

**Law Commission of India's**  
**Consultation Paper on Witness Protection**

Summary

This is a summary of the contents of the various chapters in this Consultation Paper.

Chapter I - Introduction

There are two broad aspects to the need for witness protection. The first is to ensure that evidence of witnesses that has already been collected at the stage of investigation is not allowed to be destroyed by witnesses resiling from their statements while deposing on oath before a court. This phenomenon of witnesses turning 'hostile' on account of the failure to 'protect' their evidence is one aspect of the problem. This in turn would entail special procedures to be introduced into the criminal law to balance the need for **anonymity of witnesses** on the one hand and the rights of the accused, on the other, for an open public trial with a right to cross-examination of the witnesses, after knowing all details about witnesses.

The other aspect is the physical and mental vulnerability of the witness and to the taking care of his or her welfare in various respects which call for **physical protection of the witness** at all stages of the criminal justice process till the conclusion of the case, by the introduction of witness protection programmes.

While the first aspect of protecting the evidence of witnesses from the danger of their turning 'hostile' has received limited attention at the hands of Parliament in some special statutes dealing with terrorism, there is an urgent need to have a comprehensive legislative scheme dealing with the second aspect of physical protection of the witness as well. Further, both aspects of anonymity and witness protection will have to be ensured in all criminal cases involving grave crimes not limited to terrorist crimes. The implementation of such a law would involve drawing up (a) procedures for granting anonymity to witnesses and also (b) introducing Witness Protection Programmes as well in which personal protection is granted to the witness; sometimes by shifting the witness to a different place or even a different country; or by providing some money for maintenance or even by providing employment elsewhere. These are all the various aspects for discussion in this Consultation Paper.

The Law Commission has taken up the subject suo motu on account of the observations of the Supreme Court in certain important cases and also because of immediate importance of the subject in our country. The Commission has prepared this Consultation Paper in order to invite responses from all sections of society. After receiving the responses, it will make its final recommendations possibly along with a draft Bill.

## **Chapter II – Public trial and cross-examination of witnesses in open court: Indian laws**

Sec.327 Cr.PC provides for trial in the open court and 327 (2) provides for in-camera trials for offences involving rape under s.376 IPC and under s.376 A to 376 D of the IPC. Sec. 273 requires the evidence to be taken in

the presence of the accused. Sec. 299 indicates that in certain exceptional circumstances an accused may be denied his right to cross-examine a prosecution witness in open court. Further, under Sec.173 (6) the police officer can form an opinion that any part of the statement recorded under Sec.161 of a person the prosecution proposes to examine as its witness need not be disclosed to the accused if it is not essential in the interests of justice or is inexpedient in the public interest.

Sec. 228A IPC prescribes punishment if the identity of the victim of rape is published. Likewise, Sec. 21 of the Juvenile Justice (Care and Protection of Children) Act, 2000 prohibits publication of the name, address and other particulars which may lead to the identification of the juvenile.

Under Sec. 33 of the Evidence Act, in certain exceptional cases, where cross examination is not possible, previous deposition of the witness can be considered that relevant in subsequent proceedings. The Evidence Act requires to be looked into afresh to provide for protection to a witness.

### **Chapter III – Protection of identity of witnesses: Special Statutes in India**

In the pre-constitutional era, Sec. 31 of the Bengal Suppression of Terrorist Outrages Act, 1932 empowered the special Magistrate to exclude persons or public from the precincts of the court. Sec. 13 of TADA, 1985 and Sec. 16 TADA 1987 provided for protection of the identity and address of a witness secret. Sec. 30 POTA 2002 is on the same lines as Sec. 16 TADA, 1987. Apart from these provisions in special statutes, there is a need for a general

law dealing with witness anonymity in all criminal cases where there is danger to the life of the witness or of his relatives or to his property.

#### **Chapter IV – Earlier reports of the Law Commission of India**

The 14<sup>th</sup> Report of the Law Commission (1958) examined, inter alia, the question of providing adequate facilities to witnesses attending cases in courts. The 4<sup>th</sup> Report of the National Police Commission (1980) acknowledged the troubles undergone by witnesses attending proceedings in courts. The 154<sup>th</sup> Report of the Law Commission (1996) particularly noted: “Necessary confidence has to be created in the minds of the witnesses that they would be protected from the wrath of the accused in any eventuality.”

The 172<sup>nd</sup> Report of the Law Commission (2000), dealing with the review of rape laws suggested that the testimony of a minor in the case of child sexual abuse should be recorded at the earliest possible opportunity in the presence of a Judge and a child support person. It further urged that the court should permit the use of video-taped interview of the child or allow the child to testify by a closed circuit television and that the cross examination of the minor should be carried out by the Judge based on written questions submitted by the defence. The Commission also recommended insertion of a proviso to sec. 273 Cr.P.C to the effect that it should be open to the prosecution to request the court to provide a screen so that the child victim does not see the accused during the trial.

In its 178<sup>th</sup> Report (2001), the Law Commission recommended the insertion of s.164A in the Cr.PC to provide for recording of the statement of material witnesses in the presence of Magistrates where the offences were

punishable with imprisonment of 10 years and more. On the basis of this recommendation, the Criminal Law (Amendment) Bill, 2003 was introduced in the Rajya Sabha and is pending enactment.

### **Chapter V – Protection of identity of witnesses v. Rights of accused – Principles of law developed by the Supreme Court and the High Courts**

In the pre-*Maneka Gandhi* phase the Supreme Court, in *Gurbachan Singh v. State of Bombay* AIR 1952 SC 221, upheld a provision of the Bombay Police Act, 1951 that denied permission to a detinue to cross-examine the witnesses who had deposed against him. It was held that the law was only to deal with exceptional cases where witnesses, for fear of violence to their person or property, were unwilling to depose publicly against bad character. At this stage, the issue was not examined whether the procedure was ‘fair’. The decisions in *G.X. Francis v. Banke Bihari Singh* AIR 1958 SC 209 and *Maneka Sanjay Gandhi v. Rani Jethmalani* (1979) 4 SCC 167 stressed the need for a congenial atmosphere for the conduct of a fair trial and this included the protection of witnesses.

In *Kartar Singh v. State of Punjab* (1994) 3 SCC 569 the Supreme Court upheld the validity of ss.16 (2) and (3) of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA) which gave the discretion to the Designated Court to keep the identity and address of a witness secret upon certain contingencies; to hold the proceedings at a place to be decided by the court and to withhold the names and addresses of witnesses in its orders. The court held that the right of the accused to cross-examine the prosecution witnesses was not absolute but was subject to exceptions. The same

reasoning was applied to uphold the validity of Sec. 30 of the Prevention of Terrorism Act, 2002 (POTA) in *People's Union of Civil Liberties v. Union of India* (2003) 10 SCALE 967.

In *Delhi Domestic Working Women's Forum v. Union of India* (1995) 1 SCC 14 the Supreme Court emphasised the maintenance of the anonymity of the victims of rape who would be the key witnesses in trials involving the offence of rape. The importance of holding rape trials in camera as mandated by s.327 (2) and (3) Cr.PC was reiterated in *State of Punjab v. Gurmit Singh* (1996) 2 SCC 384. In *Sakshi v. Union of India* (2004) 6 SCALE 15 the Supreme Court referred to the 172<sup>nd</sup> Report of the Law Commission and laid down that certain procedural safeguards had to be followed to protect the victim of child sexual abuse during the conduct of the trial. In the *Best Bakery Case* (2004) 4 SCC 158, in the context of the collapse of the trial on account of witnesses turning hostile as a result of intimidation, the Supreme Court reiterated that "legislative measures to emphasise prohibition against tampering with witness, victim or informant, have become the imminent and inevitable need of the day."

Although, the guidelines for witness protection laid down by the Delhi High Court in *Neelam Katara v. Union of India* (judgment dated 14.10.2003) require to be commended, they do not deal with the manner in which the identity of the witness can be kept confidential either before or during the trial. The judgment of the Full Bench of the Punjab and Haryana High Court in *Bimal Kaur Khalsa* AIR 1988 P&H 95, which provides for protection of the witness from the media, does not deal with all the aspects of the problem.

These judgments highlight the need for a comprehensive legislation on witness protection.

## **Chapter VI – Witness anonymity and balancing of rights of accused – a comparative study of case law and other countries**

In the United Kingdom, the judgment of the House of Lords in *Scott v. Scott* 1913 AC 417 required that the exception to the general rule that administration of justice should take place in open court should be based “upon the operation of some other overriding principle which ... does not leave its limits to the individual discretion of the Judge.” In the *Leveller Magazine* case (1979) it was held by the House of Lords that apart from statutory exceptions it was open to the court “in the exercise of its inherent powers to control the conduct of proceedings” so long as the court “reasonably believes it to be necessary in order to save the ends of justice.” This was subsequently recognised by the enactment of s.11 of the (UK) Contempt of Court Act, 1981. Under s.24 of the Youth Justice and Criminal Evidence Act, 1999 evidence may be given through a live telecast link where the witness is outside UK or is a child. Ss.16 to 33 of the same Act require the court to consider special measures of various kinds for the protection of vulnerable and intimidated witnesses. In *R vs. DJX, SCY, GCZ* (1991) CrL. A Rep. 36, the Court of Appeal allowed child witnesses to be screened from the accused. In *R vs. Taylor (Gary)*\_1995 CrL. LR 253 (CA), various guidelines were issued.

The Lord Diplock Commission, appointed to consider various issues concerning the violent confrontations in Ireland, suggested that witnesses could be screened from the accused. In *R v. Murphy* (1989) it was held that

identity of the witness should be kept secret not only from the accused but also from the defence lawyer. In *R v. Lord Saville of Newdigate* 1999 (4) All ER 860 the Court of Appeal overturned the decision of the Lord Saville Tribunal appointed to enquire into the incident of shooting of 26 people during a demonstration at Londonderry, refusing to grant anonymity to military witnesses. The Court of Appeal held that the approach of the Tribunal was not fair to the soldiers as the risk to them and their families was “a serious possibility.” In the second round (*Lord Saville v. Widgery Soldiers* 2002 (1) WLR 1249), the Court of Appeal overturned the decision of the Lord Saville Tribunal to shift the enquiry from London to Londonderry in Northern Ireland holding that the elements at Londonderry in Ireland “pose a threat to the enquiry and those who are or will be taking part in it, and in particular, a soldier witnesses.” The venue, according to the Court of Appeal, should be London only. Further, since there would be live video linkage to Londonderry “the public confidence will not be eroded by holding a part of the enquiry in London.” The same approach was adopted in regard to the recording of the evidence of police witnesses.

Following the ruling of the European Court on Human Rights in *Chahal v. UK*, the Special Judgment on Appeals Commission Act, 1997 and the Northern Ireland Act, 1998 have been enacted which provide for courts to sit in camera where it was necessary on national security grounds and for appointing special counsel to represent individuals in those proceedings.

In Australia, the Supreme Court of Victoria (Australia) in *Jarvie* (1995) approved of non-disclosure of the names and addresses of informers and undercover police officers as well as other witnesses whose personal safety would be endangered by the disclosure of their identity. This has been



followed in a series of other cases as well. Australia also has 8 different statutes (in each of the States) dealing with witness protection but not with the anonymity or screening aspects. S.2A (1)(b) of the Australian Evidence Act, 1989 deals with special witnesses – suffering from trauma or likely to be intimidated.

In New Zealand, under s.13A of the (New Zealand) Evidence Act, 1908 (introduced 1986), protection is available to undercover officers in cases involving drug offences and offences tried on indictment attracting a maximum penalty of at least 7 years imprisonment. A certificate has to be given by the Commissioner of Police to the court that the police officer requiring protection has not been convicted of any offence. In 1997, s.13G was introduced making protection applicable to all witnesses if their lives were likely to be endangered. In *R v. L* 1994 (2) NZLR 54 (CA), this provision came to be tested on the anvil of s.25(f) of the New Zealand Bill of Rights which provides for the right to cross-examination to an accused. The court upheld the provision on the ground that the right of cross-examination was not absolute. Under s.13C(4) the Judge, might make an anonymity order where he is satisfied that the safety of a witness is likely to be endangered if his identity was disclosed. Sub-section (5) of sec. 13C provides for the factors to be accounted for by the court and sub-section (6), the conditions to be fulfilled. The power of the court to exclude the public or to direct screening of the witnesses or to give evidence by close circuit television is provided under s.13G. The 1997 legislation is comprehensive and has been held by the courts to be ‘fair’ vis-à-vis the New Zealand Bill of Rights in *R vs. Atkins* 2000(2) NZLR 46(CA).

In Canada, the courts have granted more importance to the exception of ‘innocence at stake’ rather than the needs of administration of justice. In other words, anonymity of witnesses is treated as a privilege granted under the common law unless there is a material to show that it will jeopardize the proof of innocence of the accused. The important cases in this regard are *R v. Durette* 1994 (1) SCR 469; *R v. Khela* 1995 (4) SCR 201; *CBC v. New Brunswick* 1996 (3) SCR 480; *R v. Leipert* 1997 (1) SCR 281 and *R v. Mentuck* 2001 (3) SCR 442.

In South Africa, the approach is on a case by case basis in order to balance the conflict of interests with a view to ensuring proper administration of justice. S.153 of the (South Africa) Criminal Procedure Code permits criminal proceedings to be held in camera to protect privacy to the witness. S.154 gives discretion to the court to refuse publication of the name of the accused. The South African courts have permitted the witness to give evidence behind close doors or to give witness anonymity. The courts prefer to prohibit the press from reporting on identity rather than exclude them from the court room. The important cases are *S v. Leepile* 1986 (4) SA 187 and *S v. Pastoors* 1986 (4) SA 222.

The courts in the US have held that the constitutional protection in favour of the right to confrontation by way of cross examination, as provided in the 6<sup>th</sup> Amendment to the Constitution, is not absolute and could be restricted for the purpose of protecting witness identity by using video link or by shielding the witness from the accused though not from the lawyers to the defence or the court or the jury. The important cases are *Alford v. US* (1931); *Pointer v. Texas* (1965) and *Smith v. Illinois* (1968). In *Maryland v. Craig* (1990), the court upheld the procedure under the Maryland Courts

and Judicial Procedure Code which provided for protection of child witnesses by way of one-way closed-circuit procedure and held that it did not violate the right to confrontation guaranteed by the 6<sup>th</sup> Amendment.

The European Court of human rights has in *Kostovski* (1990), *Doorson* (1996), *Vissier* (2002) and *Fitt* (2002) recognised the need to protect anonymity of witnesses while, on account of Article 6 of the European Convention, more importance appears to have been given to the rights of the accused. If national courts had determined that anonymity was necessary or not necessary in public interest, the European court could not interfere.

The judgments of the International Criminal Tribunal for former Yugoslavia (ICTY) in the ‘*Tadic*’ and ‘*Delaic*’ cases in the context of protection of witnesses, anonymity, re-traumatisation and general and special measures for their protection have been discussed in detail. Likewise, the decisions of the International Criminal Tribunal for Rwanda (ICTR) (1994) with reference to the relevant statute which provide for protection of victims and witnesses have also been discussed in great detail in the Consultation Paper.

## **Chapter VII – Witness Protection Programmes: A comparative study of programmes in various countries**

This chapter discusses the Witness Protection Programmes in the States of Victoria, the National Capital Territory, Queensland in Australia. It discusses the provisions of the Australian Crime Commission Bill, 2003. This chapter also deals with the programmes in South Africa, Hong Kong, Canada, Portugal, Philippines and the United States of America.

## **Chapter VIII – Questionnaire**

This sets out the questions on which specific responses are sought by the Law Commission to the issues raised in the Consultation Paper. The final report of the Law Commission is proposed to be prepared after taking into account the responses received from a wide cross-section of respondents.

## CHAPTER VIII

### QUESTIONNAIRE

The preceding chapters in this Consultation Paper have dealt with the various aspects of witness anonymity and witness protection. They noted that witness anonymity is necessitated by several factors – intimidation and threat to the personal safety of the witnesses or the peculiar vulnerability of the witness on account of age or other disadvantage. The responses of the courts and the legislatures in our country and several other countries have been discussed. While our courts have recognized the need for and granted witness anonymity on a case by case basis, and that too to a limited extent, they have reiterated the need for a comprehensive legislation covering all aspects of witness anonymity. Apart from witness anonymity, our Courts have stated that there is a need for devising witness protection programmes on the lines of similar programmes in other countries. Such programmes are essential in order to bring into being a statutory right to a witness, who is in danger, to seek protection – either physically or through other measures, apart from being granted anonymity.

With a view to initiating public discussion on what should be the legislative scheme on witness anonymity and the structure of the witness protection programmes, the Law Commission elicits responses to the following questionnaire which is divided into two parts: Part A deals with witness anonymity and Part B with witness protection programmes. After receiving responses to various questions, the Commission will come

forward with its final report. The Appendix carries the statutes in New Zealand and Portugal, which contain significant provisions.

(A) WITNESS ANONYMITY

- 8(1) Should witness anonymity be maintained in all the three stages of investigation, inquiry, trial and even at stage of appeal in a criminal case?
- (2) Do you think witness anonymity should be confined to criminal cases or should anonymity be provided in civil cases as well? Should it be extended to defence witnesses also, as done under some statutes in other countries?
- (3) Can the provisions of sub-section (3) of section 16 of the Terrorist and Disruptive Activities (Prevention) Act, 1987 or section 30 of the Prevention of Terrorism Act, 2002, which permit the Court to pass an order:
- (a) avoiding the mentioning of the names and addresses of the witnesses in its orders or judgments or in any records of the cases accessible to public,
  - (b) issuing directions for securing that the identity and addresses of the witnesses are not disclosed, or
  - (c) direct that, in public interest, the proceedings pending before the Court be not published in any manner,
- be made applicable to cases involving other grave offences where the Court is satisfied that there is material which prima facie shows danger to the life of the witness or to his relations or to their property?

- (4) Do you agree that the existing safeguards for protection of victims of sexual offences and child abuse such as in camera proceedings and ban on publishing of any material relating to such proceeding under sec. 327 of the Code of Criminal Procedure, 1973 are not sufficient and do you suggest any other methods for their protection?
- (5) Would it be sufficient if the Commissioner of Police or Superintendent of Police seeks anonymity for the witness by certifying the danger to the life or property of the witness or his relations or should it be for the Judge to decide, on the basis of evidence placed before him, that the life or property of the witness or relations is in danger?
- (6) Should there be a preliminary inquiry by the Judge on the question whether the case of the witness is a fit one where anonymity should be granted or not? In such a preliminary inquiry, should the identity and address of the witness be kept secret? Should the accused or his lawyer be heard at that stage on the question of danger to life or property of the witness or relatives or, should it be an ex parte inquiry in camera? Will it serve any useful purpose in giving opportunity to the accused/defence lawyer, particularly where the identity and address cannot be revealed in such preliminary inquiry?
- (7) Should the witness satisfy the Judge, in the said preliminary inquiry, that his life or that of his relations or their property is in serious danger or is it sufficient for him to show that there is 'likelihood' of such danger? Is his mere ipse dixit on the question of danger sufficient to deny the accused the right for an open trial in the physical presence of the witness?

- (8) Should the complainant or the prosecution be required to file an application before the trial Judge for non-disclosure of identity and address of the witness prior to the stage when copies/the documents are supplied to the accused under sections 207, 208 of the Code of Criminal Procedure, 1973?
- (9) Should the Court, if it accepts the request for anonymity, direct that the identity and address of the witness be not reflected in the documents to be given to the accused and should it direct that the original documents containing the identity and address be kept in its safe custody and further direct that the Court proceedings should not reflect the identity and address of the witness?
- (10) At the trial, if the Judge is satisfied about the danger to the witness, should the recording of statement of the witness be made in such a manner that the witness and the accused do not see each other and the Judge, the prosecutor and the defence counsel alone see him (using two cameras)? Should the witness who is shown on the video-screen be visible only to the Judge, prosecutor and the defence counsel? Should the taking of photographs in Court by others be banned?
- (11) In the above context, should the witness depose from a different room or different place, and should there be another judicial officer in that room to ensure that the witness is free while giving his evidence?
- (12) Should the public and media be allowed at such trials subject to a prohibition against publication? What should be the quantum of punishment for breach of this condition?
- (13) Should the Court appoint an amicus curiae in every such case, where witness protection is to be or is likely to be granted, to assist the



- Court independently both at the preliminary hearing referred to above and at the trial?
- (14) Should the method of distorting the facial image and voice of the witness be followed while recording evidence through video-link, in such cases?
  - (15) Should the identity and address of the witness be kept confidential throughout the inquiry and trial (or after trial too) and in all the Court proceedings upto the stage of judgment or should they be disclosed just at the commencement of the examination of the witness? If it is to be just at the commencement of evidence then, in case the evidence is not completed in one hearing, is there not the chance of the witness being threatened by the date of the next or subsequent hearing?
  - (16) Instead of examining the witness through the video-link procedure, will it be sufficient if a list of questions is handed over to the Court with a request to the Court to put those questions to the witness? Will it preclude fair and effective cross-examination, if the accused or his counsel is thus confined to a set list of questions and without the normal advantage of putting questions arising out of the answers of the witness to particular questions?
  - (17) Merely because the Court has refused to grant anonymity at preliminary hearing referred to above, is the witness to be precluded subsequently from seeking anonymity or protection at the trial, even if there are fresh circumstances warranting an order in his favour?
  - (18) Can the defence be allowed to contend that the prosecution witness who is given anonymity is a stock witness?

- (19) Should the tele-link and display on video be conducted only by a technical officer of the judicial branch and not by a police officer or other public servant and not by outsourcing to a private contractor?
- (20) Should these technical staff be located at one place in each State and move to the concerned Court whenever there is a request, as it is not possible to provide such facilities for each Court or group of Courts in the districts?
- (21) Should the order as to witness anonymity, for the purpose of preliminary inquiry, be passed only by the Sessions Court and not by any other Court subordinate thereto?
- (22) Against the order granting anonymity to a witness, should the law provide a right of appeal to the High Court fixing a time frame of one month from the date of service, for disposal of the appeal?
- (23) Are there any other suggestions not covered by the above?

(B) WITNESS PROTECTION PROGRAMME

- (1) Do you support the view that a Witness Protection Programme should be established to protect the safety, welfare and the interests of the witnesses? Such Programmes are already in existence in various countries like Australia, Canada, South Africa, Portugal, Netherlands, Philippines, New Zealand.
- (2) Apart from the change of identity, should other measures for the protection of witnesses be also provided. For example,

- (a) mention in the proceeding of an address different from the one he uses or which does not coincide with the domicile location provided by the civil law;
  - (b) being granted a transportation in a State vehicle for purposes of intervention in the procedural act;
  - (c) being granted a room, eventually put under surveillance and security located in the court or the police premises;
  - (d) benefiting from police protection extended to his relatives or other persons in close contact with him;
  - (e) benefiting from inmate regimen which allow him to remain isolated from others and to be transported in a separate vehicle;
- (a) delivery of documents officially issued;
  - (b) changes in the physiognomy or the body of the beneficiary;
  - (c) granting of a new place to live in the country or abroad, for a period to be determined;
  - (d) free transportation of the beneficiary, his close relatives and the respective property, to the new place of living;
  - (e) implementation of conditions for the obtaining of means of maintenance;
  - (f) granting of a survival allowance for a specific period of time.
- (3) Who among the following should be made in-charge of the implementation of the entire Witness Protection Programme:
- (a) Judicial Officer
  - (b) Police Officer
  - (c) Government Department
  - (d) Autonomous body
- (4) Should apart from prosecution witness, a defence witness be also eligible to be admitted into the Witness Protection Programme, if danger to his life or property exists due to his being a witness?

- (5) Should the Superintendent of Police/Commissioner of Police be empowered to certify whether a particular person or victim or witness is in danger and entitled to be admitted to the Witness Protection Programme? Should such certificate be further reviewed by the trial Judge before making an order of witness protection? Should such proceedings in the court be held in camera?
- (6) Whether protection under the Programme should also be extended to the family members, close relatives and friends of the threatened witness. If so, who should be included in the list of such persons?
- (7) Should necessary funds be provided by both the Central and State Governments for implementation of the Witness Protection Programme?
- (8) Should a witness who is being admitted into the Programme be required to enter into a memorandum of understanding with the in-charge of the Programme setting out his rights, obligations, restrictions as well as of the person in-charge of the Programme? What are the means of enforcing such rights and obligations?
- (9) When the identity of a person is changed, and he later becomes a party as plaintiff or defendant or a witness in any other civil proceedings, then should such proceeding be allowed to be suspended temporarily and be subject to the order of the Court regarding institution, trial or judgment in such proceedings?
- (10) When the identity of a person is changed, and he is an accused or a witness in any other criminal proceeding under his former identity, should the person in-charge of Protection Programme be authorized to disclose his identity to the prosecutor, judge of magistrate and or to defence lawyer in such cases?

- (11) Should a person be held liable to punishment if he discloses the identity of any protected person without the authorization of the Court that granted the protection? If so, what punishment should be prescribed?
- (12) Do you support the view that where a witness who is admitted to the Programme fails or refuses to testify without any just cause, he should be prosecuted for contempt of Court and the protection order be cancelled?
- (13) Should the decision either admitting or refusing to admit a person to the Witness Protection Programme, be made appealable? To avoid delays, should such appeal lie directly to the High Court?
- (14) Do you have any other suggestions in respect of Witness Protection Programme?

(Dr. K.N. Chaturvedi)  
Rao)

Member-Secretary

(Justice M. Jagannadha

Chairman

Dated: 13<sup>th</sup> August, 2004