

Chapter VIII

INVESTIGATION OF CRIMES AND CRIMINAL JUSTICE ADMINISTRATION IN KARNATAKA - A REVIEW OF MURDER AND RAPE CASES

Criminal justice administration is the inter-disciplinary machinery primarily consisting of the police, the prosecution and the judiciary to enforce and ensure law and order; maintain internal security of the State and thereby to promote peace and progress of the society. It is, in fact, the police that form the back bone of criminal justice administration. Amongst varied and various duties of the police, it is the criminal investigation that has evoked the most interest among the public for the venture of the police in bringing criminals to book by conducting investigation of crimes in a professional way.

In Karnataka State 1,43,783 cases were reported under different crime heads in the year 2003, out of which , 1,27,981 cases were reported under IPC and 15,802 cases were reported under Special and Local Laws. Crime statistics show that during the year 2003, the total number of cases that came up for investigation, including pending cases from previous year, was 1,75,865. Since the onus of conducting investigation is on the police, they had to investigate 1,75,865 cases during the year 2003, apart from attending to issues concerning law and order, court and VIP duties. As the entire wrung and cadre of police in Karnataka State cannot investigate the cases as per the Criminal Procedure Code, generally, police sub-inspectors and police inspectors are expected to investigate cases in the interest of quality of investigation.

The list of places of posting of PSIs and PIs shows that as on 31.12.2003 there were 2,282 PSIs, and 949 PIs (including women police Officers), total

thereof was 3231 and out of this about 10 % of them were in non-executive posts, which means that about 2908 police officers were available to investigate 1,75,865 case in the year 2003. Barring 127 days towards leaves and holidays, these investigation officers are expected to work 238 days in the year. Out of 238 days of work these officers had to perform both law and order duties and crime investigation duties. The average number of cases to be investigated by each investigating officer per year is $1,75,865$ divided by $2908 = 60$ cases. That means on an average each police-investigating officer has to complete investigation of one case in four days. (238 divided by $60=3.92$ days). Practically, it is impossible to complete investigation of one case in four days by the police with all other law and order, court, station, traffic and VIPs duties and there will be wide variety of grave crimes being reported very often which will take weeks and months to investigate in co-ordination with other departments such as Finger Print Bureau, Forensic Laboratory, Forensic Medicine, etc. Under such circumstances, one cannot expect quality investigation with prompt disposal by the police. Their efficiency and interest would be diluted and diminished. As a result there will be chances of table investigation, padding and concoction evidence, which in turn leads to high rate of acquittal of criminals.

Statistically speaking, during the year 2003, total number of criminal cases disposed by the trial courts in Karnataka was 1, 25,319, out of which only 25,578 cases ended up in conviction, and remaining 99,534 cases ended in acquittal. That means about 80% of the cases resulted in acquittal. In fact the acquittal rate in grave offences, such as murder, attempt to murder, robbery and dacoity is still higher to the extent of 90%. This shows that though the cases are investigated, charge sheeted and tried in the courts, there is a large-scale acquittal of criminals, which encourages them to commit, without fear, graver crimes questioning the very existence of the police, courts and law. The victims go out of the court without justice being rendered. The high rate of acquittals has resulted in an increase of crimes and criminals and at the same time it has

created a situation where people are losing confidence in the police force and the judiciary. In a state like ours, this type of opinion by the people cannot and should not be allowed to spread. It may even break the edifice of social defense.

This shows failure of criminal justice administration to uphold the rule of law and deliver justice to the genuine victims and their dependents; and further aggravating crimes and criminal activities beyond the care and control of criminal justice administrative machinery jeopardizing quiet and peaceful life. In the light of such a situation the empirical questions that bother the researcher with rhyme and reason are:

1. Why are large scale acquittals in criminal cases in Karnataka?
2. How the cases investigated and charge sheeted by the Karnataka police end up in acquittals?
3. Is such high rate of acquittals caused due to the lack of professionalism in the investigating police in Karnataka State?
4. Can the large scale acquittals be attributed to the lack of professionalism in the police or be attributed to other factors and functionaries of criminal justice administration in Karnataka?

In order to search for the coherent and compelling answers for the above questions, an attempt has been made to select and study 50 murder and 50 rape cases -25 each from Bangalore Rural District and Bangalore Urban District- tried by the Sessions courts over a period from 1996 to 2006 in the state of Karnataka. Empirical study of these 100 cases has unearthed several factors and forces that are responsible for the low conviction rate and unbridled rise in acquittals. These cases are randomly selected and systematically studied relying mainly upon the order sheets and the judgment copies of the cases. The data collected thereof was brought out in tabular form to analyze and understand the interplay amongst different wings of criminal justice administration and others during criminal proceedings in the precinct of

Sessions Courts. Such an attempt will help an understanding of the various factors and forces that are responsible for the decline in conviction rate and the hype in acquittal rate even in heinous offences like murder and rape. The study aims to answer the questions that are posed for the purpose and to draw some logical inferences and conclusions with alternatives and appropriate solutions to meet the challenges within the means and methods available to the police investigative machinery.

Tabular View of the Cases Reviewed and Analyzed

For the sake of convenience and compatibility all the six Tables pertaining to the review of cases of murder and rape are laid out and are analyzed in sequential order.

Table A1

**Murder Cases disposed off by Trial Courts in Bangalore (Rural) District
from 2001 to 2006**

Sl.No	SC.No	Section of Law	Date of Registration Of Case	Accused on Bail	Accused in JC	Commencement of Crl. Proceedings	Date of Judgment	Time taken For Adjudication	No. of Court Sittings	No. of Prosecution Witnesses Cited in Charge Sheet	No of Witnesses Examined by the Court	Convicted	Acquitted	Reasons for Conviction	Reasons for Acquittal
1	129/01	302 R/w 34 IPC	17.06.00	YES		28.5.01	5.2.03	1YR 9MTHS	27	13	13		YES		NO EWS, CE, OWS TH, ME
2	130/01	302, 364 IPC	04.08.97	YES		30.5.01	3.2.03	1YR 9MTHS	25	17	17		YES		NO EWS, ME
3	148/01	302, 201 IPC	01.09.00	YES		9.7.01	5.2.03	1YR 7MTHS	47	23	23		YES		NO EWS, MWS TH
4	152/01	302, 506(B) IPC	3.7.00	YES		10.2.01	16.2.04	3YRS 5MTHS	55	13	13		YES		EWS, MWS TH
5	157/01	147, 302, 201 r/w 149 IPC	14.9.97	YES		8.8.01	25.11.0 2	1YR 3MTHS	34	10	10		YES		NO EWS, OWS TH
6	162/01	302, 307, 309 IPC	8.7.01	YES		27.8.01	3.3.03	1YR 7MTHS	22	11	11		YES		WS TH
7	167/01	302	8.12.99	YES		9.10.01	5.6.03	1YR 8MTHS	34	12	12		YES		EWS, MWS TH
8	170/01	302,201 IPC	19.2.01	YES		6.11.01	27.7.04	2YR 8MTHS	60	36	31		YES		NO EW, OWS TH
9	198/01	302 IPC	26.3.01		YES	24.9.01	17.4.04	2YR 5MTHS	74	18	18		YES		WS TH
10	201/01	498,302 r/w 34 IPC	15.4.06	YES		16.8.06	12.1.06	5MTHS	31	19	19		YES		NO EWS, OWS TH
11	206/01	302 IPC	29.4.01	YES		25.8.01	6.9.04	3YR 1MTH	54	14	14		YES		EWS, OWS TH
12	207/01	302 IPC	27.3.01	YES		28.8.01	4.2.03	2YR 4MTHS	24	8	8		YES		CMP, EWS, MWS TH
13	211/01	302 IPC	2.9.00	YES		1.10.01	17.11.0 3	2YR 1MTH	36	16	16		YES		NO EW, OWS TH
14	213/01	302 IPC	20.12.00		YES	27.8.01	3.12.02	1YR 4MTHS	15	9	9		YES		NO EWS, OWS TH

15	215	302 IPC	5.6.01		YES	18.10.01	1.10.02	1YR	39	13	13		YES		NO EWS, OWS TH
16	219/01	147, 302 r/w 149 IPC	3.3.01	YES		18.9.01	2.11.03	1YR 10MTHS	59	25	16		YES		EWS, OWS TH,
17	220/01	302 IPC	15.5.01	YES		15.9.01	8.9.02	1YR 4MTHS	24	10	10		YES		OWS, MWS TH
18	223/01	302, 201 IPC	4.1.01		YES	27.11.01	14.11.0 3	2YRS	48	31	20		YES		WS TH, NO ME
19	250/01	302 IPC	4.5.01	YES		29.9.01	22.10.0 2	1YR 1MTH	16	15	15		YES		CMPT , OWS TH
20	262/01	302, 498(A), 304B PC	21.7.00	YES		30.5.01	18.12.0 3	2YR 7MYHS	41	22	22		YES		WS TH, NO DD, POOR INVGN
21	374/05	148, 307, 302 r/w 149 IPC	10.8.05	YES		28.11.06	27.1.07	2MTHS	16	22	13		YES		CMPT, EWS, OWS TH, POOR INVGN
22	62/06	302 IPC			YES	3.10.05	24.1.07	1YR 2MHTS	32	13	8		YES		EWS TH, POOR INVGN
23	202/06	302 IPC	26.2.06		YES	17.8.06	24.1.07	5MTHS	27	12	12		YES		EWS, MWS TH
24	204/06	302 IPC	24.2.06		YES	16.8.06	30.12.0 6	4MTHS	26	18	18		YES		CMPT, EWS TH, NO ME, POOR INVGN
25	220/06	498A, 302 IPC	11.4.06		YES	23.2.07	16.3.07	1MTH	7	20	20	YES		ME, DD, THO UGH EWS TH	

Foot Note: CMPT= complainant; EWS=Eye Witnesses; OWS=Other Witnesses; ME=Medical Evidence; DD=Dying Declaration; MWS=Mahazar Witnesses; TH=Turned Hostile

It is quite evident from Table A1 that out of 25 disposed murder cases selected for review from the Sessions Courts in Bangalore Rural District for a period spanning from 2001 to 2006, several strange and surprising issues have surfaced. Out of 25 cases, 24 (96%) cases have ended up in acquittal and 01 (4%) in conviction. It was observed that in 17(68%) cases the accused were on bail where as in the remaining 08 (32%) cases the accused were in judicial

custody during the trials. The minimum and the maximum time taken for the trials varied from 1 month to 3 and half years respectively. The minimum and the maximum sittings of the courts varied from 07 to 74 respectively. The minimum and the maximum number of prosecution witnesses examined by the courts varied from 08 to 36 respectively. Out of 24 acquittals, 09 (37%) cases were acquitted for no eye –witnesses to the crimes, mahazar and other witnesses turned hostile, and poor medical evidence. 11(46%) cases were acquitted for eye-witnesses, mahazar and other witnesses turned hostile. 04(17%) cases were acquitted for complainants, eye-witnesses and other witnesses turned hostile. 1 case was convicted for strong medical evidence and evidence based on dying declaration.

Table A2

**Rape Cases disposed off by Trial Courts in Bangalore (Rural) District
from 2000 to 2003**

Sl.No	SC.No	Section of Law	Date of Registration Of Case	Accused on Bail	Accused In JC	Commencement of Ct Proceedings	Date Of Judgment	Time Taken For Adjudication	No. Of Court Sittings	No. Of Prosecution Witnesses Cited In Charge Sheet	No Of Witnesses Examined by the Court	Convicted	Acquitted	Reasons For Conviction	Reasons For Acquittal
1	75/00	376, 344, 506 r/w 34 IPC	28.3.99	YES		1.3.00	17.7.04	4YR 4MTHS	61	14	14		DISC HARG E		FALSE
2	110/00	376 IPC	23.2.94	YES		11.4.00	21.4.01	1YR	26	21	13		YES		CMPT, OWS TH
3	131/00	376, 420 IPC	5.7.95	YES		26.4.00	3.1.03	2YR 9MTHS	72	13	9		YES		EWS, OWS TH
4	140/00	376 IPC	21.6.99		YES	2.5.00	8.1.02	1YR 7MTHS	60	14	12		YES		VITAL WS ABSEN T
5	175/00	376, 506, 366A IPC	16.8.99	YES		28.6.00	11.8.04	4YR 2MTHS	51	24	7		YES		CMPT, VICTIM ,OWS TH
6	178.00	376, 511 IPC	21.3.00		YES	29.6.01	8.8.01	1YR 2MTHS	23	15	11		YES		CMPT, VICTIM ,OWS TH
7	182/00	376A, 506 IPC	27.12.99		YES	4.7.00	19.11.01	1YR 4MTHS	40	15	11		YES		WS TH

8	184/000	376, 506 IPC	20.11.99	YES		25.4.00	11.5.01	1YR 1MTH	35	14	9		YES		VICTIM DEAD, OWS TH
9	192/00	341, 376, 306 IPC	18.1.99		YES	6.7.00	31.1.01	5MTHS	28	29	19		YES		EWS, MWS, INQUEST WS, OWS TH
10	265/00	393, 376 r/w 511 IPC	1.1.00	YES		3.1.01	28.6.03	1YR 6MTHS	51	8	8		YES		WS NOT DEPOSED WELL
11	8/01	366A, 376 IPC	16.8.99	YES		24.1.01	30.6.04	3YR 5MTHS	19	24	7		YES		CMPT, VICTIM OWS TH
12	12/01	366A, 376 r/w 34 IPC	20.3.00	YES		23.1.01	14.7.04	3YR 6MTHS	36	18	7		YES		SOME WS TH, POOR INVGN
13	22/01	302, 376 IPC	13.7.00	YES		9.2.01	18.1.05	4YR	105	32	11		YES,		NO EWS, MWS TH, WEAK FIR
14	151/01	366, 342, 376 IPC	22.4.00	YES		20.6.01	18.3.04	2YR 9MTHS	25	9	8		YES		CMPT, VICTIM EWS TH
15	177/01	376, 114 IPC	9.12.99	YES		4.8.01	22.10.03	2YR 2MTHS	30	21	18		YES		FEW WS TH, DELAY IN FIR
16	200/01	376, 420 IPC	19.1.99	YES		24.8.01	18.2.03	1YR 4MTHS	27	12	9		YES		CMPT, VICTIM OWS TH
17	202/01	365, 342, 376 IPC	27.4.00	YES		24.8.01	16.10.04	3YR 2MTHS	47	29	11		YES		WS TH, NO ME
18	338/02	448, 384, 506, 376 IPC	28.3.02	YES		31.10.02	4.4.03	6MTHS	12	20	20	YES			ALL WS DEPOSED WELL
19	8/03	341, 376, 506 IPC	11.8.02		YES	6.1.03	4.2.06	3YR 1MTH	79	22	13	YES			WS, MWS, ME SUPPORTED
20	12/03	366, 376, 114 IPC	17.4.94	YES		28.1.03	24.9.05	11YR 3MTHS	43	24	5		YES		CMPT, VICTIM, OWS REMAINED ABSENT

21	14/03	366, 376 r/w 34 IPC	25.2.96	YES		20.1.03	27.12.04	1YR 11MTH S	22	23	15		YES		VICTIM , OWS TH
22	37/03	324, 506, 376 IPC	17.5.95	YES		22.1.03	29.3.05	2YR 1MTH	42	23	9		YES		VICTIM TH, NO ME ON ACCU SED, F ALSE
23	40/03	323, 506, 376 IPC	6.10.02		YES	25.1.03	11.2.04	1YR 2MTHS	28	18	13		YES		CMPT, OWS TH
24	83/03	376, 307 IPC	8.12.02		YES	4.4.03	7.10.05	2YR 6MTHS	57	17	13	YES		WS, ME SUPP ORTE D	
25	157/03	376 IPC	17.1.03		YES	16.7.03	11.6.04	9MTHS	27	13	13		YES		OWS TH

Foot Note: CMPT= complainant; EWs=Eye Witnesses; OWs=Other Witnesses; ME=Medical Evidence; DD=Dying Declaration; MWs=Mahazar Witnesses; TH=Turned Hostile

It is very clear from Table A2 that out of 25 disposed rape cases selected for study from Sessions Courts in Bangalore Rural District for a period from 2000 to 2003, several unheard facts have surfaced. Out of 25 cases, 22 (88%) ended in acquittal and 3(12%) in conviction. In 17 (68%) cases the accused were on bail and in 08 (32%) cases the accused were in judicial custody during the trials. The minimum and the maximum time taken for the trials varied from 5 months to 11 years and two months respectively. The minimum and the maximum sittings of the courts varied from 12 to 105 respectively. The minimum and maximum number of prosecution witnesses examined by the courts varied from 5 to 32 respectively. Out of 22 acquittals, 01 (5%) case was acquitted for no eye-witnesses to the crimes, mahazar witnesses turned hostile and weak FIR. 02 (9%) cases were acquitted for eye-witnesses, mahazar and other witnesses turned hostile. 08 (36%) cases were acquitted for complainants, victims and other witnesses turned hostile. 01 (5%) case was acquitted for vital witnesses remained absent for the trial. 01 (5%) case was discharged for want of evidence. 02 (9%) cases were acquitted for the victim turned hostile and insufficient medical evidence. 07 (31%) cases were acquitted for other witnesses turned hostile and poor medical evidence. 3 cases were convicted for all witnesses deposed well and medical evidence supported the prosecution stand.

Table A3
Murder Cases disposed off by Trial Courts in Bangalore (Urban) District
from 1998 to 2004

Sl.No	SC.No	Section of Law	Date of Registration Of Case	Accused on Bail	Accused In JC	Commencement of Cr. Proceedings	Date Of Judgment	Time Taken For Adjudication	No. Of Court Sittings	No. Of Prosecution Witnesses Cited In Charge Sheet	No Of Witnesses Examined by the Court	Convicted	Acquitted	Reasons For Conviction	Reasons For Acquittal
1	190/98	302 IPC	12.1.98		YES	25.6.98	24.9.99	1YR 3MTHS	43	15	15	YES		AL WS DEPO SED WELL ,ME	
2	45/99	302 IPC	17.6.98		YES	20.4.99	12.6.06	6YR 2MTHS	110	22	18		YES		EWS, MWS TH, LACK OF ME
3	452/99	448, 396, 302 IPC	24.4.97		YES	6.9.99	4.3.05	5YR 3MTHS	154	15	14		YES		EWS, MWS TH, LAPSES IN RECOV ERY
4	228/00	364, 302 IPC	10.12.99		YES	7.4.00	14.7.03	3YR 3MTHS	83	7	7		YES		NO EWS, OWS TH
5	294/00	498, 201, 302 IPC	24.9.99		YES	16.2.00	20.6.05	4YR 10MTH S	92	17	16		YES		NO EWS, OWS TH
6	87/01	302 IPC	9.10.00	YES		14.2.01	8.2.06	5YR	97	36	16		YES		ALL OWS TH
7	251/01	302 IPC	22.1.01	YES		25.6.01	26.6.03	2YRS	40	11	11		YES		LACK OF ME, OWS TH
8	351/01	302 r/w 34 IPC	11.2.01		YES	21.6.01	18.4.02	10MTH S	50	15	11	YES		ALWS DEPO SED WELL ,ME	
9	612/01	302 r/w 34 IPC	13.5.01		YES	1.12.01	19.7.03	1YR 7MTHS	59	23	23		YES		EWS, MWS, OWS, TH,
10	635/01	302 IPC	2.5.01		YES	12.12.01	2.3.05	3YR 4MTHS	45	13	13		YES		NO EWS, MWS TH, POOR INVG N
11	242/02	302 r/w 34 IPC	11-2-02	YES		10-9-02	9-12-05	3YR 10 MTHS	51	16	12		YES		NO EWS, MWS TH

12	452/02	302 IPC	23.4.02		YES	21.9.01	17.3.06	3YR 6MTHS	43	23	23		YES		EWS, MWS TH
13	465/02	302 r/w 34 IPC	8.5.02		YES	21.9.02	17.11.03	1YR 2MTHS	67	17	17		YES		NO EWS, PWS TH
14	510/02	392, 302 IPC	26.4.02		YES	16.10.02	31.7.04	1YR 9MTHS	52	19	19		YES		NO EWS, MWS TH
15	268/03	302, 201 IPC	11.7.02	YES		31.5.03	29.3.05	1YR, 9MTHS	52	16	16		YES		NO EWS, OWS TH
16	35/04	302 IPC	26.12.02	YES		7.2.04	1.7.05	1YR 5MTHS	25	16	16		YES		CMPT, OWS TH
17	57/04	302, 201 IPC	4.6.03		YES	20.11.04	20.3.05	3MTHS	29	12	12		YES		NO EWS, INQUES T WS TH
18	135/04	143, 302 r/w 149 IPC	1.11.03		YES	14.5.04	27.8.05	1YR 3MTHS	50	8	8		YES		OPWS TH
19	146/04	302, 307 IPC	24.3.03	YES		26.4.04	11.8.05	1YR 4MTHS	30	7	7		YES		NO EWS, CMPT, MWS TH
20	166/04	302 IPC	1.1.04		YES	4.5.04	15.7.05	1YR 2MTHS	45	6	6		YES		EWS, MWS TH
21	199/04	302 r/w 34 IPC	13.12.03		YES	12.5.04	9.11.05	1YR 5MTHS	42	12	12		YES		EWS, MWS, OPWS TH
22	246/04	302 IPC	20.1.04	YES		15.6.04	1.7.05	1YR 1MTH	28	13	13		YES		CMPT EWS, OWS TH
23	276/04	147, 302 r/w 149 IPC	1.7.04	YES		2.8.04	17.2.06	1YR 6MTHS	57	12	12		YES		CMPT EWS OWS TH
24	407/04	302, 307, 201 r/w 34 IPC	20.1.04	YES		31.8.04	17.11.05	1YR 3MTHS	35	14	14		YES		CMPT, EWS, OWS TH
25	597/04	302, 201 IPC	4.6.03	YES		20.11.04	5.2.05	3MTHS	29	12	12		YES		NO EWS, INQUES T WS OWS TH

Foot Note: CMPT= complainant; EWs=Eye Witnesses; OWs=Other Witnesses; ME=Medical Evidence; DD=Dying Declaration; MWs=Mahazar Witnesses; TH=Turned Hostile

From Table A3 it is quite evident that out of 25 disposed murder cases selected for review from Sessions Courts in Bangalore Urban District for a period spanning from 1998 to 2004; several surprising facts have surfaced on the floor of criminal justice administration. Out of 25 cases, 23 (92%) ended in acquittal and 02 (8%) in conviction. In 10 ((40%) cases the accused were on

bail and in 15 (60%) cases the accused were in judicial custody during the trials. The minimum and the maximum time taken for the trials varied from 3 months to 6 years and 2 months respectively. The minimum and the maximum sittings of the courts varied from 28 to 154 respectively. The minimum and the maximum number of prosecution witnesses examined by the courts varied from 6 to 23 respectively. Out of 23 acquittals, 10 (42%) cases were acquitted for no eye –witnesses to witnesses to the crimes, mahazar and other witnesses turned hostile, and poor medical evidence. 10 (42%) cases were acquitted for eye-witnesses, mahazar and other witnesses turned hostile and in to some extent insufficient medical evidence and one case due to lapses in recovery procedure. 02 ((16%) cases were acquitted for complainants, eye-witnesses and other witnesses turned hostile. 2 cases were convicted for all witnesses deposed well in favour of prosecution and there was enough medical evidence.

Table A4
Rape Cases disposed off by Trial Courts in Bangalore (Urban) District
from 1996 to 2006

Sl.No	SC.No	Section of Law	Date of Registration Of Case	Accused on Bail	Accused In JC	Commencement of Cr Proceedings	Date Of Judgment	Time Taken For Adjudication	No. Of Court Sittings	No. Of Prosecution Witnesses Cited In Charge Sheet	No Of Witnesses Examined by the Court	Convicted	Acquitted	Reasons For Conviction	Reasons For Acquittal
1	346/96	376 IPC	30.1.96		YES	31.8.96	7.6.99	3YRS	27	11	11	YES		ALL WS DEPOSED WELL	
2	212/01	376, 511 IPC	14.11.00		YES	15.6.01	1.1.02	5MTHS	20	9	9	YES		ALL WS DEPOSED WELL	
3	228/01	366, 376 IPC	18.3.98		YES	9.5.01	21.2.03	2YR 10MTHS	23	21	6		YES		CMPT, VICTIM OWS TH
4	326/01	376, 306 r/w 34 IPC	12.2.01		YES	2.7.01	22.11.03	2YR 4MTHS	7	23	14		YES		CMPT, OWS TH
5	327/01	376, 420 IPC	26.10.00	YES		15.6.01	21.3.04	2YR 9MTHS	24	10	10		YES		CMPT, VICTIM, OWS TH
6	361/01	376 IPC	19-6-00		YES	14-12-01	11-2-05	3YR 10MTHS	31	17	14		YES		VICTI, OWS,TH

7	151/02	376 (2) (F) IPC	1.1.02		YES	29.5.02	16.11.04	2YR 6MTHS	64	18	18	YES		ALL WS DEPOSED WELL	
8	309/02	342, 376 IPC	24.3.02	YES		5.8.02	31.1.04	1YR 5MTHS	17	8	8		YES		VICTIM TH OWS NOT DEPOSE D WELL
9	373/02	376, 420 IPC	2-7-02		YES	22-11-02	14-3-05	2YR 4MYHS	29	16	12		YES		CMPT, OWS TH
10	416/02	376, 420 IPC	8.1.02	YES		8.4.04	24.6.06	3YR 10MTHS	23	7	7		YES		VICTIM OWS TH
11	433/02	366A, 376 IPC	2.2.02	YES		13.10.02	13.8.05	3YR 4MTHS	51	17	17		YES		VICTIM TH
12	436/02	376, 506(B) IPC	20.8.98	YES		10.9.02	4.12.04	1YR 9MTHS	37	9	9		YES		CMPT, VICTIM OWS ABSENT
13	572/02	376, 511 IPC	30.7.01	YES		28.12.02	5.6.04	1YR 6MTHS	17	7	7		YES		CMPT VICTIM TH
14	114/04	376, 420 IPC	30.5.03	YES		26.4.04	16.9.05	1YR 5MTHS	23	6	6		YES		CMPT, VICTIM TH
15	306/05	376, 420 IPC	7.9.04	YES		15.4.05	5.7.06	1YR 3MTHS	50	11	11	YES		ALL WS,ME SUPPORTE D	
16	354/05	376, 506 IPC	6-7-04		YES	21-11-05	2-12-06	1YR 1MTH	19	17	15		YES		CMPT, VICTIM TH
17	427/05	363, 376, 506 IPC	3.2.05		YES	27.5.05	17.2.06	9MTHS	29	5	5		YES		VICTIM TH
18	574/05	365, 376 r/w 34 IPC	31.1.05		YES	16.7.05	2.5.06	10MTHS	44	11	11		YES		INSUFFIC IENT EVIDENC E, ME
19	688/05	366, 376 IPC	6.10.03	YES		13.9.05	18.2.06	3MTHS	23	13	13		YES		VICTIM TH
20	875/05	366A, 376 IPC	9.9.04	YES		24.10.05	29.3.06	5MTHS	11	7	7		YES		VICTIM TH
21	754/05	376, 420 IPC	16.6.05	YES		21.9.05	24.2.06	5MTHS	21	9	9		YES		VICTIM TH
22	934/05	417, 376 IPC	10.5.05		YES	21.11.05	30.6.06	6MTHS	35	11	11		YES		ALLWS SUPPORT ED
23	1028/05	366A, 376 114 r/w 34 IPC	25.9.05		YES	29.12.05	24.7.06	7MTHS	35	21	21		YES		VICTIM TH, NO ME

24	112/06	365, 376 IPC	15.10.04	YES		27.2.06	1.7.06	5MTHS	22	10	10		YES		INSUFFICIENT EVIDENCE
25	241/06	342, 376 IPC	27.11.05		YES	22.3.06	31.7.06	4MTHS	25	11	11		YES		WS TH

Foot Note: CMPT= complainant; EWs=Eye Witnesses; OWs=Other Witnesses; ME=Medical Evidence; DD=Dying Declaration; MWs=Mahazar Witnesses; TH=Turned Hostile

Table A4 shows that out of 25 disposed rape cases selected for study from sessions Courts in Bangalore Urban District from a period spanning from 1996 to 2006, several shocking facts have surfaced. Out of 25 cases, 21(84%) ended up in acquittal and 04 (16%) in conviction. In 12 (48%) cases the accused were on bail and in 13 (52%) cases the accused were in judicial custody during the trials. The minimum and the maximum time taken for the trials varied from 3 months to 3 years and four months respectively. The minimum and the maximum sittings of the courts varied from 7 to 64 respectively. The minimum and the maximum number of prosecution witnesses examined by the courts varied from 5 to 21 respectively. Out of 21 acquittals, 08 (38%) cases were acquitted for complainants, victims and other witnesses turned hostile; 08 (38%) cases were acquitted for victims turned hostile and insufficient medical evidence; 03 (14%) cases were acquitted for other witnesses turned hostile and poor medical evidence; 02 (10%) cases were acquitted for insufficient evidence. 4 cases were convicted for all witnesses having deposed well and medical evidence supported the prosecution stand.

The review of these 100 cases of murder and rape have disclosed several note worthy facts, which demand immediate attention for revamping the existing system of investigation and check the rising rate of acquittals there by over-hauling the machinery of police for its efficient and smooth functioning. The facts that have come to light during the study are:

- Order sheets did not contain information regarding the agency which sought the adjournments and how many times. They were also silent on the number of *suo motto* adjournments during the trial. Only in case of two cases, such details were available.
- Some of the hand writings of judges found on the order sheets are illegible which are in the form of strokes and scribbles.
- Some of the judgments did not contain the details of the witnesses and what they deposed.
- Some of the judgments are not in speaking order and are not systematically composed but are in bits and pieces.
- There is no correlation between the time taken for the trial and the number of prosecution witnesses examined. It is noticed that to examine 5 prosecution witnesses 11 years and 3 months time was taken.
- There was frequent change of presiding officers of the courts while holding trials.
- In Fast Track Courts the disposal of cases is faster than in regular Sessions Courts.

In so far as professional way of investigation of crimes is concerned the review of the cases has unravelled several facts that are to be attended immediately by the police and policy makers to revamp the prevailing system of investigation on professional line. There is an urgent need to reverse the rising rate of acquittals and deliver justice to the hapless victim-public and bring in a stable defense mechanism in the State by addressing these issues. The facts that result in large scale acquittals are:

- Eye witnesses turn hostile.
- Complainants turning hostile.
- Victims turning hostile. Especially in rape cases.
- Mahazar witnesses and other witnesses turn hostile.

- Ineffective investigation.
- Delayed examination of witnesses to the crime.
- Table and perfunctory investigation. Here the investigating officers do not physically examine the witnesses; instead, statements of witnesses are recorded at the police station whenever they find time to suit their requirements of cases and interest. Often fake witnesses are created where it would be difficult to trace them as no such persons exist at all in the addresses taken by the investigating officers.
- Defective search and seizure at the scene of crime and other places.
- Lack of strong forensic support.
- Failure of the police investigators to get cooperation of the prosecutors.
- Witnesses were not properly refreshed to their memory to the crime.
- Witnesses are not properly taken care of in the court halls and are not properly treated during the court proceedings.
- Witnesses are not provided proper protection during the court proceedings.
- Witnesses are not secured to the courts for deposition of evidence.
- Defense advocates are very aggressive in cross-examining the witnesses beyond the pervasive limits of law and procedures.
- Witnesses are not protected from force, threat, inducement of the accused and defense counsel.
- Witnesses are called too many times to the courts to depose evidence.
- Witnesses are not promptly paid their TA and DA when they attended the courts.

It may be noted that the acquittals in majority of the cases may be due to lack of protection to the witnesses who assist the investigating officers as eye-witnesses to the crimes, witnesses to the mahazars that the investigating officers draw at the scenes of crimes and at the places of recovery of facts etc. It may also be due to lack of binding on the witnesses under the Code of

Criminal Procedure Code and Evidence Act to assist the investigating officer during investigation and not to remain absent for trials and turn hostile during trials. Therefore the investigating should be professionally well equipped over come such legal and other hurdles by maintaining cordial relations with the witnesses and developing good rapport with the public in general and providing security to the witnesses within the limits of law. Apart from this the investigating officers must learn to make use of scientific methods and aids of investigation to over such problems to convince the courts to rely upon scientific evidence when the witnesses' testimony goes against the prosecution.

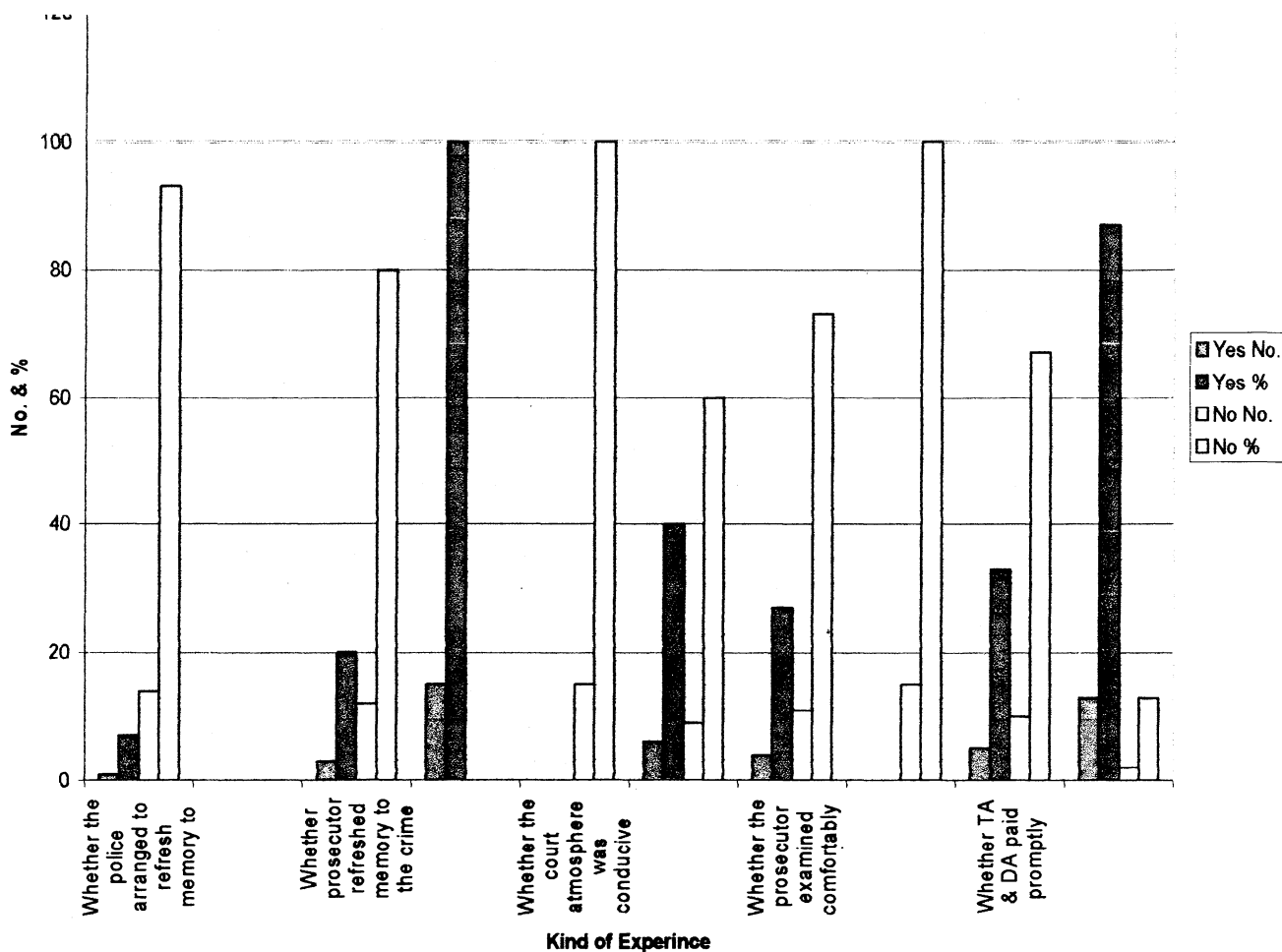
Table A5

Experience of the Witnesses (of 15) who have deposed Evidence in the Courts

Kind of Experience	Yes		No	
	No.	%	No.	%
Whether the police arranged to refresh memory to the crime	1	7	14	93
Whether prosecutor refreshed memory to the crime	3	20	12	80
Whether summoned to the court more than ones	15	100		
Whether the court atmosphere was conducive			15	100
Whether the Judge's treatment is good	6	40	9	60
Whether the prosecutor examined comfortably	4	27	11	73
Whether the defense advocate's cross-examination was comfortable			15	100
Whether TA & DA paid promptly	5	33	10	67
Whether you experienced any force, threat or inducement from the accused/ defense advocate	13	87	2	13

Chart for Table A5

Experience of the Witnesses (of 15) who have deposed Evidence in the Courts



In order to cross verify the facts pertaining to the witnesses revealed from the review of 100 cases of murder and rape, 15 witnesses who had deposed their evidence during the trial of murder and rape cases were selected at random and interviewed. They collectively authenticated the observations made above. It is very evident from Table A5 that 93% of the respondent-witnesses have said that the police did not arrange for refreshing their memory to the crime. 80% have opined that the prosecutors did not arrange to refresh their memory to the crime. 100% have unanimously stated that they were summoned to the courts more than once. 100% of them have opined said the court atmosphere was not conducive. 60% of them are not happy with the treatment meted out to them in the presence of the judges. 73% of them have

stated that the prosecutor did not make them feel comfortable in the course of examination- in- chief. 100% of them have opined that they were not comfortable with the cross-examination of the defense advocates. 67% of them are of the opinion that TA & DA was not paid promptly. 87% of them have stated that they experienced force, threat or inducement from the accused/ defense advocate.

Therefore, it may be inferred from the data placed under the Table A5 that the investigating officers need professional knowledge, skills, experience, expertise and ethics to overcome the factors and forces that have deterred the efficient and effective investigation of crimes on professional line.

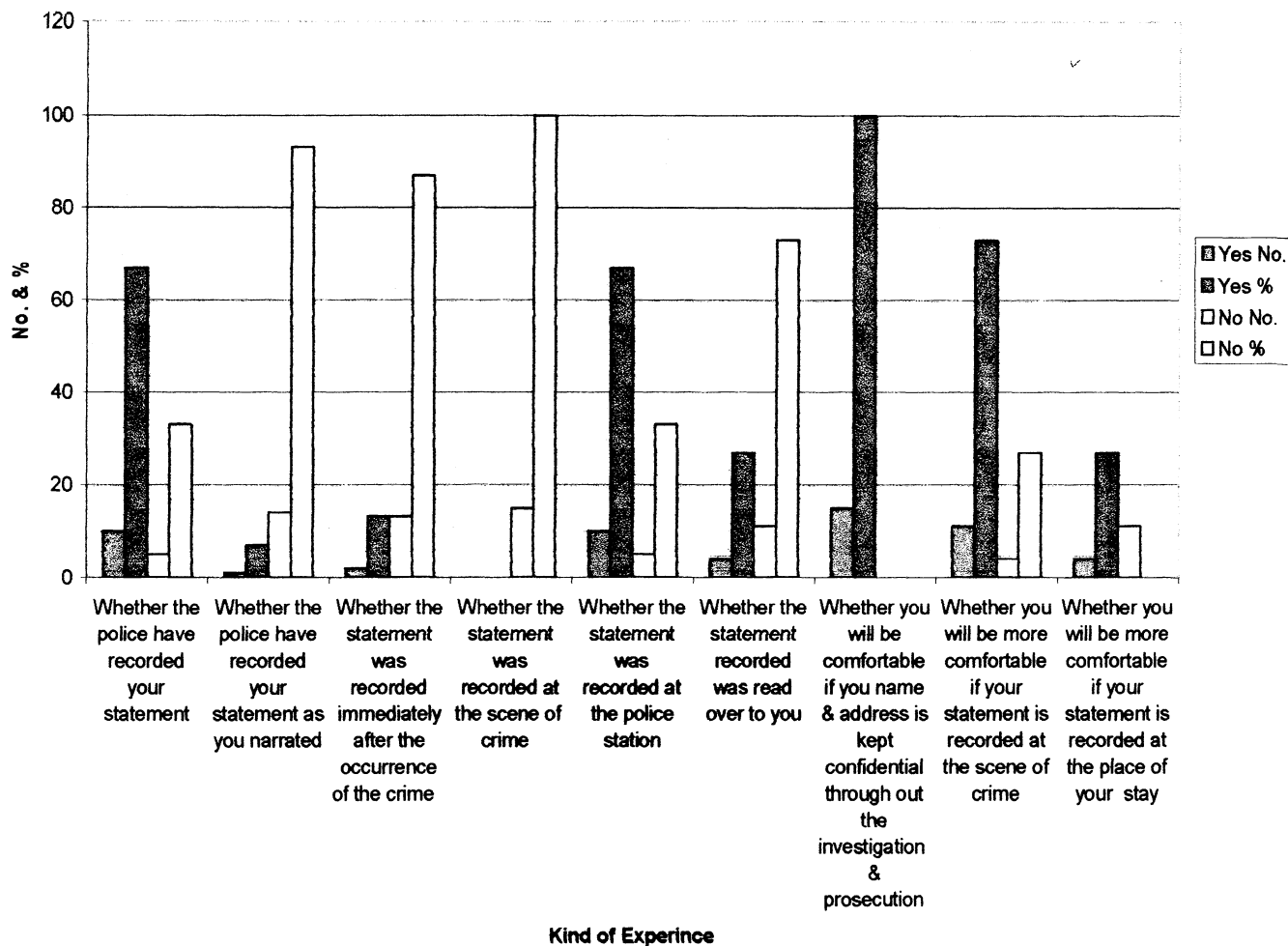
Table A6

Experience of the Witnesses (of 15) during the Investigation of Crimes

Kind of Experience	Yes		No	
	No.	%	No.	%
Whether the police have recorded your statement	10	67	5	33
Whether the police have recorded your statement as you narrated	1	7	14	93
Whether the statement was recorded immediately after the occurrence of the crime	2	13	13	87
Whether the statement was recorded at the scene of crime			15	100
Whether the statement was recorded at the police station	10	67	5	33
Whether the statement recorded was read over to you	4	27	11	73
Whether you will be comfortable if your name & address is kept confidential through out the investigation & prosecution	15	100		
Whether you will be more comfortable if your statement is recorded at the scene of crime	11	73	4	27
Whether you will be more comfortable if your statement is recorded at the place of your stay	4	27	11	

Chart for A6

Experience of the Witnesses (of 15) during the Investigation of Crimes



From Table A6 it is quite evident that 67% of the respondent-witnesses have stated that the police have recorded their statements and remaining 33% of them have stated that the police have not recorded their statements. 93% of them have stated that the police have not recorded their statements as they narrated. 87% of them have stated that their statements were not recorded immediately after the occurrence of the crime. 100% of them have stated that their statements were not recorded at the scene of crime. 67% of them have stated that their statements were recorded at the police station. 73% of them have stated that their statements recorded were not read over to them. 100% of them stated that they would have been comfortable if their names & addresses were kept confidential throughout the investigation & trials. 73% of them

stated that they would have been more comfortable if their statements were recorded at the scene of crime. 73% of them have stated that they would have been more comfortable if their statements were recorded at their place of stay.

Therefore, a close and careful study of the data placed under the Tables would facilitate the policy makers to take note of the grave situation and meet the challenge of large scale acquittals due to ineffective investigation of crimes in unprofessional way and foster professionalism amongst the investigating police in effective investigation of crimes.

A Study of a few Cases of Murder and Rape to ascertain the specific Reasons for Acquittal due to Ineffective Investigation

1. S.C. No. 198/ 2001 of Murder Case : The brief facts of this case are that the accused and the deceased were husband and wife. The deceased was married to the accused two years prior to the date of filing of the complaint. According to the complaint they were residing at Angalapura in Bangalore south in a rented house. On 26-3-2001 at about 9 p.m. when they were sleeping the accused asked the complainant to lit kerosene lamp. The deceased did not obey the order. He bet her. Thereafter she lit the lamp. But the accused took the kerosene lamp and set fire to the saree of the deceased. He told that she has to die as he is having another wife at Rampur village. As the deceased sustained burn injury, she shouted and tried to run away from the house, but the accused held her by his hands and he also sustained injuries. Then the neighbours, her husband, complainant's mother-in-law and her sister came and removed the burning saree and took the injured to her parent's house. At that time it was 11 p.m. thereafter, the father and the sister of the injured admitted her to the hospital. In the hospital on 27-03-01 at about 4-15 p.m. the injured gave her statement before the Station House officer of Victoria hospital police station, alleging that her husband had already married. He wanted to kill the complainant and hence set fire with the help of kerosene lamp. The investigating officer registered the crime u/s 307 of IPC and continued investigation on point of jurisdiction. On 5-4-01 at about 9 a.m. the complainant died on account of burn injuries caused by the accused. Thereafter

he was prosecuted for an offence u/s 302 IPC. The accused was acquitted after the trial by Fast Track Court-II Court, Bangalore Rural District, Bangalore.

Lapses in the Investigation: There was inordinate delay in filing and dispatching of the first information report. The dying declaration was recorded by the police instead of a Magistrate without adducing the reason for the same. There are several erasings and over writings in the dying declaration. The head constable had recorded the dying declaration of the deceased as per the oral instructions of the sub inspector. The dying declaration was recorded before the parents of deceased. Written consent of the doctor who attended on the deceased in the hospital was not taken. The doctor had stated that his permission was not sought by the police nor he was present during recording of dying declaration. The statements of witnesses were omni bus in nature The investigating officer had not recorded the statements of witnesses as they say, instead they were written down to suit the investigation. The spot and seizure mahazar was not done in the presence of independent persons and their signatures are taken on the mahazar on later date.

What ought to have been done by the Investigating Officer: Due care should have been taken for prompt filing and dispatching of the first information report. The dying declaration must have been recorded by a magistrate as the deceased survived for many days after the incidence and the nature of burns were not fatal in the initial stage of the incident and the deceased was conscious and fit to give her declaration. There should not have been any erasing and over writings in dying declaration. At least the sub-inspector should have recorded the declaration before independent witnesses instead of allowing the head constable to do so, which is not in accordance with the procedures laid down under CrPC. The dying declaration should not have been recorded before the parents of the deceased as there were ample chances of tutoring the deceased by the parents and other relatives. Written consent of the doctor who attended on the deceased in the hospital should have been taken to record the dying declaration as his presence was a must while recording

dying declaration in the hospital. The investigating officer should have recorded the statements of witnesses as they spoke, instead they were written down to suit the investigation. The spot and seizure mahazar should have been conducted in the presence of independent local persons and their signatures must have been obtained on the mahazar there and then itself. The supervisory police officers should have advised the investigating officer from the beginning of investigation about the procedures and modalities of investigation. The investigating officer should have consulted his seniors and the prosecutor and for suitable advice during the investigation of the case.

2. S. C. No. 697/2001 of Murder Case: The brief facts of the case are that the accused and the deceased are the husband and wife. They were residing at a house in Rajajinagar, Bangalore. There use to be a frequent quarrel between them on the issue of the accused coming home late every day. On 16-7-2001 at 7 p.m. when the accused came late, the deceased questioned him and asked him as to where he had been and why he came late. Then the accused got enraged over the deceased questioning him, tied a nighty around her neck and strangulated her, as a result of which the deceased died. On the complaint of sri. Satish, brother of the deceased, a case in crime No, 182/01 u/s 302 IPC was registered in Subramanyanagara police station. Investigation was conducted, the accused arrested, the charge sheet filed, the case was tried in Fast Track court-VII, Bangalore City and the accused was acquitted.

Lapses in the Investigation: The extra-judicial confession of the witness to the cases are not properly recorded and are of omni bus in nature. The doctor who conducted post mortem on the deceased dead body has stated that there were no marks of resistance found on the person of victim. He has also stated that the accused was not at all produced before him for examination to find out any marks of injuries. There were no imprints or marks of ornaments worn around her neck. The inquest on the dead body was prepared on 16-07-2001 from 11.30 pm till 2.00 a.m. on 17-07-2001 at the residence of the accused. But the witnesses to the inquest have given their evidence in the court that they saw

the dead body in the mortuary of Victoria hospital at 9.30 am on 17-07-2001 and signed inquest report then and there itself. Further, the case was registered at 11.15 pm and dispatched at 11.30 pm on 16-07-2001 by the investigating officer but in the inquest report the time of commencement of inquest proceedings is mentioned at 11.30 pm on 16-07-2001 and the investigating officer has stated that he has reached the spot at 11.45 pm on the same day. But the FIR shows that case was registered at 10.40 pm and it was dispatched at 11.30 pm. The investigating officer has not reported the matter to the Executive Magistrate before or after the completion of the inquest. The panch witnesses were not inhabitants of the neighborhood. The measurement taken of nighty used for strangulation was not correct and as per the procedure. The acknowledgement received from the magistrate for having submitted FIR was not found in the chargesheet. There is no co-relation among the statements of the witnesses. Some of the witnesses have stated before the court that they have not given any statement before the police.

What ought to have been done by the Investigating Officer: The extra-judicial confessions of the witness should have been recorded as they say. The doctor who conducted the post mortem should have been asked to come prepared to court and with some medical proof from deep study and the investigating officer should have taken such care to get such clarifications on point of proof. The investigating officer should have taken care and caution as to the time of registration of the FIR, time of dispatch, time of leaving for the spot for drawing inquest report etc, and noted the same in the FIR, in Station House Diary and case diary, as the case may be. He should have drawn the inquest at the residence of the deceased where the dead body was first seen by him. He should have reported the matter to the Executive Magistrate before or after the completion of the inquest. He should have summoned local independent panch witnesses besides carefully taking measurement of the nighty used for strangulating as per the procedure. He should have enclosed the acknowledgement received from the magistrate for having submitted FIR to the charge-sheet and if no such acknowledgement was received from the

magistrate the reasons for the same should have been adduced. He should have recorded the statements of the witnesses with great care to see that the statements corroborate with each other. He should not have resorted to table investigation by preparing statements of the witnesses without examining them and if at all he has recorded the statements he should have videographed the proceedings of the examination of witnesses to stop the witnesses turning hostile during trial.

3. S.C.No. 37/03 of Rape Case: The brief facts of the case are that on 17-5-95 at about 7.30 p.m. the complainant and her husband were proceeding on luna towards Nagondanahalli, when they came near Hullahalli bus stop four unknown persons stopped the Luna and they are made to get down from the vehicle. One of them assaulted with machhu on the head of the complainant's husband and took him to the near by plantation and tied him to a tree. The other two persons physically lifted her, took her to near by plantation and by force committed gang rape on her one after another and left the place. The next day morning the husband of the victim was admitted her at Jigani Nursing Home for treatment. On 18-05-1995 a complaint was filed in Bannerghatta Police station and the case was registered in crime no 87/95 under section 324, 506 and 376 read with 34 IPC. The case was tried in Fast Tack Court – 5 Bangalore Rural District, Bangalore and the accused were acquitted of charges.

Lapses in the Investigation: The victim and the complainant have stated before the court that the accused named in chargesheet are not the real accused who committed the rape and they are not the one present before the court. The names of the accused were not found in the early part of investigation papers. The constable had taken the victim to Vani Vilas Hospital and got her examined. The investigating officer was not at all present at the hospital and never arranged a female constable or any other female to accompany the victim for medical examination at the hospital. The mahazar witnesses turned hostile and have stated before the court that they were not at all present during mahazar. The constable has arrested accused No. 2 and 3 and examined them

and recorded their statements and not the investigating officer. The investigating officer appears to have harboured the real accused or allowed them to go scot-free. Virtually he has buried the real case and invited the curse of the victim and the like. This is supported by the fact that the investigation officer remained absent for the trial.

What ought to have been done by the Investigating Officer: This is a very serious instance of misuse of power, negligence and dereliction of duty on the part of the investigating officer and the other concerned. The police investigator should have acted professionally and followed the rule of law. It is nothing but unlawful arrest, confinement and falsely implicating the innocent to the crime. He should have arranged for test identification parade of the accused. Some of the accused should have been subjected to Polygraph, Brain-mapping or Narco-analysis to know and confirm their complicity and involvement in the crime. He should have taken the victim along with a woman constable to the Vani Vilas Hospital and arranged for medical examination. He should have videographed and photographed the mahazar proceedings to avoid witnesses turning hostile if they were really present at the mahazar place. He should not have done perfunctory investigation without summoning the witnesses to the mahazar spot and obtaining their signatures at a later date. It is the job of the investigating officer to arrest the accused, examine them and record their statements but not that of a constable. This is nothing but perfunctory investigation and is against law and procedure.

4. S. C. No. 110/2000 of Rape Case: The brief facts of the case are that on 23-09-1994 at 9.30 a.m. the accused took the victim, the wife of someone, in tipper lorry No. KA-05 – 2722 of L & T company from Gudahatti Gate on the pretext of some work at 26th KM. Stone and took the victim by lifting to the coconut garden of Pilla Reddy at Chandapur Village limits and forcibly committed rape on her. In this connection a case in Crime No. 44/94 under section 376 IPC was registered in Hebbagodi Police Station and investigation was conducted. The accused was arrested and the chargesheet was filed. The

case was tried in III Additional Sessions Judge Bangalore Rural District, Bangalore and it resulted in acquittal.

Lapses in the Investigation: The investigating officer has prepared the statements of some of the witnesses with out examining them and enclosed the statements to the chargesheet. The seizure mahazar witnesses have stated that the investigating officer has not seized any saree and white langa of the victim. The victim has stated before the court that she never stated before the investigating officer that the accused has taken her in the lorry in to coconut garden and raped her. But in the complaint it was mentioned that she was forcibly taken by the accused in to a coconut garden near railway bridge and committed rape. Though the medical evidence has proved that the victim was raped and there are some wounds and injuries in and around vagina yet the case ended in acquittal.

What ought to have been done by the Investigating Officer: The investigating officer should have subjected the accused to polygraph, brain-mapping or narco-analysis to know and confirm his involvement in the crime. The victim appeared to have withdrawn from identifying the accused due to reasons best known to her. The investigating officer should have taken the victim before the magistrate to take her statement under section 164(5) of CrPC during the investigation as the statement of the victim was wavering and self-contradictory. This would have stopped her from going against her complaint in the court. He should have videographed and photographed the mahazar proceedings to avoid witnesses turning hostile if they were really present at the place of mahazar.

The facts of the cases and the result thereof clearly allows one to infer that professional approach to investigation should have ensured the conviction of the accused and justice to the victim.