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Reforming Evidence Disclosure: The Matter is Still Pending!

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This paper addresses critical questions surrounding the limitations of the right to fair disclosure within the Indian legal framework, focusing on the accuracy of police reports and the handling of non-relied-upon documents. Extensive research has demonstrated that while the principle of fair disclosure is enshrined in legal norms, significant constraints persist, often compromising the integrity of criminal proceedings. The paper examines the procedural mechanisms outlined in the Bharatiya Nagrik Suraksha Sanhita, 2023 (BNSS) and the Code of Criminal Procedure, 1973 (CrPC). It critically assesses the roles of the Investigating Officer, Prosecutor, Magistrate, and the accused in ensuring fair disclosure. It highlights how, despite provisions like Section 176 of the BNSS¹ read with Section 157 of the CrPC², gaps remain in the systematic release of documents not relied upon by the prosecution. Judicial precedents reveal inconsistencies in applying these rules, often disadvantaging the accused. The paper also questions the completeness of police reports submitted under Section 193 of BNSS r/w Section 173 of CrPC, exploring whether these reports reflect all non-relied-upon documents. It argues that current legal frameworks and court practices can inadvertently permit the withholding of critical evidence, thereby undermining the fairness of trials. The absence of a standardised disclosure mandate and the discretionary powers granted to courts contribute to this issue, creating an environment where exculpatory evidence might be excluded. In conclusion, this paper advocates for legislative reforms to enhance transparency and ensure comprehensive disclosure of evidence. Implementing a mandatory disclosure rule similar to the Brady Rule and establishing clear guidelines for court discretion under Section 91 of the CrPC could rectify these limitations. Such reforms are essential for upholding justice and

¹ Bharatiya Nagrik Suraksha Sanhita 2023, s 176

² Code of Criminal Procedure 1973, s 157

reinforcing public confidence in the judicial system. The persistent issues underscore that, despite legal advancements, the matter is still pending!

Keywords: *fair disclosure, legal framework, criminal justice, judicial reform, transparency.*

INTRODUCTION

Gone are the days when Investigation Officers only relied upon selected documents to build their case, often leaving the accused in the dark about the full scope of the evidence collected. The principles governing the fair disclosure of evidence and documents under Indian Law have evolved significantly, largely due to landmark judgments. These judgments by the Supreme Court and High Courts have underscored the imperative for transparency and fairness in criminal trials. The introduction of various guidelines and rules aims to ensure that the accused is fully apprised of all materials that could potentially impact their defence.

The bare reading of section 193(7) of Bharatiya Nyaya Suraksha Sanhita, 2023 (hereinafter called as BNSS), says: *“193(7) – If the police officer thinks that any part of any such statement is not relevant to the subject matter of the proceedings or that its disclosure to the accused is not essential in the interest of justice and is not expedient in the public interest, he shall indicate that part of the statement and append a note requesting the Magistrate to exclude that part from the copies to be granted to the accused and stating his reasons for making such request.”*

Upon close examination, this provision grants police officers significant discretion in submitting only those documents deemed relevant to the subject matter of the proceedings. They are empowered to select evidence, witness statements, and other documents gathered during the investigation and present them to the Magistrate according to their discretion. In alignment with this, Section 230(iii) of BNSS further supports this framework: *“230 (iii) – the statements recorded under sub-section (3) of section 180 of all persons whom the prosecution proposes to examine as its witnesses, excluding therefrom any part regarding which a request for such exclusion has been made by the police officer under sub-section (7) of section 193;”*

One might think that the materials related to the investigation, which are supplied to the accused under section 230 of BNSS, the basic rights to have a copy of police report and other documents, are being exploited. However, this is not the case. The accused's rights have not been abrogated. The first proviso to Section 230 stipulates: "*Provided that the Magistrate may, after perusing any such part of a statement as is referred to in clause (iii) and considering the reasons given by the police officer for the request, direct that a copy of that part of the statement or such portion thereof as the Magistrate thinks proper, shall be furnished to the accused:*"

This concludes that the Right of the Accused to Fair Disclosure of Documents were always there. This was also in the then Code of Criminal Procedure (hereinafter to be referred to as CrPC) under the first proviso of section 207. The only catch is that it's only at the discretion of the Magistrate *if he thinks proper*, only then will the accused get the copy of un-relied upon documents.

In India, prosecutors are not statutorily obligated to provide information that favours the accused's defence. Under the provisions of the BNSS (and then CrPC), the right to disclosure of documents is limited³. The Code/Sanhita does not mandate the provision of *all* evidence collected by the investigating agency⁴. Instead, it outlines the precepts that govern the accused's right to obtain copies of statements and documents that the prosecution has collected and intends to rely upon during the investigation. This is how the interpretation of section 230 of BNSS is done and by way of this interpretation, the accused is supplied a copy of the police report and other documents that are essential in the interest of justice.

THE TRUTH

Extensive research has been conducted on the topic of the 'Right to Fair Disclosure.' This paper will not delve into the broader discussions of 'the right to a fair trial as a fundamental right' or 'the principle of *Audi Alteram Partem*,' nor will it revisit the case of *Brady v Maryland*⁵. These subjects have been thoroughly examined and discussed by various other Authors. Instead, this paper will address why the right to fair disclosure is limited and how we can ascertain whether

³ *Sidhartha Vashisht @ Manu Sharma v State (NCT of Delhi)* AIR 2010 SC 2352

⁴ *Dhananjay Kumar Singh v State of Rajasthan* (2006) CrLJ 3873

⁵ *Brady v Maryland* [1969] 373 US 83

the Police Report submitted by the Investigation Officer under Section 193 of BNSS accurately reflects a complete list of non-relied-upon documents.

THE LIMITATION CLAUSE

In the matter of *Manu Sharma v State (NCT of Delhi)*⁶, the apex court had clearly said that "*The right of the accused about disclosure of documents is a limited*" A very thoughtful statement coined by Justice P. Sathasivam, he also added, "*the accused cannot claim an indefeasible legal right to claim every document of the police file or even the portions which are permitted to be excluded from the documents annexed to the report under Section 173(2)*".⁷ It is crucial to recognise that any right afforded to a citizen is inherently limited, with conditions imposed for reasons such as integrity, public safety, and the protection of sensitive information. Even fundamental rights are not absolute. Accordingly, the right to fair disclosure under both the previous CrPC and the current BNSS is restricted to safeguard ongoing investigations, protect public interest and security, prevent misuse of sensitive information, and preserve the integrity of the judicial process. The Code/Sanhita ensures that only evidence relied upon by the prosecution is disclosed to the accused, while courts exercise discretion to balance the accused's rights with broader societal interests. These limitations are intended to prevent jeopardising investigations, compromising public safety, and improperly influencing judicial proceedings.

While the right to document disclosure is a fundamental aspect of a fair trial, it remains a constrained right under Indian law. As established above in the case of *Manu Sharma v State (NCT of Delhi)*, the accused cannot claim an indefeasible right to access every document in the police file, particularly those excluded under Section 173(2) of the CrPC. The CrPC, specifically Sections 207, 243, and 91, provides the framework governing this right, allowing the accused to claim copies of the statements and documents the prosecution relies on. The same can be said about Sections 230, 266 and 94 of BNSS.

The Supreme Court in *Manu Sharma* emphasised that the accused's rights stem from both codified law and constitutional principles of equity. A deviation from these procedures could undermine the fairness of the trial, highlighting the need for a balance between disclosure and

⁶ *Sidhartha Vashisht @ Manu Sharma v State (NCT of Delhi)* AIR 2010 SC 2352

⁷ Code of Criminal Procedure 1973, s 173(2)

protection of sensitive information. The prosecutor's duty to disclose documents that are crucial for a fair defence is paramount, even though the concept of disclosure in Indian jurisprudence cannot fully mirror the English legal system.

This above information is what the court has interpreted when it comes to the limited rights of the accused about fair disclosure of documents. However, the very court also has the power to furnish the un-relied upon documents to the accused under section 230 of BNSS. Now, it becomes the duty of the defence to ask for the list of unrallied upon documents, and when asked for those documents, it is at the discretion of the Court to either accept your application or reject it.

Now, this limitation is not only on the part of the Accused getting the documents from the prosecutor but also on the part of him submitting the documents, evidence, and so on. from his side to the court. In other words, the accused has no right to present any material that could prove his innocence at the time of the framing of charges. In the late 70s, there were two cases, *Superintendent and Remembrancer of Legal Affairs, West Bengal v Anil Kumar Bhunja and Others*⁸ and *State of Bihar v Ramesh Singh*⁹ it was observed that at the time of framing a charge, the trial court could consider *only the material placed before it by the investigating agency*, there being no requirement in law for the court to grant at that stage either an opportunity to the accused to produce evidence in defence or consider such evidence the defence may produce at that stage.

This was again argued in 1996 in front of a two-judge bench in the case of *Satish Mehra v Delhi Administration*¹⁰ it was held that: “...at the time of framing of charge, the trial court was competent to consider material produced on behalf of the accused in the light of Section 227 of the Code¹¹ which provides for an opportunity of being heard to the accused so that he was not unnecessarily made to undergo the entire gamut of a trial which could be concluded at the time of framing of the charge itself if the trial court was satisfied upon the material produced both by the prosecution and the accused that there was no need to proceed to conduct the trial.”

⁸ *Superintendent and Remembrancer of Legal Affairs, West Bengal v Anil Kumar Bhunja and Ors* (1979) 4 SCC 274

⁹ *State of Bihar v Ramesh Singh* (1977) 4 SCC 39

¹⁰ *Satish Mehra v Delhi Administration* (1996) 9 SCC 766

¹¹ Code of Criminal Procedure 1973, s 227

But this crucial judgement was overturned in 2003 in the case of *State of Orissa v Debendra Nath Padhi*¹² by a much larger bench. Here, the apex court, with regard to the submission of documents by the accused at the stage of framing of charges, said - "...it amounts to upsetting well-settled legal propositions and making nugatory amendments made in the Code of Criminal Procedure from time to time and would result in conducting a mini-trial at the stage of framing of charge or taking cognisance. Such a course would not only be contrary to the object and the scheme of the Code but would also result in a total waste of court time because of conducting of two trials, one at the stage of framing charge and the other after the charge is framed."

Even in the case of *State Anti-Corruption Bureau, Hyderabad and Another v P. Suryaprakasam*¹³ were considering the scope of section 239 and section 240 of CrPC, it was held that at the time of framing of charge, what the trial court is required to, and can consider are only the police report referred to under Section 173 of CrPC and the documents sent with it. The only right the accused has at that stage is to be heard, and nothing beyond that.

ACCOUNTABILITY IN THE FAIR DISCLOSURE OF EVIDENCE: INVESTIGATING OFFICER, PROSECUTOR, MAGISTRATE OR ACCUSED?

The Code/Sanhita has already written it down so that the documents can be provided *if asked*. The Investigating Officer, as per section 176 of BNSS (Section 157 of CrPC), follows the procedure for investigation and finally, as per section 193 of BNSS (Section 173 of CrPC), submits the police report to the Magistrate. The investigating officer follows his duty, as mentioned in these sections. The section gives him the power not to give certain documents in the interest of justice, he then makes a note of those documents and informs the magistrate so that the copy of those documents is not given to the accused.

In the matter of *V K. Sasikala v State*,¹⁴ the Apex Court had stated, "...it is not impossible to visualise a situation whether the Investigating Officer ignores the part of the seized documents which favour the accused and forwards to the Court only those documents which support the prosecution."

¹² *State of Orissa v Debendra Nath Padhi* (2005) 1 SCC 568

¹³ *State Anti-Corruption Bureau, Hyderabad and Another v P. Suryaprakasam* (1999) SCC (CrI) 373

¹⁴ *VK. Sasikala v State Rep. By Superintendent of Police* (2012) 9 SCC 771

This ignites a question: what would happen in a situation when such documents are not forwarded by the Investigating Officer to the Court?

When it comes to the Prosecutor, he must adhere to his professional conduct. It is a mandate that he should be fair towards his duty. The Advocate, appearing as the Prosecutor, must not withhold any material or evidence that could prove the innocence of the accused. Suppressing such evidence is unethical and contrary to the principles of justice. This is mentioned in Rule 16 of BCI Rules¹⁵ under *Standards of Professional Conduct and Etiquette*. But do they follow this duty?

With regards to the Magistrate, the Code/Sanhita also provides them the power under section 94 of BNSS to issue a summon to the officer to provide the required documents. Section 230 proviso 1 of BNSS also gives power to the Magistrate to, *if he thinks proper*, he may direct the copy of un-relied upon documents to be furnished to the accused. However, there are several cases where the Courts have completely ignored to look at the request of the accused to furnish the unrallied documents. In the matter of *P. Gopalakrishnan v State of Kerala and Ors*,¹⁶ the facts clearly say that when the Appellant filed a formal application before the Judicial First-Class Magistrate for a direction to the prosecution to furnish a cloned copy of the contents submitted to the Magistrate, the Magistrate rejected the said application on the ground that such request would be against public interest and also affect the reputation of the victim. The matter went to the High Court, which upheld the decision of the Magistrate.

Similarly, in the matter of *VK. Sasikala v State*¹⁷, the Trial Court had dismissed the application seeking certified copies of certain unmarked and un-exhibited documents which were claimed to be in the custody of the Court. When the matter went to the High Court, it rejected the petitions and upheld the order of the Trial Court.

When the law talks about being fair and equal to all, then such decisions (as above) discourage the public at large, sending a wrong message towards society. When courts consistently ignore requests for furnishing un-relied documents or reject applications for access to such documents, it can lead to a perception that the legal process is unfair or biased. Denying access to un-relied

¹⁵ Bar Council of India Rules, r 16

¹⁶ *P. Gopalakrishnan v State of Kerala and Ors* AIR 2019 SC 1652

¹⁷ *VK. Sasikala v State Rep. By Superintendent of Police* (2012) 9 SCC 771

upon documents and dismissing applications for such requests can create an impression that the rights of the accused can be overlooked or compromised, potentially fostering a sense of injustice and eroding public trust in the legal system's commitment to equitable treatment for all parties involved. Also, in both the above matters and various other matters alike, the Supreme Court has always taken stern action and has always allowed the appeal, citing that the 'Court shall not deny to inspect unmarked and un-exhibited documents which are in the custody of Court if it is required for examination of Accused'.

With regards to the accused, the defence lawyer must request the list of un-relied upon documents from the prosecution; otherwise, the prosecution will not provide the list of such documents voluntarily. However, the Magistrate may, upon finding some inconsistencies in the police report while at the stage of framing charges, call for further evidence or hold the investigation or even discharge the accused. So, at what stage is the accused duty bound to ask for a list of un-relied upon documents? This is discussed in quite several cases and the answer to this is after the framing of charges is done, the accused can ask for the list of un-relied upon documents for him to present his side of the case when he is called upon to enter on his defence.

THE INVISIBLE EVIDENCE

These answers our second most important question: how do we know that the Police Report the IO has submitted under section 193 of BNSS contains a true list of non-relied-upon documents? How can the accused ask for the documents which the prosecution has not mentioned in the list submitted to the Magistrate?

Now, the investigation is the prerogative of the Police, and one cannot interfere with it, but the absence of those documents in the official record essentially makes them invisible to the judicial process, thereby affecting the fairness and completeness of the evidence presented. At this stage, if the accused or the defence lawyer is sure that there's a lacuna in the investigation, then upon entering the stage of defence, one can show with proof that a particular investigation is missing certain reports and such documents and/or pieces of evidence which can prove the innocence of the accused. In *Manohar Lal Sharma v Principal Secretary and Ors.*¹⁸, the apex court observed:

¹⁸ *Manohar Lal Sharma v Principal Secretary and Ors* (2014) 2 SCC 532

“24. In the criminal justice system, the investigation of an offence is the domain of the police. The power to investigate the cognisable offences by the police officer is ordinarily not impinged by any fetters. However, such power has to be exercised consistent with the statutory provisions and for legitimate purposes. The courts ordinarily do not interfere in the matters of investigation by police, particularly when the facts and circumstances do not indicate that the investigating officer is not functioning bona fide. In very exceptional cases, however, where the court finds that the police officer has exercised his investigatory powers in breach of the statutory provision, putting the personal liberty and/or the property of the citizen in jeopardy by illegal and improper use of the power or there is abuse of the investigatory power and process by the police officer or the investigation by the police is found to be not bona fide or the investigation is tainted with animosity, the court may intervene to protect the personal and/or property rights of the citizens.”

Despite the legal provisions and the case law, there is still a school of thought which postulates that the police and the prosecution can withhold information both from the accused and the Court. Accordingly, in case the prosecution does not wish to rely on the statements of certain witnesses or some piece of evidence, then the prosecution is not bound to disclose the same, even if the evidence is in favour of the accused. Such an interpretation would be both against the Principles of Natural Justice and against the concept of fair play. On this note, Justice R.S Chauhan of Rajasthan High Court, while giving the judgement in the case of *Dhananjay Kumar Singh v State of Rajasthan*,¹⁹ had said: *“In case the relevant evidence in favour of the accused is not supplied, we would be creating "Kangaroo Courts" and weaving an illusion of justice. Such Courts and such illusions are an anathema to the judicial sense of fair play.”*

In another High Court case of *Arun Kumar Goenka v Central Bureau of Investigation*, the petitioner had filed a petition challenging the order passed by the learned Special Judge, CBI, Rouse Avenue Courts, New Delhi. The Delhi High Court, in their judgement, said: *“By the Impugned Order, the learned Trial Court was pleased to observe that once the respondent herein has filed the list of un-relied documents, the Court cannot get into another inquiry by assuming that the respondent herein may not have furnished the complete list of un-relied documents. The Court further held that there is no*

¹⁹ *Dhananjay Kumar Singh v State of Rajasthan* (2006) CRI LJ 3873

provision in the Code of Criminal Procedure, 1973, which requires the Court to consider if the list of un-relied documents filed by the respondent herein is complete or not."

A very important question was raised in the case of *VK. Sasikala v State*. "14.... it is not impossible to visualise a situation whether the Investigating Officer ignores the part of the seized documents which favour the accused and forwards to the Court only those documents which support the prosecution. If such a situation is pointed out by the accused and such documents have been forwarded to the Court, would it not be the duty of the Court to make available such documents to the accused regardless of the fact whether the same may not have been marked and exhibited by the prosecution? What would happen in a situation where such documents are not forwarded by the Investigating Officer to the Court..."

Sadly, the court did not answer that question at that stage, but the same was answered in one of the latest judgements of *P. Ponnusamy v The State of Tamil Nadu*²⁰, where Justice S. Ravindra Bhat pointed: "13...Merely because it is not already on the record of the court cannot disentitle the accused from accessing material that may have exculpatory value. It is this gap that was recognised and addressed (paragraph 11 of final order) in the suo-moto proceedings and suitably codified in the text of Draft Rule 4 by introducing a requirement of providing a list (at the commencement of the trial) of all documents, material, evidence, etc. seized during investigation or in the possession of the prosecution, regardless of whether the prosecution plans to rely on it..."

Now, when we look at Rule 4 of Draft Criminal Rules on Practice, 2021,²¹ it says: "4. SUPPLY OF DOCUMENTS UNDER SECTIONS 173, 207 AND 208 CrPC.

i. Every Accused shall be supplied with statements of witnesses recorded under Sections 161 and 164 Cr.PC and a list of documents, material objects and exhibits seized during the investigation and relied upon by the Investigating Officer (I.O) by Sections 207 and 208, Cr. PC. Explanation: The list of statements, documents, material objects and exhibits shall specify statements, documents, material objects and exhibits that are not relied upon by the Investigating Officer."

After understanding the above relevant paras of these landmark judgements and various other judgements related to fair disclosure of documents, none of them can answer the core question,

²⁰ *P. Ponnusamy v The State of Tamil Nadu* MANU/SC/1451/2022

²¹ Draft Criminal Rules on Practice 2021, r 4

'If it's not there to see, what will you see?' The only answer to this is that if the defence is sure that there ought to be certain documents or documents to which the Prosecution has not submitted the list provided to the Magistrate, then the defence can inform the court about it with proof so that the Magistrate can consider it and ask the Prosecution and/or the IO to furnish those unlisted documents under section 94 of BNSS. Again, section 94 of BNSS does not give full power to the accused to file for required documents which were not given. In the case of *Nitya Dharmananda and Ors. v Gopal Sheelum Reddy and Ors.*²², the apex court in a criminal appeal held: "9... it is clear that while ordinarily, the Court has to proceed based on material produced with the charge sheet for dealing with the issue of charge but if the court is satisfied that there is the material of sterling quality which has been withheld by the investigator/prosecutor, the court is not debarred from summoning or relying upon the same even if such document is not a part of the charge sheet. It does not mean that the defence has a right to invoke Section 91 of the Code of Criminal Procedure, which dehors the satisfaction of the court at the stage of charge.

10. Accordingly, the view to the contrary in the impugned judgment cannot be sustained and is set aside."

The same statement was laid down by the Apex Court in *State of Orissa v Debendra Nath Padhi*²³ and reiterated in the subsequent decisions, including the latest judgement of the Supreme Court in *State of Rajasthan v Swarn Singh @ Baba*²⁴, where the Bench comprising of Justices Bela M. Trivedi and Pankaj Mithal observed that the Courts cannot issue processes under Section 91 of CrPC to compel the production of things/documents based on the application made by the accused at the stage of framing of charges. It was further stated that if any document is necessary or desirable for the defence of the accused, the question of invoking Section 91 of CrPC at the initial stage of framing a charge will not arise since the defence of the accused is not relevant at that stage. Insofar as the accused is concerned, his entitlement to seek an order under Section 91 would ordinarily not come till the stage of defence.

In conclusion, the restrictions on accessing documents not listed by the prosecution can significantly disadvantage the accused in building a robust defence. Without access to potentially exculpatory evidence, the accused may struggle to present a complete case, risking

²² *Nitya Dharmananda and Ors. v Gopal Sheelum Reddy and Ors.* MANU/SC/1553/2017

²³ *State of Orissa v Debendra Nath Padhi* (2005) 1 SCC 568

²⁴ *State of Rajasthan v Swarn Singh @ Baba* Crim App No 856/2024

an unfair trial. The reliance on judicial discretion to request additional documents introduces uncertainty, as the court's intervention is not guaranteed and hinges on the satisfaction of specific criteria. This situation not only places an added burden on the defence but also has the potential to delay proceedings, further complicating the accused's path to justice. Ultimately, these limitations underscore the critical need for a fair and transparent process in the disclosure of evidence to ensure that the accused has every opportunity to defend themselves effectively.

Now, with regards to the stance of Courts, it can also be considered right for several reasons, primarily rooted in the principles of judicial fairness, the integrity of the legal process, and the balance of rights between the prosecution and the defence. The court's stance is fundamentally about striking a balance between ensuring a fair trial for the accused and protecting the integrity of the judicial process. While it places some limitations on the defence's access to documents, it also provides mechanisms for judicial intervention when necessary. This approach ensures that the trial remains efficient and focused while safeguarding the rights of the accused against any potential misuse of prosecutorial power. Thus, the court is also right in its approach, as it upholds the principles of fairness, judicial oversight, and the orderly conduct of legal proceedings.

CONCLUSION

This topic of fair disclosure is not new; rather, it has been discussed for as long as 1967 when the Apex Court, in the matter of *Trilok Nath v Union of India*²⁵ it was held that non-supply of the documents amounted to a denial of reasonable opportunity. It was held as follows: *"Had he decided to do so, the document would have been useful to the appellant for cross-examining the witnesses who deposed against him. Again, had the copies of the documents been furnished to the appellant, he might, after perusing them, have exercised his right under the rule and asked for an oral inquiry to be held. Therefore, in our view, the failure of the Inquiry Officer to furnish the appellant with copies of the documents, such as the FIR and the statements recorded at Shidipura house and during the investigation, must be held to have caused prejudice to the appellant in making his defence at the inquiry."*

²⁵ *Trilok Nath v Union of India* (1967) SLR 759

While the Indian legal framework provides a foundation for evidence disclosure, significant gaps and limitations still hinder the fair and transparent administration of justice. The current laws, including provisions in the BNSS (and in CrPC), often restrict the defence's access to potentially exculpatory evidence, which can compromise the fairness of trials. The lack of a comprehensive mechanism to ensure that all relevant documents, including those not relied upon by the prosecution, are disclosed to the defence creates a significant imbalance, often tilting the scales in favour of the prosecution.

Gaps and Limitations: The present legal framework lacks clarity on the extent and timing of evidence disclosure. The discretion granted to courts in allowing access to additional documents is often exercised inconsistently, leading to uncertainty and potential unfairness in criminal proceedings. Moreover, the absence of explicit guidelines for the prosecution to disclose all seized materials, regardless of their perceived relevance, creates an environment where critical evidence can be withheld, whether intentionally or inadvertently.

Suggested Legislative Amendments: To address these shortcomings, it is imperative to introduce legislative amendments that mandate the comprehensive disclosure of all evidence gathered during the investigation, including those not relied upon by the prosecution. The introduction of a mandatory disclosure rule, akin to the “Brady Rule” in the United States, would require the prosecution to share any material evidence that could exonerate the accused, ensuring a more balanced and fair trial process. Additionally, establishing clear guidelines for courts to follow when exercising discretion under Section 91 of the CrPC would help standardise decisions and reduce arbitrary outcomes.

Closing Reflections: The importance of fair disclosure cannot be overstated in upholding the principles of justice and legal integrity. A legal system that ensures complete transparency in the disclosure of evidence not only protects the rights of the accused but also reinforces public confidence in the judiciary. By addressing the existing gaps and implementing the necessary legislative reforms, India can strengthen its criminal justice system, ensuring that justice is both done and seen to be done in every case.

Therefore, before the end, the Author would like to reiterate an important case law that underscores the challenges in implementing uniform standards for evidence disclosure, it's the

case of *P. Ponnusamy v The State of Tamil Nadu*, the apex court had held: “15. By way of Miscellaneous Application No. 505/2022 in SMW(Crl) No. 1 of 2017, this court was apprised of the fact that some states had complied, and others had not complied with the directions in the final order dated 20.04.2021 regarding the adoption of the Draft Rules and amending police manuals, etc. in a time-bound manner (6 months); the states were directed to comply within 8 weeks and the matter is still pending.”