



PRINCIPLES OF CRIMINOLOGY, CRIMINAL LAW AND INVESTIGATION, Vol. II. By R. Deb. 2nd ed. (1972). S.C. Sarkar & Sons (Private) Ltd., Calcutta. Pp. xvii—395-1052. Rs. 28.

MR. R. DEB, the author, has been a police officer of long standing with rare distinctions. In recognition of his exemplary and meritorious services in the police, he was awarded a number of medals. Apart from those medals his present work¹ bears an ample testimony to his rich and varied experiences in police service in various capacities.

The title of the book does not seem to be termed appropriately with reference to its content. The text contains so little of the science of criminal law² that it denies all justification to include the word 'Criminology' in its title. To that extent the title appears to be a misnomer of the term. Apart from discussing purely subjects of procedural criminal law, the treatise exhaustively deals with those portions of the law of evidence and the case laws which are relevant for its comprehensive study. The work certainly seems suited to the needs of the investigating officers and the court-inspectors who conduct the cases in criminal courts. This is evidenced by the following pertinent foreword note of Shri S.C. Mishra, I.P., the Director, National Police Academy, Abu :

The greatest pitfall of a police investigator can be his ignorance of the latest trends of law.... The society can no longer tolerate the retributive concept of a policeman's role and cannot permit the crude, handy and shortcut methods in police work. Policemen of all ranks if they wish to move with the times will have to reappraise continuously their techniques and procedures so as to bring them in line with modern thoughts and expectations. To all such policemen who are desirous of winning the respect and approval of the people they serve, I recommend Shri Deb's book. It will refresh their outlook, improve their knowledge and generally make them better and more useful citizens.³

Under the circumstances, therefore, it would have been much better

1. R. Deb, *Principles of Criminology, Criminal Law and Investigation*. Vol. II (Second ed.) (Hereinafter referred to as *R. Deb*. only.)

2. The following portions of the work discuss incidently some problems of criminology : 1. Chapter XI, Investigation of Murder pp. 594-598, wherein are discussed the theories of punishment, problem of capital punishment and the motive of the offence of murder. 2. Chapter XII, Investigation and Prosecution of Sexual Offences, pp. 667-669, wherein the learned author deals with the sociological aspect of this crime in the Indian society. 3. Chapter XV, How to deal with Unlawful Assemblies and Riots, p. 819, dealing with causes of riots.

3. *R. Deb* at vii.



to entitle the book as *The Role of Police during Investigation and Criminal Proceedings*.

“Why cases fail in court ?” questions the author⁴ and he proceeds with the observations of the Law Commission of India, that many cases are acquitted in the Indian courts because most of the investigating officers are not law graduates, nor do they have sufficient knowledge of law and procedure of the law courts. In particular they often fail to appreciate if a particular piece of evidence is important to the prosecution case.⁵ His suggestions as to *bonafides* of investigation are of intrinsic value and no police personnel devoted to his mission as an investigating officer can safely afford to ignore them because “... concoction, padding and third degree methods do not help the police even in specific cases but merely tarnish their image both in the estimation of the public and the judiciary.”⁶

Referring to certain duties of a public prosecutor, the learned author observes :

The Public Prosecutor being an Officer of the Court, his duty is to help the Court in the administration of justice. He does not represent a party but the State He owes allegiance to higher cause Despite it is (*sic*) undoubted duty to his client, the State, he must, sometimes, disregard his client's most specific instructions if they conflicted with his duty in court to be fair, independent and unbiassed in his views. He may be regarded as a Minister of Justice equally with the Judge He should, therefore, be personally indifferent to the result of the case.⁸

How far is the above standard of ideal on the part of a prosecutor feasible and practicable in the situation obtaining at present is a big question.

4. *Id.* chapter X, p. 395.

5. 14th *Report* of the Law Commission of India, Vol. II, p. 736, 742 (1958).

Emphasizing the need for a separate department of prosecution the law commissioners stated that :

(T)he prosecutors attached to the magisterial courts belong to the police department and as such it is not possible for them to exhibit that degree of detachment which is necessary in a prosecutor. The Public Prosecutors attached to sessions courts have little control in shaping cases for prosecution except when they have been committed for trial. A public prosecutor is rarely consulted at the crucial stages of investigation and has no opportunity of guiding the investigating agency in the matter of gathering evidence The prosecuting agency should, therefore, be separated from and made independent of its administrative counterpart, that is the police department, and that it should not only be responsible for the conduct of the prosecution in court but it should also have the liberty of scrutinizing the evidence particularly in serious and important cases before they are actually filed in court. (*Id.* at 770).

6. *R. Deb* at 549.

7. *Id.* at 560.

8. *Ibid.*



In India, generally the prosecutors are either the police officers or the advocates working under the direction and supervision of the superintendent of police. Can independence, impartiality and grace of the "Minister of Justice equally with the Judge" be expected from these persons? In this respect the learned author has missed to point out the valuable recommendations of the law commissioners who after a good deal of discussion and deliberation reached their conclusions for the establishment of the independent prosecution machinery— the *Director of Public Prosecutions*. A study of this problem in all its bearings would have certainly enhanced the utility of the present work. The process of thinking afresh in the matter seems to have been dispensed with in this respect by the author who has simply contented himself with the collection of material from decided cases.

The learned author exhorts the investigating officers to give all possible help to the public prosecutors because lack of cooperation often spells disaster and results in unwarranted acquittals.⁹ The court inspectors must scrutinize the *challan* before it is laid in the court so that in case any lacuna or defect exists in the prosecution case it may be remedied by further investigation on the lines indicated by him.¹⁰ In this respect it may be pointed out that the rectification by way of further investigation at the last stage may become difficult and the practice may result in an approach to the prosecutor to find ways and means to implicate the accused and secure his conviction rightly or wrongly. It is, therefore, necessary that, through administrative devices, a practice of counselling the investigators by the prosecutors be forged.

The author has expressed the desirability of posting better type of officers in the courts as prosecuting officers by which he means officers with good deal of knowledge, tact, resourcefulness, considerable forensic-skill and knowledge of case law.¹¹ These qualities of a prosecutor presuppose him to be an advocate in adversary proceedings representing a particular party, interest or a department. His role, thus, acquires a venue in juxtaposition to that already established by the author himself.¹²

It may be pointed out that though the primary task of the prosecutor has been to see that the offender is brought to justice and receive punishment, his methodology of dealing with such cases is now to be determined in accordance with the contemporary view on individual offender's penal responsibility. This is an obligatory norm for the public prosecutor "who is required to be human in his entire policy.... in protecting all the interests involved, not only those of society but of the defendant as well."¹³

9. *Id.* at 551.

10. *Id.* at 556.

11. *Id.* at 592.

12. *Id.* at 560.

13. See International Congress on Penal Law, III *General Report* 3 (The Hague, 1964).



The changed circumstances demand a change in the training and mental equipment of a prosecutor. It may be imperative that besides his training in law he should acquaint himself in such non-legal disciplines as criminology, sociology and the criminal psychology, *etc.* Though, it is difficult to enumerate the qualities of a good prosecutor, 'a sensitiveness to fair play and sportsmanship is perhaps the best protection against the abuse of power, and the citizens' safety lies in the prosecutor who tempers zeal with human kindness, who seeks truth and not victims, who serves the law and not factional purposes and who approaches his task with humility.¹⁴

The rest of the volume has been devoted by the author to such themes as investigation of murder,¹⁵ a dacoity case,¹⁶ investigation and prosecution of sexual offences,¹⁷ gang cases,¹⁸ false cases,¹⁹ the method of dealing with unlawful assemblies and riots²⁰ and bail and investigation.²¹ The principles of the criminal law and investigation are thus confined to a limited sphere of offences of traditional type. The author would have done much better in focusing his attention towards such modern crimes as forgery, smuggling, racketeering, blackmarketing, embezzling, hoarding of essential supplies, spurious drugs and adulteration of food, *etc.* These crimes generally escape the attention of the investigation officers and are challenging the health and economy of the nation. It is hoped that the author would extend the benefit of his experiences by enlarging the scope of his studies in these fields as well in the subsequent edition of the book.

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14. Address by Robert H. Jackson, Attorney General at the *Second Annual Conference of U.S. Attorneys*, 24 *J. Am. Jud. Soc'y* 18, 20 (1940).

15. *R. Deb* chapter XII.

16. *Id.* chapter XIII.

17. *Id.* chapter XIV.

18. *Id.* chapter XIV.

19. *Id.* chapter XVIII.

20. *Id.* chapter XV.

21. *Id.* chapter XVI.

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