



POLICE AND LAW : A SOCIO-LEGAL ANALYSIS (1989). By Syed M. Afzal Qadri. Gulshan Publishers, Srinagar. Pp. xxi+276. Price Rs. 300.

THE AUTHOR of the book¹ deserves special credit for having delved into, and covered in some depth, a fairly familiar field, but along an unbeaten track, viz., that of police discretion, leading also to abuse and misuse of powers conferred on them by law, in the various stages of investigation of crime. In the process, he has highlighted not only the right and wrong use of the basic discretion, vested in the police by law, with regard to the interpretation of its relevant provisions and the manner of their implementation, but also the abuse and misuse of police powers, which in fact go contrary to the law of the land, including case laws, as laid down by superior courts.

The author has very rightly pointed out that “discretion begins where the law ends”.² This should also imply that discretion should end, where the law begins. Abuse and misuse of police powers under the law would not be within the permissible limits of discretion, but would amount to actionable misbehaviour. True, there certainly are some grey areas between the clear mandates of law and the regions involving discretion, left uncovered by law. Policemen are invariably called upon to exercise a discretion on, “whether and how to enforce a given law in a given context”. This should be the frontier for the exercise of police discretion while abuse and misuse of police powers would constitute outright misconduct.

All the same, in today’s Indian context of widely prevalent police high-handedness and corrupt practices, the author’s perceptive study and discussion of the theme of abuse and misuse of police powers, are indeed very timely, relevant and much needed. That apart, there are also very many other areas involving discretion, not quite amounting to abuse or misuse, but just arising from traditionally or organisationally oriented inclination towards the “enforcement model” of police work, in preference to the “human rights model”, not to speak of the policemen just choosing the line of least resistance, or the easier way out. In dealing with abuse or misuse of police powers,³ the author has examined in detail the opportunities that could be unscrupulously exploited by the police functionaries under the influence of political power, money considerations or social pressures.⁴ For instance, during investigation, distortions could be introduced at the time of registration of the FIR to make the offence more or less serious, or in the recording of evidence by padding or dropping of

1. Syed M. Afzal Qadri, *Police and Law : A Socio-Legal Analysis* (1989).

2. *Id.*, preface.

3. *Id.* ch. 5.

4. *Id.* at 127.



bits and pieces of the actual evidence. Depending on the capacity to exert pressure on the part of the complainant or the accused, the vigour or absence of it in the police follow up results even ordinarily. As regards arrest, the factors of 'credible information' and 'reasonable suspicion' could be stretched to serve any purpose.⁵ Similarly the laws relating to bail also admit of excessive flexibility.⁶ The author has, therefore, rightly advocated defining of the police powers with more specificity. He also considers that departmental and judicial control should be exercised more discerningly and effectively. He reaches his conclusions, on an analysis of the responses from samples of police officials, defence lawyers and also convicts, apart of course from official records.

Incidentally, the author has drawn attention to the fact that many police officials examined as respondents felt that padding of evidence becomes necessary to secure a conviction in cases which they know otherwise to be true, against the background of unrealistic demands in evidence by the courts. The straightforward solution to the problem is of course to change the law relating to procedure and evidence in such a way, that the emphasis is on the 'reliability principle' in deciding the guilt of the offender as in UK, and not diverted to 'disciplining the police' as in India. 'Policing the police' is important, but this should be taken up as a separate matter, and not allowed to cloud the main issue, which should be decided on the merits of the totality of evidence, without sorting out part of it on the basis of the traditional suspicion about the police. In the meantime, the only way open to the police is to abjure all temptation to 'pad' evidence or resort to third degree methods. Let cases fail, inspite of their best efforts, within the existing parameters of the law. Let there be uproar among the people and in the legislatures. Then perhaps a stage will come, when the right kind of legal instruments will be placed at the disposal of the police for effective service to the people.

Finally, this volume may be recommended for study by all students, practitioners of criminal law and professionals of the police, particularly those in the training institutions. It will also be enlightening reading for the discerning members of the public and a very useful addition to any law and police library.

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5. *Id.* at 143.

6. *Id.* at 149.

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