of the Union Territories.

27. In State of M.P. v. Mehtaab²¹ (SCC p. 200, para 10), the Court directed compensation of Rs 2 lakhs to be fixed regard being had to the limited financial resources of the accused despite the fact that the occurrence took place in 1997. It observed that the said compensation was not adequate and accordingly, in addition to the said compensation to be paid by the accused, held that the State was required to pay compensation under Section 357-A CrPC. For the said purpose, reliance was placed on the decision in Suresh v. State of Haryana.

28. In State of H.P. v. Ram Pal, the Court opined (SCC pp. 586-87, para 11) that compensation of Rs 40,000 was inadequate regard being had to the fact that life of a young girl aged 20 years was lost. Bestowing anxious consideration the Court, placing reliance on Suresh, Manohar Singh v. State of Rajasthan and Mehtaab, directed that ends of justice shall be best subserved if the accused is required to pay a

total sum of Rs 1 lakh and the State to pay a sum of Rs 3 lakhs as compensation.

29. Regard being had to the aforesaid decisions, we direct Respondent 2-accused to pay a compensation of Rs 50,000 and the State to pay a compensation of Rs 3 lakhs. If the accused does not pay the compensation amount within six months, he shall suffer further rigorous imprisonment of six months, in addition to what has been imposed by the trial court. The State shall deposit the amount before the trial court within three months and the learned trial Judge on proper identification of the victim, shall disburse it in her favour.”

30. The U.S. Supreme Court in **94 U.S. 113 (1876) Munn v. Illinois**, has declared that by the term “life,” as here used, something more it meant than mere animal existence. The deprivation not only of life, but of whatever God has given to everyone with life for its growth and enjoyment, is prohibited by the provision in question if its efficacy be not frittered away by judicial decision. The relevant paragraphs are as under :-

“Except by due process of law, no State can deprive any person of either. The provision has been supposed to secure to every individual the essential conditions for the pursuit of happiness, and, for that reason, has not been heretofore, and should never be, construed in any narrow or restricted sense.

No State “shall deprive any person of life, liberty, or property without due process of law,

“says the Fourteenth Amendment to the Constitution. By the term “life,” as here used, something more it meant than mere animal existence. The inhibition against its deprivation extends to all those limbs and faculties by which life is enjoyed. The provision equally prohibits the mutilation of the body by the amputation of an arm or leg, or the putting out of an eye, or the destruction of any other organ of the body through which the soul communicates with the outer world. The deprivation not only of life, but of whatever God has given to everyone with life for its growth and enjoyment, is prohibited by the provision in question of if its efficacy be not frittered away by judicial decision.

By the term “liberty”, as used in the provision, something more it meant than mere freedom from physical restraint or the bonds of a prison. It means freedom to go where one may choose, and to act in such manner, not inconsistent with the equal rights of others, as his judgment may dictate for the promotion of his happiness—that is, to pursue such callings and avocations as may be most suitable to develop his capacities and give to them their highest enjoyment.”

31. The U.S. Supreme Court in **165 U.S. 578 (1897) Allgeyer v. Louisiana**, has held that the “liberty” mentioned in that amendment means not only the right of the citizen to be free from the mere physical restraint of his person, as by incarceration, but the term is deemed to embrace the right of the citizen to be free in the enjoyment of all his faculties, to be free to use

them in all lawful ways, to live and work where he will, to earn his livelihood by any lawful calling, to pursue any livelihood or avocation, and for that purpose to enter into all contracts. The relevant paragraphs are as under:-

“We think the statute is a violation of the Fourteenth Amendment of the federal Constitution in that it deprives the defendants of their liberty without due process of law. The statute which forbids such act does not become due process of law, because it is inconsistent with the provisions of the Constitution of the Union. The “liberty” mentioned in that amendment means not only the right of the citizen to be free from the mere physical restraint of his person, as by incarceration, but the term is deemed to embrace the right of the citizen to be free in the enjoyment of all his faculties, to be free to use them in all lawful ways, to live and work where he will, to earn his livelihood by any lawful calling, to pursue any livelihood or avocation, and for that purpose to enter into all contracts which may be proper, necessary, and essential to his carrying out to a successful conclusion the purposes above mentioned.

It was said by Mr. Justice Bardley in Butchers’ Union Company v. Crescent City Company, 111, U.S. 746, 111 U.S. 762, in the course of his concurring opinion in that case, that “the right to follow any of the common occupations of life is an inalienable right. It was formulated as such

under the pharse 'pursuit of happiness' in the Declaration of Independence, which commenced with the fundamental proposition that 'all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and pursuit of happiness.' This right is a large ingredient in the civil liberty of the citizen."

32. The incidents of acid burning/throwing cause physical, mental and psychological torture. Every citizen must remember that something which has happened to acid attack victim may also happen with his family members.

33. Every person has a right to life including the right to live free from any kind of mental, physical and psychological torture, be it stalking, sexual harassment, burning etc. The victim of acid burns is stigmatized and traumatized.

34. Thus, in order to curb and control the ever increasing cases of acid attacks, we issue the following mandatory directions: -

A. All the private hospitals throughout the States of Haryana and Punjab as well as the Union Territory of Chandigarh are directed to provide medical assistance to the acid attack victims as per the dicta of Hon'ble Supreme Court in **(2016) 3 SCC 669, Laxmi vs. Union of India and others** and other analogous matters.

B. There shall not be any sale of acid over the counter to any

individual throughout the States of Haryana and Punjab as well as the Union Territory of Chandigarh except from one licensed dealer to another or by a licensed dealer to any school or college or to any research or medical institution or hospital or dispensary under a registered medical practitioner or any recognized public institution or industrial firm. It is also made clear that if any person is found unauthorizedly selling the acid, an FIR shall also be registered against him.

C. Since the existing provisions have failed to prevent acid throwing/acid attacks on helpless women, the Senior Superintendents of Police, throughout the States of Haryana and Punjab as well as the Union Territory of Chandigarh, are directed to ensure prompt registration of FIR in the offences pertaining to Sections 326A, 326B, 354A, 354B, 354C & 354D of I.P.C. In all such matters, the investigation shall be completed within seven days, under the supervision of the Gazetted Officer, and thereafter, the Challan shall be put up in the competent criminal court within seven days. The Gazetted Officer shall be personally held liable in case of defective investigation.

D. The cases pertaining to sexual harassment, stalking, voyeurism and acid burning are required to be fast tracked. The trial Courts throughout the States of Haryana and Punjab as well as the Union Territory of Chandigarh are directed to hear the cases registered under Sections 326A, 326B, 354A, 354B, 354C & 354D of I.P.C. on day to day basis and conclude the trial within three months and in case, it is not possible to conclude the trial within three months, cogent and sufficient reasons shall be recorded by the trial Court. The trial Court shall show due sensitivity in

the matters pertaining to the acid attacks.

E. The Governments of the States of Haryana and Punjab as well as the Union Territory of Chandigarh are also directed to provide protection to the eye-witnesses during the pendency of the trial in the matters registered under Sections 326A, 326B 354A, 354B, 354C & 354D of I.P.C. till the conclusion of trial.

F. The Governments of the States of Haryana and Punjab as well as the Union Territory of Chandigarh are also directed to include the victims of acid attacks in the category of physically challenged persons for the purpose of reservation in public employment and also to make separate scheme for their rehabilitation.

G. The Governments of the States of Haryana and Punjab as well as the Union Territory of Chandigarh are directed to ensure that in every district hospital, specialized ward is provided for the cases pertaining to burn injuries to avoid infection within three months from today.

H. The Governments of the States of Haryana and Punjab as well as the Union Territory of Chandigarh are further directed to provide free medical aid to the victims of acid attacks till their full recovery.

I. The Governments of the States of Haryana and Punjab as well as the Union Territory of Chandigarh are directed to grant ex-gratia payment of ₹ one lakh to acid attack victims immediately after the registration of FIR and also to pay a sum of ₹ 7,000 per month to the victims who have received third/fourth degree burns injuries. The States of Haryana and Punjab as well as the Union Territory of Chandigarh are also directed to pay a sum of ₹ 5,000/- per month, in those cases, where the

burns injuries are of first degree and second degree. The victims are also entitled to a sum of ₹ 3,00,000/- (rupees three lakh) as ordered by their Lordships of the Hon’ble Supreme Court.

(**RAJIV SHARMA**)
JUDGE

May 28, 2019
ndj

(**HARINDER SINGH SIDHU**)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes