



**Panel Discussion on  
Wrongful Prosecution (Miscarriage of  
Justice): Legal Remedies  
Report 277 of Law Commission  
On  
1<sup>st</sup> October, 2018**

**Organized by  
K.L. Arora Chair in Criminal Law &  
National Law University Delhi**

The Law Commission of India released its 277<sup>th</sup> report on 30<sup>th</sup> August on “Wrongful Prosecution (Miscarriage of Justice): Legal Remedies.” The report was primarily based on the Delhi High Court’s decision in the case of Babloo Chauhan @ Dabloo v. State Government of NCT Delhi. The court expressed grave concern about wrongful prosecution and incarceration of innocent persons, highlighting the need for a legislative framework for providing relief to such victims.

Prof. (Dr.) G.S. Bajpai in the capacity of Amicus Curiae assigned by the Hon’ble High Court of Delhi, for the above case, submitted a report titled “On Wrongful Incarceration Default In Payment of Fine Suspension of Sentence”. The report emphasized three key issues separately to ascertain the law and its interpretation along with relevant case laws.

1. A background on the substantive law and procedure relating to the “Default in payments of fine”
2. What is the existing law on “Suspension of sentence” as given under the scheme of section 389 of the Criminal Procedural Code 1973?
3. What are the possible legal remedies for victims of wrongful incarceration and malicious prosecution in India?

**Themes:**

In the background of the Law Commission’s report, the Centre for Criminology and Victimology, National Law University Delhi, has proposed a panel discussion on Wrongful Prosecution. We wish to discuss important issues emerging from Wrongful prosecution and Malicious prosecution mentioned in the report. The report has categorized five principal issues into different chapters. The first chapter deals with significance of previous report of Law Commission with respect to various aspects of wrongful prosecution. The second chapter elucidates the National Crime Records Bureau’s (NCRB) annual statistical report emphasizing the number of under trials in our country. The third chapter provides an international perspective to menace to wrongful prosecution. The fourth chapter focuses on the inadequacies in our Indian legal system to address the problem of wrongful prosecution. Finally, the fifth and the most important chapter has defined ‘the standards of miscarriage of justice’ and ‘standards to define wrongful prosecution’.

The panel discussion attempts to critically analyse the various components of the report and to discuss its appropriateness and applicability in India legal system. The following broad themes may guide the panel discussion:

1. The Law Commission’s approach to use ‘wrongful prosecution’ and ‘malicious prosecution’ – its appropriateness.
2. Conceptualization of Wrongful Prosecution and Malicious Prosecution
3. Critique of the standards of Wrongful Prosecution discussed in the report.
4. Appreciation of best practices in case of wrongful prosecution mentioned in the report and its application in Indian Context
5. Contextualization of Wrongful Prosecution in India vis-a- vis other jurisdictions
6. Critically evaluating the proposed amendments in Section 365 B
7. Legislative Reforms suggested and their implementation
5. Overall context and methodology.

<b>The Panelists are:</b>	<b>Intervention by:</b>
Shri Sidharth Luthra, Sr. Advocate, Supreme Court of India	Prof.(Dr.) Mrinal Satish, NLU Delhi
Prof.(Dr.) B.B. Pande, Distinguished Professor, NLU Delhi	Dr. Anup Suredranath, NLU Delhi
Hon’ble Dr. Justice S. Murlidhar, Judge, Delhi High Court	Dr. Aparna Chandra, NLU Delhi
Hon’ble Mr. Justice Ravi R. Tripathi, Former Member of Law Commission of India	Mr. Sharib Ali, Program Head, Quill Foundation
Mr. Colin Gonsalves, Sr. Advocate & Director HRLN	Ms. Manisha Sethi
Ms. Rebecca John, Senior Advocate, Supreme Court of India	CHRI Representatives
<b>Moderated by: Prof.(Dr.) G.S. Bajpai, Registrar, NLU Delhi</b>	