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ABOUT US

NLR Journal is an online bi-annual journal with a summer and winter edition. The Journal revolves around any Socio-legal Topic and is not strictly restricted to any particular field of law but promotes interdisciplinary research entailing detailed study of law with other disciplines in the contemporary era.

All academicians, Research Scholars, Lawyers and Law Students can submit original manuscripts of Articles, Research Paper, Book Review, Case Comments and Legislative Comments relating to recent development in Law and Legal Studies.

JOURNAL'S OBJECTIVES

1. Provide detailed conceptualisation of socio-economic phenomenon and its interplay with law and policy-making.
2. Encourage interdisciplinary and comparative research to develop a holistic and multifaceted approach towards the complex issues of today's society.
3. Critically and intellectually engage with contemporary issues and the discourse surrounding it.
4. Enable the development of legal intellect, critical analysis and quality research by promoting original legal writing.

MIRANDA RIGHTS IN INDIAN CRIMINAL LAW

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Abstract:

The paper aims to understand the nature of rights that are granted in the case of Ernesto Miranda in the US court while also mapping the importance of such rights. With that having been said, the paper looks into the existing criminal law in India in order to determine as to how well it has evolved to serve criminal justice placing reliance on the Constitutional Rights and the rights that so are enshrined under The Criminal Procedure Code 1973 and the Indian Evidence Act, 1872 thereby coming to a conclusion as to how the concept of Miranda Rights narrows down as we shift from the Constitution of India to the Indian Evidence Act while also taking a due consideration as to how the concept is not glorified as a whole when it comes to Indian Law. The paper also seeks to correlate the nature of Miranda Rights as a whole with that of the Rights of Accused when it comes to the Indian Law.

I. INTRODUCTION

The rights of the accused is more or less on the lines of basic human rights that have to be conferred upon an individual irrespective of its scope under Indian and International Legislations. Thankfully, in India we follow Adversary Justice system where the accused is also heard out before a verdict is delivered. Now, the issue arises when the accused is forcefully asked to incriminate oneself forcefully and is put to bars which is in gross violation of Right against Self Incrimination as under Article 20(3) of the Constitution of India. While the simple answer to the question, “Can an accused be allowed to incriminate oneself without his consent?” will be a NO as under the rough reading of the aforementioned provision of the constitution it is important to look at it in the Evidence Law’s point of view, for it is closely attached to this concept and brings us to the concept of Miranda Rights.

In the case of *Miranda v. Arizona*, the court was of the opinion that when a suspect is taken into custody, before he is examined, the suspect must be made aware of the rights conferred upon him as under 1st, 5th and 6th amendments of the US Constitution. In an unforeseen event wherein, the police fail to notify the suspect with regards to the rights, the statements of the Accused will not be admissible. As under the case the Miranda rights include- The Right to Remain Silent, Right to Lawyer, Right to Clarification that anything that is said by the accused will be used against himself, In this project of mine I shall try to determine the presence of Miranda Rights with special emphasis on The Indian Evidence Act taking into consideration the various case laws that so are applicable in determining the scope and the nature of the same.

II. LEGALITY IN INDIAN LAW

The Indian Law is believed to be unbiased in its first perception owing to the fact that it takes into consideration the opportunity that has to be given to the accused in the due process of decision-making aka delivering the judgement. For us to study the nature of Indian Criminal Justice, we will have to take into consideration the Principle of Legality. In short, the principle of legality inadvertently states that there can be no crime and punishment for the same without any legal backing which goes on to say that a person cannot be convicted for an act which is not an offense under the Indian Law.

The major significance of the principle of legality is that during the due process of criminalising someone the principle of legality upholds the sanctity of the law and makes sure that the justice is prevailed which merely goes on to prove that the accused also has to be given a fair chance of voice to explain the individual's perspective so as to judge efficiently and that forms a part of legality too.

The principle of Legality in the Indian Law is primarily based on the following principles-

1. *Nullum sine crimen lege* - "No crime without a law"
2. *Nullum peona sine lege*- "No punishment/penalty without a law"
3. *Audi alteram partem*- "Listen to the other side"
4. Non-Retrospectivity
5. Specificity

The aforementioned principles lay down the following rules for the enactment of laws and delivering justice-

1. There can be no crime without law as a result of which an act has to be told that it comes under the ambit of crime by a law such that it can be inferred as one and sets an order

2. There can be no punishment without a law, which when read with the first principle goes on to prove that a crime that is called as one under a suitable legislation will have to be subjected to a penalty
3. The other aspect is pertaining to the fact that the judiciary has to listen to the other side before delivering its judgement
4. Non-retrospectivity refers to the condition that a person shall not be prosecuted by a law that is applicable to criminalise the act that is not considered as a crime during the time when the act was committed
5. Specificity talks about the condition that a person cannot be convicted for a crime that is not well defined or declared to the public as a whole

In short these are the principles which called for the determination of the rights that are to be conferred to the accused before the accused is proved to have actually committed the crime. Such a reliance can also be put with regards to Article 14 of the Indian Constitution.

Who is an Accused?

Before determining as to what exactly come under the scope of the Rights of an Accused under the aforementioned law it is important to know who exactly is an accused. While a lot of interpretations were put forward a concrete definition is yet to be put forward in determining who comes close to the ambit of being called an accused. From the perspective of the Indian Evidence Act an accused is a “*person against whom evidence is sought to be led in a criminal proceeding¹*” which is out forward in Section 24 of the Indian Evidence Act. While the definition stands clear as to what exactly is the nature of the term ‘accused’ that is coined, it really establishes the difference between who an accused is and how accused is not necessarily a criminal. Speaking of the Rights that are to be given to an accused, respect for an interest that is

¹ S.24, Indian Evidence Act,1872

protected by the law as a whole is more or less a legal duty which has to be honoured, failure to do which would render it to be a failure of interests of the law.

III. LITERATURE REVIEW

In the book *The Impact of Miranda Revisited*² by Richard A Leo it invariably talks as to what sort of an effect the concept of Miranda Rights had when it comes to the International Criminal Jurisprudence. The author merely talks about the positives of Miranda Rights with special emphasis on the Upholding of rights conferred in the International Community through various conventions and agreements thereby talking about the International Perspective of the Miranda Rights as a whole while also stressing upon the nature of the Miranda Rights. In *An analysis of Miranda warnings and waivers: Comprehension and coverage*³ The article yet again talks about the nature of Miranda Rights and how exactly does it function and not to mention the author also tries to draw a line so as to explain how exactly does the scope of such a right extends. The article talks about the possible drawbacks of the Miranda Warnings while also trying to list out the solutions to the same. Although the solutions might not necessarily correspond to that of the Indian Criminal Law Regime it Is imperative to note that studying the same would help us to analyse the extent to which the Miranda Rights can be conferred without entering into a sphere of Ambiguity. It further Is important to note that this article emphasizes on the fact that Miranda Rights correspond to the rights of accused but the rights of accused need not only include Miranda Rights. Further in the article *Knowing and Intelligent: A Study of Miranda Warnings in Mentally Disordered Defendants*⁴ the authors merely analysed the way Miranda Rights have evolved as a concept and inadvertently examined the case.

²Richard A. Leo, *The Impact of Miranda Revisited*, 86 J. Crim. L. & Criminology 621 (1995-1996)

³ Rogers, Richard & Harrison, Kimberly & Shuman, Daniel & Sewell, Kenneth & Hazelwood, Lisa, *An analysis of Miranda warnings and waivers: Comprehension and coverage*. (2007)

⁴ Rogers, R., Harrison, K.S., Hazelwood, L.L. *et al.* *Knowing and Intelligent: A Study of Miranda Warnings in Mentally Disordered Defendants*

This study helped me a lot in studying the practical application of the Miranda Rights in the Indian Scenario. I am of the opinion that in the Indian Scenario, the Miranda Rights are not explicitly called so but such a study only helps us to determine as to what exactly could come under the ambit of such a definition. In the book *Law And Justice: A Look At The Role And Performance Of Indian Judiciary*⁵

It talks about the various principles of Legality while also placing a mere emphasis on the definition of 'Rights' and an 'accused person' which merely helps us to analyse the need for the Rights that are to be conferred to the accused. The book also talks in detail pertaining to the various decisions of Indian Courts which helps in understanding how exactly does the judiciary function while also taking into consideration the practical application of the rights that so are conferred. In "*The Role of Prosecution in Criminal Justice*⁶" the author merely draws a relation between the principles of punishment and the rights that are granted to the criminal or a criminal to be in the mere proceedings of the case while also concluding that the Rights that are to be given to the accused are also a way of ensuring criminal justice as under the Indian Judiciary. In '*Criminal Justice Administration in India*⁷' written by S.P.Srivatsave the author elaborates as to what are the flaws in the current criminal justice administration with regards to India while also touching about the way the rights of the accused are upheld. The author merely argues that the administration is neither good when it comes to the functioning of the medium nor is it effective when it comes to the management of crimes that so arise as a part of the working social structure. The article also talks about how the various principles enshrined, even though they look good on paper are not practically viable owing to various issues that so prevail when it comes to accountability, lack of proper leadership and gross misuse of powers.

⁵ Menon, NR Madhava. "Law and Justice: A Look at the Role and Performance of Indian Judiciary." Vol. 20. 2008.

⁶ Sharma, Madan Lal. "The role and function of prosecution in criminal justice." *ANNUAL REPORT FOR 1997 and RESOURCE MATERIAL SERIES No. 53* (2007): 185.

⁷ Srivastava, S. P. "Criminal Justice Administration in India: Issues and Perspective." *Indian Journal of Criminology* 15.2 (1987): 95-102.

The other articles and references I had looked upon talk about the practical application of Prosecution based on the statements made by the accused in cross examination with relevant case laws which also letting the reader know on the procedural aspect of such rights and wherever they are found in the Indian Criminal Law.

RESEARCH OBJECTIVES

1. To map down the origin of Miranda Rights and draw a parallel with its application under the Indian Law
2. To analyse various case laws relating to the rights of accused and determine their scope as under the concept of Miranda Rights
3. To Practically verify if the concept of Miranda Rights is fully established in India and identify practical problems that it fails to solve, if any

RESEARCH QUESTIONS

1. Is the concept of Miranda Rights that is universally acclaimed upheld in the Indian Law?
2. What is the scope of Miranda Rights in the Indian Criminal Law?

IV. MIRANDA V. ARIZONA⁸

Miranda v. Arizona is a landmark case in the United States Supreme Court which stipulated that the accused must be made aware of his/her constitutional rights enshrined under the fifth and sixth amendment of the US Constitution which talk about the Right against self-incrimination and Right to Attorney. The Court in this case talked about the importance of providing such rights to an accused while also held that only such an evidence that is procured after informing the respective criminal of his/her rights will be applicable as under the Law.

⁸ 384 U. S. 436 (1996)

It is important to note that the harming of an accused physically or mentally or using illicit means in order to procure the information of the accused while the accused is in the Judicial Custody is a gross misuse of administrative power by the fellow officers and is also a grave violation of the principles of Criminal Justice.

A) FACTS

Plaintiff Ernesto Miranda was initially arrested by the Phoenix Police Department based on the circumstantial evidence that so was procured connecting Miranda to the rape and kidnapping of an 18-year-old a couple of days prior to his arrest. It is imperative to note that Miranda signed a confession note that inadvertently states that he accepts that whatever confession he would make in the custody is in the due spirit of having obtained consent from him which was made with the knowledge of his legal rights such that the confession that so was made can be used against Miranda in determining if he was a criminal. It is imperative to note that at no point of time was Miranda explained of his Right Against Self Incrimination nor was he informed of the consequences of the statements that were made in the police custody. This case over here is an appeal to the judgement of the State Supreme Court that convicted Miranda for the crime that so was believed to have been committed by him, in the United States Supreme Court.

The main issue behind the case was to determine the scope of Right against Self Incrimination and the Right to Attorney with special emphasis on the Rights that are to be granted to the accused who is deemed to have performed a crime.

B) JUDGEMENT

The Supreme Court delivered the judgement in the favour of Miranda and affirmed the sanctity of his appeal in a 5-4- majority. The Supreme Court in the judgement inadvertently stated that the rights that so are conferred cannot be violated under the mere pretext that the accused is under the mere custody of an authority that is given due standing powers by the government.

The court also held that no claims are to be made such that the claims are of the nature of incriminating the accused when the accused is not informed of his right against incrimination as under the Law that so presides over the nation as a whole. Chief Justice Warren delivered the majority opinion which prevailed by reversing the decision of the lower court.

As per the majority opinion it was opined that the statements can be obtained from the accused who is under the custody only by enforcing a couple of government procedural safeguards. Chief Justice was of the view that the accused must be made aware of the right against self-incrimination and an appropriate chance ought to be given to him in order to exercise such a right that is guaranteed by the sovereign authority at hand. Further, the Chief Justice inadvertently mentioned that the accused must be made aware of his right to remain silent which is also pertaining to the fact that it has to notified to the accused that his statements may be used against him in the court proceedings. The judge further observed that although the declaration contained the signature of the plaintiff that inferred an explicit consent, it cannot be called as a free and fair consent owing to the mere fact that the signing of such a document could've been carried out by an application of force or by a inflicting a mere apprehension of threat to the accused. The judge further mentioned that if the accused exercises his/her right to remain silent, such a right has to be honoured and the interrogation must cease, this also applies if the accused decides to seek attorney. Chief Justice also mentions that the rationale behind these rights that are to be granted to the accused is that the mere accusation cannot render that the accused can be given a third degree treatment while the same is a mere violation of the right to life and liberty.

The Dissenting opinions mere talks about how exactly are these rights given a very stricter interpretation when it comes to their applicability as a whole and how the statements can be given an admissibility owing to the gravity of the crime. The judges also mentioned that the statements cannot be excluded only because of the fact that the police had not informed the accused about the rights that are conferred upon oneself.

The dissenting opinions also mentioned that the police brutality is inevitable and the court will not be able to do much about the same. Further they were of the opinion that such a forbiddance of any pressure on the accused was not backed by any legal precedent as a result of which such a construction has to be deemed as a vague interpretation of the entire concept. The judges also opined that the mere assumption that the interrogation always happens with spark of coerciveness is flawed in itself and cannot be held as a criteria in order to determine the validity of a statement made by an accused in the Police Custody.

C) PERSONAL ANALYSIS

The case *Miranda v. Arizona* while it emphasizes on the need to have rights to the accused, it inadvertently glorifies the fact that the Accused under consideration must be aware of such a right that is conferred upon him or her. The case highlighted the condition that the statements that were obtained from the accused can be used by the prosecution only when it is proved that necessary procedural safeguards were taken in the due course of interrogation of the accused. In such a case I am of the opinion that the court by delivering such a judgement places an onus of proof upon the authority under whose custody the accused is in. The Miranda Rights as a whole created a standard operating procedure for the police which are to be followed so as to make it clear that there is no malpractice when it comes to obtaining a confession from the accused and not to mention such rights have a positive effect legally owing to the fact that once the confession is given after letting the accused know about the rights that are conferred to him or her then the statements can be used against them in the court of law without any hindrance as a whole. The Miranda Rights draw a parallel and merely regulates the behaviour of the authority which is a very important factor in the administration of justice in the due course of law.

In very short, my interpretation of what comes under the ambit of Miranda Rights is as follows-

1. The Right to Lawyer, that is, the accused will have to be given a right to seek judicial help and unless and until such an attorney reaches the place of custody, no further interrogation must proceed. This is an important factor and the main rationale behind the same could be the fact that a layman might not know his inherent rights and the protocol when it comes to the judicial custody as a result of which it is important that a legal expert can notify the accused pertaining to his dos and don'ts. This is also in accordance with the *Audi alteram partem* condition which advocates for the right of the accused to be heard
2. The Right to be silent, that is, the accused will have to be notified with regards to the right to silence. The Right to Silence refers to the fact that irrespective of the reason for such a silence or a nature of statements that could have been told if such a silence was not maintained, the accused has the right to not speak so as to protect him or her from such a speech that could incriminate oneself against one's own will. The Right to speech is again under the accused's own will which might or might not be exercised by the accused, however it is important to note that such a right is said to be tarnished when the authorities use third degree methods or any other form of intimidation or coercion in order to get a specific information from the accused.
3. The concept of Miranda Rights also make it clear such that the Rights that so are given a due consideration may be waived off upon the consent of the accused to confess to the concerned officers the crime that was committed by him if any
4. Such a right may also mean that the statements that were voluntarily given by the accused after reconsidering his Right to Speech, can be used by the authorities in the court in order to determine the possibility of the crime to have been committed by the accused.

5. Not to mention the scope of the right to attorney under a very rough meaning could mean that the accused has the right to have the presence of attorney next to him or her when the mere investigation is going on and if the accused is not in a position to hire an attorney he is entitled to one who is appointed to him by the government as a whole

V. RIGHTS OF ACCUSED UNDER THE INDIAN LAW

While there are several rights which are granted to the accused in India owing to several ratifications of treaties it is imperative to note that nothing in the Indian Law is explicitly labelled as Miranda Rights as a result of which I set out to take a set of provisions which on a rough reading come close to the concept of Miranda Rights and determine if they actually come under any of the aforementioned criterion to fill the shoes of Miranda Rights

A) MIRANDA RIGHTS UNDER CONSTITUTION

It is imperative to note that every citizen in India which inadvertently includes accused too are given a set of fundamental rights in order to protect themselves from any oppression that so could be caused in the due process of keeping up with the law. They are entitled to the Rights under Part III of the Indian Constitution which when read in a broader perspective can very well be read in accordance to the principles established by the Miranda v. Arizona case.

1. Right to Counsel

Article 21 of the Indian constitution takes into account that the right to defend oneself from an accusation by an accused through a counsel is an integral part of the fundamental rights that are guaranteed to the citizens of India. The main rationale behind the same is that the concerned accused must be given an equal chance of hearing before determining the outcome of the case.

The same is explicitly stated in Article 22 of the Indian Constitution which outlines the concept of Right to Counsel. As under this provision it merely states that a person may not be arrested without informing him or her pertaining to the reason behind such an arrest or making the individual aware of his or her rights to seek counsel. The attached condition to this provision is that the accused must be given a choice to choose his or her own legal practitioner to defend oneself. Further the constitution also makes it explicit that the defence of the public pleader must be available for everyone who is accused of an offense and such a provision was given merely to eradicate the issue of poverty that so can come as a hindrance in case the accused cannot hire a lawyer in an unfortunate event wherein he doesn't have the money to do so, which again when read in accordance with Article 21 is in dire violation of the Right to Life and Personal Liberty.

Thus, it can be mentioned that the right to counsel can be looked upon as an important ingredient pertaining to a criminal trial.

The Right to seek counsel was further emphasized placing a reliance on the case of *R.M. Wasawa*⁹ where it was held that the mere indigence should not be the mere criterion in depriving a person of fair trial. The court took into consideration the Right to Counsel under the ambit of Right to Fair trial while determining the question that so was asked in the case. Further the right to financial assistance to engage a counsel of the accused's choice was also upheld as under the case of *Ranjan Dwivedi v. Union of India*¹⁰. It further is imperative to note that the Right to Free Legal aid vaguely is to be read along with the counsel in order to establish that this forms a part of the Right to counsel too which is a Miranda Right too. In the case of *Suk Das v. Union Territory of Arunachal Pradesh*¹¹ it was held that the failure to provide free legal aid to the accused at the state's costs would rather nullify the trial

⁹ 1974 AIR 1143

¹⁰ 1983 SCC (3) 307

¹¹ 1986 SCR (1) 590

2. Right against Third-Degree Treatment

It is imperative to note that the Right to Silence is an important aspect and any factor that nullifies the same including the Third Degree Treatment would render a grave violation of such an important right. We ought to understand that the Right Against Third Degree Treatment is important, for, any physical or mental abuse that manipulates or harms the accused into breaking the silence would amount to a gross breach of his right to silence as a result of which the same under the Indian Law can be taken into consideration as a Miranda Right which is protected under the ambit of Article 21 of the Indian Constitution. The guidelines with regards to the same were given in the cases of *Joginder Kumar*¹² and *D.K.Basu*¹³ This could also involve the Right to fair treatment in the custody as under Art 21.

The Right to silence can also be attached to the Right Against Self Incrimination as under Article 20(3) which means that the accused under consideration must not be forced to speak without his or her inherent consent failure to do which the confession that so is made will be considered as a non-consensual incriminating evidence which is in direct violation of the aforementioned clause.

The Right to Silence when read with the Right Against self-incrimination need not refer to a verbal silence alone but rather the same could refer to obtaining a consent from the accused in the cases of Narco-analysis as well under the custody which could further lead to a breach of the Right to Privacy when performed without consent. The principles pertaining to the Right against self incrimination were established in the cases of *M.P. Sharma v. Satish Chandra*¹⁴, *Nandini Satpathy vs Dani (P.L.) And Anr*¹⁵ and *The State Of Bombay vs Kathi Kalu Oghad And Ors*¹⁶

¹² (1994) 4 SCC 260

¹³ 1997 CrLJ 743 (SC)

¹⁴ 1954 AIR 300

¹⁵ 1978 AIR 1025

¹⁶ 1962 SCR (3) 10

B) MIRANDA RIGHTS UNDER THE CRIMINAL PROCEDURE CODE, 1973

1.Right to Silence

Under Section 313 of the Criminal Procedure Code the accused is given the right to remain silent when in the custody. This was further affirmed in the case of *State of MP v. Ramesh*¹⁷ which deemed that an accused is entitled his right to silence when in a police custody and must not be compelled in order to confess a particular information which might or might not be of incriminating nature. Such a right to silence without any further interpretation inadvertently comes under the scope of Miranda Rights that were deemed in our initial interpretation. This is also to be read along with Section 161(2) of the CRPC which states that a person is bound to answer the questions that are asked to him in the due course of police interrogation except for those questions, answer to which will incriminate the accused in consideration without his consent.

2. Right to Counsel

As under Section 41D of the Criminal Procedure Code it states that the person who is arrested must be given a chance to meet an advocate of one's choice but not throughout the due process of interrogation. This important right found its way into the statute only after the decision of the court in the case of *D.K.Basu*¹⁸ which laid down guidelines pertaining to the arrest and interrogation of an accused related to a crime. It is imperative to note that unlike the aforementioned rights the scope of this type of rights is hazy owing to the mere fact that the deciding authority as to how exactly can the accused meet his or her lawyer during the interrogation and when can he meet or not is a question that cannot be answered by the mere existence of the provision in the statute. Such a lack of clarity means that the Counsel Rights under the Cr.P.C more or less is affected by the specificity principle that was reiterated about, earlier. This is primarily due to the fact that the wordings "Not throughout the interrogation" were used in the provision. It is important to note that a fair trial can be achieved only when then accused is allowed a reasonably justified unrestricted access to a counsel. Further in the absence of the counsel in the due process of interrogation means that the interrogating person can resort

¹⁷ (2011) 4 SCC 786

¹⁸ AIR 1997 SC 610

to any coercive measure In order to violate the accused's right to privacy. The Section 41D as mentioned earlier suffers from a lack of specificity and in turn dilutes the precedent set by the Constitution. Such an ambiguity rendered that most of the times, the lawyer is not even allowed to meet the accused which is a gross misconduct.

C) RIGHTS UNDER THE INDIAN EVIDENCE ACT, 1872

1. Rights of the Accused with regards to the confession of crime

It is imperative to note down the fact that as under the provisions of Section 24 and 26 of the Indian Evidence Act it merely talks about the Right to Silence as such which more or less establishes the way under what precedent will the confession be admissible in the Court of Law. As under Section 24 of the Indian Evidence Act, it states that any confession that so is obtained from the accused in the due causation of inducement, threat or promise will render such a confession invalid. Such a condition merely states that the inducement or a threat or promise that can be made to the accused is in dire violation of the Right Against Incrimination with no will at all or a will based on false assumption that so is seen from the side of the accused. Such an incrimination is in violation of the Right to Speech, which Section 24 of the Indian Evidence Act aims to prevent as a result of which the aforementioned provision comes under the scope of Miranda Rights. The same when read with Section 26 states that the confession that is made to a police will not suffice as a proper evidence but rather the confession is valid if and only if there is a magistrate recording the proceedings of such an interrogation which even though goes with a wild assumption that the interrogation is coercive in nature ensures that the presence of magistrate would ensure that the interrogation session meets two main objectives. The first one being the fact that there is a learned person of law who can regulate the flow of interrogation and the way the confessions are given to the interrogator. Second of all, the presence of a magistrate would mean that the magistrate would inadvertently let the accused know with regards to the rights that are conferred upon him or her.

In the case of *Vohra Ibrahim v. State of Maharashtra*¹⁹ the court held that if the confession of guilt by the accused does not correspond to ones own desire and it appears to the court that it had been done under such a threat, then the evidence will not be acceptable.

Although this comes under the Ambit of Miranda Rights when it comes to the IEA, not much has been mentioned pertaining to such a confession which calls for an elaborate understanding.

VI. SUGGESTIONS AND CONCLUSION

The concept of Miranda Rights are not so explicit when it comes to the Indian Law although a lot of it has been etched in the constitution. While the Cr.PC and the Indian Evidence Act talks about such rights to an extent I am of the opinion that it isn't elaborated enough and only a part of what exactly would come under the concept of Miranda Rights are taken into consideration. The Concept of Miranda Rights are given a greater scope when the same is read through the constitutional provisions and it narrows down when it comes to CrPC and IEA. It is important to note that the rise in ambiguity has to be sorted out and the concept has to be reintroduced in a much more concrete state in a country like India which suffers from various loopholes pertaining to the Rights of the Accused. In addition to that, Section 41D of the CrPC has to be amended such that it is not in contradiction to the constitutional provisions. The Miranda Rights are to be strongly read along with the fundamental rights and any violation will have to be taken seriously. No exceptions must be made, but however in the cases where the gravity of the crime is so high and it appears to the court that the omission is minor in nature then In such a case confessions could be allowed in the court.

¹⁹ AIR 1976 SCR (3) 672

Although such a provision could be exploited, absence of such a provision could be exploited too as mentioned under the reasoning of the Dissenting opinions of the judges given in the case of *Miranda v. Arizona*. Such an ambiguity in the theoretical approach would mean that the practical application of the concept of Miranda Rights has to be carried out effectively by the esteemed judges in order to uphold the sanctity of the Criminal Justice. I would thus like to conclude that the concept of Miranda Rights is seen in the Indian Law while however they are still dormant when it comes to developments and might not be effective as a whole when it comes to the Upholding of the Rights of Accused.

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