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Role and Functions of Prosecutors in the Indian Criminal Justice System

Keerthana A
1st Year LL.M. Student (Criminal Law and Criminal Justice Administration)
School of Excellence in Law, Taramani, Chennai
Dr. Ambedkar Law University, Chennai
keerthana.law8423@gmail.com

Abstract: *The prosecution forms the core of the criminal justice system, functioning as the State's representative in safeguarding public order while ensuring that criminal proceedings adhere to constitutional guarantees of fairness, due process and equality before law. This research article offers a comprehensive doctrinal analysis of the powers, duties and roles of prosecutors in India, beginning with a historical account that traces the evolution of prosecution from ancient community-driven mechanisms to the institutional structures that emerged under medieval governance, the codified prosecutorial frameworks introduced during British colonial rule, and the transformative post-independence reforms influenced by constitutional principles. The study examines the statutory framework governing prosecutors, including appointment mechanisms, definitions relating to public authority, and the scope of prosecutorial discretion under the Code of Criminal Procedure, with particular attention to the ethical and legal standards that guide decision-making at various stages of criminal proceedings. It analyses the prosecutor's dual character as both an advocate and a "minister of justice," responsible not merely for securing convictions but for presenting evidence fairly, disclosing exculpatory material, respecting the rights of the accused and ensuring that the investigative process remains unbiased. The article further assesses leading judicial pronouncements that define and regulate prosecutorial conduct, especially in matters such as withdrawal from prosecution and oversight of investigative actions. To situate India's system within a global context, a comparative examination of six jurisdictions highlights divergent institutional models and accountability mechanisms. Identifying challenges such as politicization, inadequate training, limited autonomy and structural deficiencies, the article concludes by proposing reforms aimed at enhancing professionalism, independence and public confidence in the prosecutorial system*.

Keywords: Prosecution, Public Prosecutor, Criminal Justice System, Fair Trial, Due Process, Minister of Justice, Judicial Oversight, Comparative Criminal Law

I. INTRODUCTION

The prosecution occupies a foundational place in the criminal justice system, serving as the State's institutional mechanism for initiating, conducting and supervising criminal proceedings while ensuring that the trial process adheres to constitutional guarantees of fairness and due process. Unlike private litigants, the prosecutor is entrusted with a public duty to seek justice rather than secure convictions, a principle repeatedly emphasized by Indian courts in describing the prosecutor as a "minister of justice" who must present the case objectively, disclose exculpatory evidence, and safeguard the rights of both victims and the accused.1The evolution of prosecution in India reflects a long historical trajectory beginning with restorative and community-based dispute resolution in ancient societies, transitioning into the more centralized justice structures of medieval kingdoms, and ultimately crystallizing during British colonial rule, which introduced codified criminal law, adversarial trials and a professional prosecutorial system.2Following independence, this framework was reshaped by constitutional mandates under Articles 14, 21 and 39-A, which imposed duties of non-arbitrariness, fairness and equal access to justice, thereby expanding the normative

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expectations of prosecutorial conduct within a democratic society. In contemporary India, therefore, the prosecutor operates within a blended framework of statutory authority, ethical obligation and constitutional restraint, balancing the interests of the State with the imperative of safeguarding individual liberties.

Yet, despite its centrality, the Indian prosecutorial system continues to confront structural, administrative and ethical challenges that limit its effectiveness. Persistent issues such as political influence in appointments, insufficient autonomy from the executive, inadequate training, uneven coordination with investigative agencies, and the absence of a specialized, independent prosecutorial service have been repeatedly highlighted by expert committees and academic studies.3 These systemic weaknesses become particularly stark in cases involving political interests, mass violence or institutional failures, where the public often questions the neutrality and diligence of prosecution. As India continues to grapple with increasing criminal caseloads, expanding investigative technologies and rising expectations of transparency, the need for a doctrinally sound, professionally autonomous and ethically robust prosecutorial system becomes all the more urgent. A detailed examination of the powers, duties and roles of prosecutors grounded in statutory interpretation, constitutional principles and comparative international models is therefore essential for identifying reforms that can reinforce prosecutorial independence, strengthen the rule of law and enhance public confidence in the justice system.

II. HISTORY OF PROSECUTION IN INDIA

2.1 Ancient Period

The earliest roots of prosecution in India can be located in the Dharmaśāstra tradition, where criminal adjudication was deeply tied to moral, religious and community-based norms rather than to an organized state machinery. Justice was primarily restorative in nature, and institutions such as sabhas, samitis, family councils and guild courts assumed the responsibility of identifying wrongdoing, examining evidence and imposing sanctions that would restore social equilibrium. While no distinct prosecutorial office existed at this stage, the community or aggrieved party assumed accusatory functions, and the king acted as the custodian of dharma who intervened when disputes threatened public order. Kautilya's Arthaśāstra later formalized proto-prosecutorial roles by assigning state officers investigative and accusatory responsibilities, marking the earliest emergence of a state-associated prosecutorial function.4

2.2 Medieval Period

The transition to the medieval period under the Delhi Sultanate and Mughal Empire witnessed the centralization of criminal justice and the emergence of state-controlled prosecution. Islamic legal institutions introduced the roles of the Qazi, Kotwal and Muhtasib, who collectively exercised powers of investigation, arrest and presentation of offenders before judicial authorities. Crimes began to be conceptualized as violations against the sovereign rather than as purely private wrongs. Although investigative and prosecutorial roles were not strictly separated, Mughal administrative manuals reveal that specialized officers were tasked with collecting evidence, preparing complaints and assisting judicial proceedings functions that closely resemble modern prosecutorial responsibilities.5

2.3 British Period

British colonial rule marks the decisive institutionalization of prosecution as a formal legal function in India. Beginning with the Charter of 1726, structured courts were established in the Presidency towns, accompanied by the introduction of Crown Prosecutors and Government Pleaders. The Indian Penal Code of 1860 and successive Codes of Criminal Procedure transformed criminal justice by separating investigation from adjudication, codifying offences and recognizing the Public Prosecutor as a distinct legal officer representing the Crown. The adversarial trial model, evidentiary standards and procedural safeguards introduced during this period created the foundation for the modern prosecutorial system. Although shaped by colonial priorities, these developments professionalized prosecution and embedded it within a formal legal framework .6

2.4 Post-Independence Period

After independence, India preserved the colonial procedural architecture but redefined prosecutorial authority within the constitutional ethos of fairness, equality and due process. Articles 14, 20, 21 and 22 created substantive and procedural rights that transformed expectations from prosecutors, requiring them to uphold principles of justice rather than pursue conviction alone. Judicial decisions strengthened this shift, repeatedly emphasizing impartiality, disclosure obligations and adherence to constitutional morality. This constitutional reorientation marked a profound departure from the colonial understanding of prosecution, aligning it with democratic accountability and rule-of-law principles.7

2.5 Modern Period

The enactment of the Code of Criminal Procedure, 1973, streamlined the prosecutorial hierarchy, clarified the appointment and qualification of prosecutors and codified important discretionary powers, including withdrawal from prosecution under Section 321. Persistent challenges such as political interference in appointments, inadequate training, lack of independence and weak coordination with police have been highlighted in the Law Commission's 14th, 154th and 197th Reports as well as in the Malimath Committee Report (2003). In the contemporary era, increasingly complex criminal cases, technological advancements and expanding forensic requirements underscore the urgent need for a more autonomous, professional and well-resourced prosecutorial service to uphold the constitutional mandate of just and fair criminal adjudication.

III. APPOINTMENT AND STRUCTURE OF PROSECUTORS UNDER BNSS CODE AND CRPC

3.1 Historical and Legal Context

The office of the public prosecutor forms the backbone of criminal justice administration in India. Historically, under the Bombay, Nagpur, and Sindh (BNSS) Code, the framework for prosecutorial appointments emphasized legal competence, hierarchical supervision, and specialization for complex cases.8Post-independence, the Code of Criminal Procedure, 1973 (CrPC) codified and modernized these provisions, ensuring uniformity across India while retaining the core principles of professional independence and accountability. Sections 24, 25, and 25A CrPC largely mirror BNSS provisions, establishing public prosecutors, assistant public prosecutors, and a hierarchical directorate of prosecution at state and district levels.

3.2 Section 18 BNSS and Section 24 CrPC – Public Prosecutors

Section 18 BNSS (earlier Section 24 CrPC) and Section 24 CrPC govern the appointment of Public Prosecutors (PPs) for High Courts and district courts. At the High Court level, Public Prosecutors may be appointed by either the State Government or the Central Government, depending on the nature of the case. For district courts, appointments fall within the exclusive domain of the State Government. Eligibility requires a minimum of seven years' legal practice as an advocate, ensuring the prosecutor possesses sufficient expertise and experience to manage criminal trials effectively.9

A distinctive feature is the appointment of Special Public Prosecutors in cases of extraordinary public importance, technical complexity, or heightened sensitivity, such as terrorism, economic offenses, or sexual assault trials. Candidates for this role must have at least ten years' legal practice. This provision, reflected in both BNSS and CrPC, ensures that intricate cases are handled by highly experienced legal professionals capable of navigating complex procedural and evidentiary challenges.

Victims are also empowered to engage independent counsel to assist the Public Prosecutor, particularly in sensitive cases. For example, in a rape trial, a victim's lawyer may advise the Public Prosecutor on questioning strategies that respect the victim's dignity while securing essential evidence.10This dual-layered representation demonstrates the Indian system's effort to balance prosecutorial authority with victim-centered justice.

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3.3 Section 19 BNSS and Section 25 CrPC – Assistant Public Prosecutors

Section 19 BNSS (earlier Section 25 CrPC) and Section 25 CrPC govern Assistant Public Prosecutors (APPs), who primarily conduct prosecutions in Magistrate Courts. APPs are appointed by the State Government, typically from advocates with requisite legal experience. A significant safeguard is the prohibition of appointing police officers as APPs, unless they satisfy certain seniority and rank requirements, preserving the independence and impartiality of prosecutorial functions.11

For illustration, in a theft case under BNS Section 303, the Magistrate Court trial is conducted by an APP, who ensures adherence to procedural rules, proper framing of charges, and accurate examination of witnesses. The Public Prosecutor of the Sessions Court generally does not handle such minor offenses, enabling specialization and efficiency in prosecution management.

3.4 Section 20 BNSS and Section 25A CrPC – Directorate of Prosecution

Section 20 BNSS (earlier Section 25A CrPC) and Section 25A CrPC establish a structured Directorate of Prosecution at the state and district levels, introducing a hierarchical system for oversight and case allocation. The hierarchy typically includes:

1. Director of Prosecution
2. Deputy Director of Prosecution
3. Assistant Directors of Prosecution
4. Public Prosecutors and Assistant Public Prosecutors

Qualification standards under both BNSS and CrPC are detailed: Directors and Deputy Directors must have 15 years' legal practice or prior experience as a Sessions Judge, while Assistant Directors require 7 years' practice or experience as a First-Class Magistrate.12 This ensures that serious and complex cases receive proper supervision while enabling mentoring of subordinate prosecutors.

Work allocation is based on severity of punishment:

Director of Prosecution: Cases punishable with 10 years or more, life imprisonment, or death, e.g., terrorism, murder, organized crime.

Deputy Director of Prosecution: Cases punishable between 7 and 10 years, e.g., kidnapping, serious fraud, grievous injury.

Assistant Director of Prosecution: Cases punishable with less than 7 years, e.g., minor theft, hurt, or simple assault.

For instance, a terrorism trial carrying a potential life sentence is supervised by the Director of Prosecution, ensuring professional oversight, coordination with investigative agencies, and strategic courtroom management. Conversely, a minor assault case is handled by an Assistant Director, allowing higher-level prosecutors to focus on complex matters.

IV. CONSTITUTIONAL AND INSTITUTIONAL FRAMEWORK OF PUBLIC PROSECUTION IN INDIA

4.1 Constitutional Basis of Public Prosecution

The office of the public prosecutor is a cornerstone of India's criminal justice system, tasked with representing the state in criminal proceedings while ensuring that justice is administered fairly and impartially. The constitutional foundation of public prosecution in India is derived indirectly from several provisions, as the Constitution does not explicitly create the office. These provisions collectively establish the principles that guide prosecutorial conduct, independence, and accountability.

Article 14, which guarantees equality before the law and equal protection of the laws, plays a central role in defining prosecutorial responsibility. Prosecutors are required to apply the law uniformly, without bias, favoritism, or discrimination. This principle has profound practical implications: public prosecutors must ensure that decisions on filing charges, presenting evidence, or withdrawing cases are based on legal merit and not influenced by social, political, or economic considerations. For instance, the prosecutorial discretion to pursue or discontinue a criminal case must reflect an objective evaluation of evidence rather than the social status of the accused or victim.13

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Article 21 protects the right to life and personal liberty, which the judiciary has interpreted to include the right to a fair trial. Public prosecutors, therefore, are constitutionally obligated to conduct prosecutions in a manner that respects the procedural and substantive rights of the accused. This includes ensuring timely investigation, disclosure of evidence, and adherence to principles of natural justice. A failure to uphold these duties can render the prosecution liable to judicial scrutiny for violating fundamental rights.14

Articles 154, 163, and 166 empower the executive authorities of the Union and State Governments to manage administrative functions, including the appointment and supervision of legal officers such as public prosecutors. Article 154 vests executive power in the Union or State Governments, while Article 163 mandates the establishment of a Council of Ministers under the leadership of the Chief Minister, providing the executive authority to administer justice. Article 166 deals with financial procedures, indirectly supporting the allocation of resources for the prosecution machinery. These provisions allow the executive to ensure that competent officers are appointed and supervised while maintaining the professional independence necessary for unbiased prosecution.15

The Supreme Court of India, in State of Maharashtra v. Praful Desai, emphasized that public prosecutors are not mere agents of the State but "ministers of justice."16This designation carries critical implications: prosecutors are entrusted with discretionary powers to decide which cases to pursue, how to present evidence, and whether to seek withdrawal of prosecution. The Court held that such discretion must be exercised responsibly, balancing the interests of society in punishing crime with the rights of the accused to a fair trial. The judgment underscores that prosecutorial discretion is constitutionally constrained, requiring adherence to law, ethical standards, and judicial oversight.

In practical terms, these constitutional principles ensure that:

1. Prosecutors exercise independence in decision-making while remaining accountable to the law.
2. Victims' rights and public interest are represented, without compromising the rights of the accused.
3. Discretionary powers, such as deciding on charges, framing evidence, or withdrawal of prosecution, are exercised within constitutional and statutory limits.
4. Executive supervision, through appointment and oversight, does not translate into undue influence over prosecutorial functions.

Thus, the constitutional framework establishes a delicate balance: public prosecutors serve as officers of the State and ministers of justice, functioning under executive guidance but bound by constitutional principles that prioritize fairness, impartiality, and the protection of fundamental rights. This ensures that the criminal justice system operates efficiently, ethically, and within the bounds of the Constitution.

4.2 Representation of the Union Government in Supreme Court and Civil Cases

The representation of the Union Government before the Supreme Court of India is constitutionally anchored in Article 76, which establishes the office of the Attorney General for India as the highest law officer of the Union. Appointed by the President under Article 76(1), the Attorney General serves not merely as an advocate but as the principal legal advisor to the Government of India. His functions include advising the Union on constitutional interpretation, statutory questions, and policy matters containing legal elements. He represents the Union in the Supreme Court in matters involving constitutional challenges, inter-governmental disputes, issues of national importance, and high-stakes criminal or civil matters. He also assists the Supreme Court in Presidential References under Article 143, providing legal opinions essential for constitutional decision-making.17Supporting the Attorney General are the Solicitor General of India and Additional Solicitors General, appointed under the Law Officers (Conditions of Service) Rules, 1987. Although not constitutional offices, the Supreme Court has emphasized that these law officers, despite representing the executive, must assist the Court objectively and uphold justice, as held in State of Bihar v. Kameshwar Singh and later reaffirmed in Ram Jawaya Kapur v. State of Punjab.18Their presence is vital in criminal appeals involving central agencies like the CBI, NIA, ED, DRI, and in complex civil disputes involving taxation, economic offences, or constitutional interpretation.

In civil litigation, the representation of the Government is governed by the Civil Procedure Code (CPC). Under Sections 30 and 32 CPC, the Union and State Governments appoint Government Pleaders, Standing Counsel, and Panel Advocates who represent the government before District Courts and High Courts. These pleaders draft pleadings,

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conduct arguments, and ensure that government departments comply with judicial orders. The Union also appoints Central Government Standing Counsels (CGSCs) and Additional Standing Counsel (ASCs) before various High Courts to manage the expanding volume of civil litigation involving contractual disputes, land acquisition, service matters, and welfare legislation.19In criminal cases before the Supreme Court, however, the Attorney General, Solicitor General, or one of the Additional Solicitors General appear in Special Leave Petitions (Article 136), criminal appeals, and references where central agencies are involved or where the case involves issues affecting national security or the interpretation of criminal statutes. Trial-level prosecutions remain under the exclusive control of State Governments, with Public Prosecutors handling cases under the CrPC or BNSS, reflecting India's quasi-federal system.20

4.3 Advocate General of the State

The Advocate General for the State, created under Article 165 of the Constitution, is the highest law officer of the State and mirrors the functions of the Attorney General at the Union level. Appointed by the Governor, the Advocate General advises the State Government on legal matters, appears before the High Court in constitutional challenges to State laws, service matters, criminal appeals involving State interests, and major civil disputes. The Advocate General must be qualified to be appointed as a Judge of a High Court ensuring legal expertise capable of addressing complex constitutional and statutory issues.21

The Advocate General plays an institutional role in supervising the prosecution system of the State. While not directly appearing in every criminal case, the AG provides legal guidance to the Home Department, advises Public Prosecutors in cases involving constitutional or substantial legal questions, and ensures that actions such as withdrawal of prosecution (Section 321 CrPC / Section 360 BNSS), sanction for prosecution, or appeal decisions conform to constitutional principles and statutory requirements. The Supreme Court, in Sheonandan Paswan v. State of Bihar and State of Punjab v. Gurdial Singh, has held that decisions regarding prosecution must align with public interest, fairness, and justice—principles that the Advocate General helps safeguard.22 The AG's oversight enhances the independence of prosecution, insulating it from political influence while ensuring legal consistency across the State.

The Advocate General may delegate representation to Government Pleaders, Public Prosecutors, or Special Public Prosecutors depending on the needs of the case. Special Public Prosecutors are appointed for complex cases involving terrorism, corruption, sexual offences, or high-profile crimes requiring specialized expertise. District-level Public Prosecutors and Assistant Public Prosecutors rely on the Advocate General for guidance when questions of constitutional law or statutory interpretation arise. This hierarchical coordination preserves uniformity, coherence, and adherence to constitutional values in prosecutions across the State.

The supervisory role of the Advocate General extends to advising the State on whether to file appeals, grant sanctions under special statutes (such as the POCSO Act, Prevention of Corruption Act, or UAPA), or consider withdrawing cases under CrPC/BNSS provisions. The Supreme Court has clarified that the Advocate General's opinion carries persuasive value when courts examine executive decisions concerning prosecution, reinforcing that legal officers must uphold justice rather than merely defend governmental actions, as observed in Mukul Dalal v. Union of India.23Through this constitutional mandate, the Advocate General strengthens prosecutorial integrity and ensures that the criminal justice system functions within constitutional boundaries.

4.4 Supervisory Role of the High Court in Criminal Prosecutions

High Courts in India occupy a constitutionally significant position in safeguarding the integrity of the criminal justice process through their supervisory jurisdiction under Articles 226 and 227 of the Constitution and through their inherent powers as courts of record. This supervisory authority acts as a constitutional buffer against arbitrary executive and prosecutorial action, ensuring that investigations and prosecutions proceed in accordance with statutory requirements and constitutional guarantees. One of the primary facets of this jurisdiction is the High Court's duty to ensure compliance with statutory provisions governing prosecution, such as Sections 24–25A of the Code of Criminal Procedure (CrPC) and Sections 18–20 of the Bharatiya Nagarik Suraksha Sanhita (BNSS). These provisions regulate the appointment, qualification, and functioning of Public Prosecutors and Assistant Public Prosecutors. High Courts frequently examine whether appropriate officers were appointed, whether prosecutorial independence has been

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preserved, and whether procedural safeguards have been adhered to in ongoing criminal trials.[2] In writ petitions under Article 226, litigants often bring forth instances of prosecutorial delay, illegal investigation, violation of fair trial rights under Article 21, or misuse of discretionary powers under special laws; in such cases, the High Court may intervene to restore procedural fairness.

A critical component of the High Court's supervisory jurisdiction is its power to scrutinize and correct misuse of prosecutorial discretion. This includes judicial review of improper withdrawal of prosecution under Section 321 CrPC or its corresponding BNSS provision, where withdrawal may have been motivated by political pressure, mala fides, or other considerations contrary to public interest.[3] In Sheonandan Paswan v. State of Bihar, the Supreme Court clarified that withdrawal of prosecution is subject to judicial scrutiny, and the High Court may set aside such decisions if they are arbitrary or violate the interests of justice.[4] Similarly, when the prosecution fails to act in cases involving cognizable offences, the High Court may direct investigation, re-investigation, or filing of appropriate charges to prevent miscarriage of justice. In matters involving serious offences such as terrorism, complex economic crimes, large-scale financial fraud, or multi-district conspiracies, the High Court exercises additional case-management powers, including transferring trials, consolidating related cases, or issuing guidelines to streamline the trial process.[5] These interventions help ensure that trials are conducted efficiently, witnesses are protected, and proceedings are not derailed by procedural irregularities or prosecutorial lapses.

The supervisory function of the High Court also extends to monitoring prosecutorial conduct, ensuring that public prosecutors perform their role as "ministers of justice" with impartiality, fairness, and objectivity. High Courts may examine allegations of prosecutorial misconduct such as withholding exculpatory evidence, presenting misleading submissions, or acting under undue executive influence.[6] The court may call for records, demand explanations from prosecutorial authorities, and issue corrective directions. This oversight preserves prosecutorial independence while ensuring accountability. Furthermore, High Courts retain the authority to issue writs, summon records, transfer proceedings under Sections 406–407 CrPC, and initiate contempt action when prosecutorial authorities defy legal duties. Although High Courts exercise such powers with restraint, avoiding interference in routine prosecutorial decisions, they intervene whenever constitutional rights, statutory safeguards, or principles of natural justice are threatened. Through this balanced approach, High Courts maintain the rule of law, protect individual liberties, and promote coherence and uniformity in the administration of criminal justice.

4.5 Integration of Constitutional, Statutory, and Supervisory Framework in Government Representation and Prosecution

The institutional structure of prosecution and government representation in India reflects a carefully integrated framework combining constitutional offices, statutory authorities, and judicial oversight. At the apex of this structure stands the Attorney General for India, appointed under Article 76, who represents the Union Government in the Supreme Court in matters involving constitutional significance, national security, inter-governmental disputes, and complex criminal and civil appeals.[7] Assisting him are the Solicitor General and Additional Solicitors General, appointed under the Law Officers (Conditions of Service) Rules, 1987. Their role is essential in managing the extensive docket of Union litigation, particularly cases handled by central agencies such as the CBI, NIA, ED, and Directorate of Revenue Intelligence. Although these law officers represent the executive, the Supreme Court has repeatedly underscored that they are duty-bound to assist the Court with fairness and objectivity, as the purpose of state litigation is to uphold justice rather than secure victory.[8]

At the State level, the constitutional counterpart to the Attorney General is the Advocate General, appointed under Article 165, who serves as the chief legal advisor to the State Government and appears in the High Court in cases where the State is a party. The Advocate General provides guidance on legal policy, statutory interpretation, constitutional challenges, sanction for prosecution, and withdrawal of prosecution under Section 321 CrPC or its BNSS equivalent. His advisory role extends to supervising the work of Public Prosecutors, Special Public Prosecutors, and Government Pleaders, ensuring that prosecutions across districts maintain consistency and adhere to constitutional principles.[9] The State Government appoints Government Pleaders under the Civil Procedure Code (Sections 30 and 32 CPC) to represent it in civil cases in High Courts and District Courts. These officers handle litigation related to land acquisition, service disputes, taxation, contractual liability, and recovery matters. The integration of these roles ensures that both criminal and civil litigations involving the State are conducted professionally and lawfully.

The statutory framework under the CrPC and the BNSS complements this constitutional structure by establishing the hierarchy of prosecution, including Public Prosecutors, Additional Public Prosecutors, Assistant Public Prosecutors, and Special Public Prosecutors. Executive supervision under Sections 24–25A CrPC and Sections 18–20 BNSS ensures administrative control, while the High Court's supervisory power maintains independence and prevents misuse of prosecutorial authority. Judicial review acts as a constitutional safeguard: High Courts and the Supreme Court scrutinize executive decisions relating to prosecution—such as withdrawal of cases, grant or refusal of sanction, transfer of investigations, or appointment of Special Public Prosecutors—to ensure legality and adherence to due process. This multilayered system ensures that prosecution is not merely an executive function but a constitutionally regulated process subject to judicial supervision. It also preserves the federal balance by dividing responsibility for prosecutorial functions between the Union and the States, while maintaining a unified constitutional commitment to fairness, transparency, and justice.

V. ROLE OF THE PROSECUTION IN THE CRIMINAL JUSTICE SYSTEM

5.1 Prosecution as the Representative of the State

The prosecution occupies a unique constitutional and statutory position as the legal representative of the State in criminal proceedings. Unlike private litigants, the prosecutor does not act on personal interest or victim preference but represents the collective interest of society in the enforcement of criminal law. Crimes are treated as offences against the State, and the prosecutor functions as the medium through which the State discharges its obligation to maintain public order and ensure accountability for criminal conduct. This representative role requires the prosecutor to exercise discretion responsibly at every stage of the criminal process, including the decision to initiate prosecution, determine charges and pursue trial. Indian courts have consistently held that the prosecutor represents the sovereign interest of justice and not the investigating agency or any political authority.24

5.2 Prosecution as an Officer of the Court

In addition to representing the State, the prosecutor functions as an officer of the court, owing a duty of candour, fairness and assistance to the judiciary. This role requires the prosecutor to place before the court all relevant facts, including evidence that may favour the accused, and to avoid suppressing material information that could affect the outcome of the trial. The prosecutor is expected to assist the court in arriving at the truth rather than secure conviction by unfair means. Judicial pronouncements have emphasized that a prosecutor must act independently, dispassionately and objectively, ensuring that the accused receives a fair trial in accordance with constitutional guarantees.25 This dual role—representing the State while assisting the court—distinguishes prosecution from ordinary adversarial advocacy.

5.3 Prosecution as a Gatekeeper of Criminal Justice

The prosecution plays a critical gatekeeping role in the criminal justice system by determining whether a case should proceed to trial, be withdrawn or be resolved through alternative mechanisms where permitted by law. Prosecutorial discretion operates at multiple levels, including scrutiny of police reports, assessment of evidentiary sufficiency and evaluation of public interest considerations. This role serves as a safeguard against frivolous, malicious or politically motivated prosecutions. Courts have recognized that the prosecutor's discretion must be exercised independently and cannot be dictated by executive or administrative directions, particularly in matters relating to withdrawal of prosecution.26 The gatekeeping function is therefore essential to preserving the integrity of criminal justice administration.

5.4 Prosecution in Ensuring Fair Trial and Due Process

The prosecutor plays a central role in ensuring that the criminal trial conforms to the requirements of fairness, equality and due process under Articles 14 and 21 of the Constitution. This includes ensuring timely disclosure of evidence, protection of witness rights, avoidance of undue delay and adherence to procedural safeguards during investigation and trial. The prosecutor must also ensure that investigative lapses are brought to the notice of the court rather than concealed. The Supreme Court has repeatedly affirmed that a fair trial is not only the right of the accused but also an essential component of public justice, and the prosecutor bears a primary responsibility in safeguarding this principle.

5.5 Prosecution and Victim Representation

Although criminal prosecution is conducted in the name of the State, the prosecutor plays a crucial role in safeguarding the interests of victims within the adversarial system. Victims rely heavily on prosecutorial competence and sincerity for effective presentation of their case, particularly because their formal role in criminal proceedings is limited. The prosecutor is expected to ensure that victims are informed about case progress, protected from intimidation and afforded procedural dignity during trial. Judicial developments and statutory reforms have increasingly recognized the need for victim-sensitive prosecution while maintaining prosecutorial neutrality. This role requires balancing victim interests with the rights of the accused and the broader interests of justice.

5.6 Prosecution in Appeals and Post-Trial Proceedings

The role of the prosecution does not conclude with the trial court judgment. Prosecutors are responsible for advising the State on filing appeals against acquittal, seeking enhancement of sentence and defending convictions before appellate courts. In post-trial proceedings, prosecutors must evaluate the legal soundness of judgments, public interest implications and prospects of success before initiating appellate litigation. This evaluative role reinforces prosecutorial responsibility to prevent misuse of appellate processes and conserve judicial resources while ensuring that serious miscarriages of justice are corrected.27

VI. POWERS OF THE PROSECUTOR

6.1 Power to Initiate and Conduct Prosecution

One of the most significant powers of the prosecutor is the authority to initiate and conduct criminal prosecution on behalf of the State. Upon receipt of the police report under Section 173 of the Code of Criminal Procedure, the prosecutor examines the material collected during investigation and determines whether the evidence justifies proceeding against the accused. This power is not mechanical; it requires independent application of mind to assess legal sufficiency, admissibility of evidence and public interest considerations. The prosecutor's decision to proceed ensures that criminal courts are not burdened with frivolous or vexatious cases and that prosecutions are launched only where a prima facie case exists. Courts have repeatedly emphasized that prosecution must be guided by justice and not by mere suspicion or executive pressure.28

6.2 Power to Frame Charges and Assist the Court

Although the formal authority to frame charges lies with the court, the prosecutor plays a decisive role by advising the court on the appropriate charges based on the facts and applicable law. The prosecutor's submissions at the stage of charge are critical in shaping the scope of the trial, as they determine the offences for which the accused will be tried. This power includes the ability to recommend alteration or addition of charges when new evidence emerges during trial. The prosecutor's responsibility at this stage is to ensure that charges accurately reflect the nature of the alleged offence without exaggeration or understatement, thereby preserving fairness and procedural integrity.29

6.3 Power to Examine, Cross-Examine and Recall Witnesses

The conduct of trial vests substantial procedural powers in the prosecutor, particularly the authority to examine prosecution witnesses, cross-examine defence witnesses and seek recall of witnesses when necessary for a just decision. This power enables the prosecutor to present evidence systematically, clarify ambiguities and test the credibility of testimony. At the same time, courts have cautioned that prosecutorial power in examination must not be misused to harass witnesses or prejudice the accused. The prosecutor must exercise restraint, fairness and objectivity, remembering that the ultimate aim is truth-finding rather than tactical advantage.30

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6.4 Power to Withdraw from Prosecution

A distinctive and sensitive power vested in the prosecutor is the authority to seek withdrawal from prosecution under Section 321 of the Code of Criminal Procedure, subject to the consent of the court. This power reflects legislative recognition that continuation of prosecution may, in certain circumstances, be contrary to public interest, such as where evidence is insufficient, prosecution is vexatious, or broader considerations of justice warrant discontinuance. Courts have consistently held that this power must be exercised independently by the prosecutor and cannot be dictated by executive or political authorities. Judicial consent acts as a safeguard to ensure that withdrawal serves public justice and not extraneous considerations.31

6.5 Power to Address the Court and Make Legal Submissions

The prosecutor possesses the power to address the court at all stages of criminal proceedings, including bail hearings, trial arguments and sentencing. Through legal submissions, the prosecutor assists the court in interpreting statutory provisions, evaluating evidence and applying judicial precedents. At the sentencing stage, the prosecutor may place aggravating circumstances before the court while also drawing attention to mitigating factors where justice so demands. This power reinforces the prosecutor’s role as an officer of the court whose duty is to aid judicial decision-making rather than merely advocate for severe punishment .

6.6 Power to File Appeals and Participate in Appellate Proceedings

The prosecutor also exercises significant authority in post-trial stages by advising the State on filing appeals against acquittal, seeking enhancement of sentence or defending convictions before appellate courts. This power requires careful evaluation of trial court judgments, evidentiary appreciation and legal reasoning. Prosecutors must assess whether an appeal serves the interests of justice and has reasonable prospects of success, thereby preventing unnecessary appellate litigation. Courts have recognized that indiscriminate appeals undermine judicial efficiency and public confidence in criminal adjudication.

6.7 Supervisory and Advisory Powers in Investigation

While investigation primarily lies within the domain of the police, the prosecutor exercises advisory and supervisory influence by guiding investigators on legal requirements, evidentiary standards and procedural compliance. This power helps ensure that investigations are conducted lawfully and that defects which may vitiate trial are minimized. However, courts have clarified that prosecutors must not usurp investigative functions or interfere in a manner that compromises objectivity. The balance between advisory guidance and institutional separation is essential for maintaining fairness in criminal proceedings.32

VII. DUTIES OF THE PROSECUTOR

7.1 Duty to Act Fairly and Impartially

One of the most fundamental duties of the prosecutor is to act fairly, impartially and without bias throughout the criminal process. Unlike a private advocate whose primary responsibility is to advance the interests of a client, the prosecutor is obligated to maintain objectivity and balance, ensuring that the prosecution does not become an instrument of oppression or personal vendetta. Courts in India have repeatedly emphasized that the prosecutor must not adopt a partisan or hostile attitude towards the accused and must refrain from conducting the case in a manner that compromises the fairness of the trial. The duty of impartiality requires the prosecutor to evaluate evidence dispassionately, avoid exaggeration of facts, and resist external pressures that may influence prosecutorial judgment33.

7.2 Duty to Assist the Court in the Administration of Justice

The prosecutor functions as an officer of the court and is duty-bound to assist the judiciary in arriving at the truth. This obligation requires the prosecutor to present the case with accuracy, clarity and honesty, placing before the court all relevant facts and legal arguments necessary for a just determination. The prosecutor must not mislead the court, suppress material evidence or rely on technicalities to secure conviction. Judicial pronouncements have consistently held that the prosecutor's primary loyalty is to justice itself, and not merely to the success of the prosecution case. This duty reinforces the idea that the prosecutor is a participant in the judicial process rather than a mere adversarial combatant 34.

7.3 Duty to Ensure a Fair Trial for the Accused

Ensuring a fair trial is a constitutional obligation that extends directly to prosecutorial conduct. The prosecutor must respect the procedural rights of the accused, including the presumption of innocence, the right to legal representation and protection against self-incrimination. This duty includes timely disclosure of all relevant material, including evidence that may favour the defence, and refraining from tactics that cause unnecessary delay or prejudice. The Supreme Court has recognized that a fair trial is not only a right of the accused but also a vital component of public justice, and the prosecutor plays a central role in safeguarding this principle.35

7.4 Duty Towards Victims and Witnesses

Although prosecution is conducted in the name of the State, the prosecutor owes a significant duty to victims and witnesses, who rely heavily on prosecutorial diligence and sensitivity for meaningful access to justice. This duty includes keeping victims informed about the progress of the case, ensuring respectful treatment during trial and protecting witnesses from intimidation or harassment. At the same time, the prosecutor must maintain neutrality and avoid allowing victim interests to override legal fairness. Judicial developments have increasingly recognized that victim-oriented prosecution, when balanced with due process, strengthens public confidence in the criminal justice system .

7.5 Duty to Exercise Discretion Responsibly

Prosecutorial discretion is an inherent aspect of the criminal justice system, and its responsible exercise is a core prosecutorial duty. Decisions relating to initiation of prosecution, framing of charges, withdrawal of prosecution and filing of appeals must be guided by legal merit, evidentiary sufficiency and public interest considerations. The prosecutor must independently apply his or her mind and cannot surrender this discretion to executive or political authorities. Courts have underscored that improper exercise of discretion, particularly in matters of withdrawal of prosecution, undermines the rule of law and public confidence in justice administration.

7.6 Duty of Professional Integrity and Ethical Conduct

The prosecutor is expected to maintain the highest standards of professional integrity and ethical conduct. This includes avoiding conflicts of interest, refraining from private practice where prohibited, maintaining confidentiality and upholding the dignity of the office. Ethical lapses by prosecutors have far-reaching consequences, as they directly affect public faith in the justice system. Indian courts and law reform bodies have consistently stressed the need for codified ethical standards and accountability mechanisms to ensure that prosecutorial power is exercised responsibly and transparently.36

VIII. WITHDRAWAL OF PROSECUTION IN INDIA (CRPC & BNSS)

8.1 Concept and Jurisprudential Basis of Withdrawal of Prosecution

Withdrawal of prosecution in India refers to the statutory power vested in the Public Prosecutor to discontinue criminal proceedings against an accused at any stage prior to the pronouncement of judgment. This power is founded on the principle that criminal prosecution is a means to secure justice and not an end in itself. Indian criminal jurisprudence recognises that mechanical continuation of prosecution—despite lack of evidence, change in circumstances or overriding public interest—may itself result in injustice. Withdrawal therefore operates as a corrective mechanism that prevents abuse of criminal process, protects individuals from oppressive litigation, and aligns prosecutorial action with the broader objectives of justice and public welfare 37.

8.2 Withdrawal of Prosecution under Section 321 of the Code of Criminal Procedure, 1973

Section 321 of the Code of Criminal Procedure, 1973 provides the statutory framework for withdrawal of prosecution. It authorises the Public Prosecutor or Assistant Public Prosecutor in charge of a case to withdraw from prosecution with the consent of the court at any time before judgment is delivered. The legal consequence of withdrawal depends upon the stage at which it is exercised: if withdrawal is sought before framing of charge, the accused is discharged; if it is sought after framing of charge, the accused is acquitted. The mandatory requirement of court consent ensures that the discretion of the prosecutor is exercised judiciously and not arbitrarily, thereby acting as a safeguard against political influence, mala fide motives or abuse of power .

8.3 Independence of the Public Prosecutor in Withdrawal Decisions

Indian courts have consistently held that the power to seek withdrawal under Section 321 CrPC must be exercised independently by the Public Prosecutor. Although the prosecutor represents the State, he or she is not bound by executive instructions or political directives. The prosecutor must apply an independent and objective mind to the facts of the case, the evidentiary material and the demands of public justice. Any withdrawal initiated solely at the behest of the executive, without independent prosecutorial satisfaction, is legally impermissible. Judicial precedents make it clear that surrender of prosecutorial discretion to political authority undermines the rule of law and converts prosecution into an instrument of convenience rather than justice .

8.4 Role of the Court in Granting Consent for Withdrawal

The consent of the court under Section 321 CrPC is substantive and not a mere formality. The court is required to assess whether the withdrawal is sought in good faith, whether valid and legitimate reasons exist, and whether such withdrawal serves the interest of public justice. While the court does not conduct a detailed examination of evidence or substitute its opinion for that of the prosecutor, it must ensure that withdrawal is not intended to stifle prosecution, shield influential accused persons or erode public confidence in the criminal justice system. Judicial oversight thus acts as a constitutional check on prosecutorial discretion .

8.5 Withdrawal of Prosecution under Section 360 of the Bharatiya Nagarik Suraksha Sanhita, 2023

The Bharatiya Nagarik Suraksha Sanhita, 2023, which replaces the Code of Criminal Procedure, retains the concept of withdrawal of prosecution under Section 360 BNSS. Section 360 substantially mirrors the framework of Section 321 CrPC while reinforcing prosecutorial accountability and judicial supervision. Under Section 360 BNSS, the Public Prosecutor continues to be the sole authority empowered to seek withdrawal, subject to prior consent of the court. The BNSS emphasises reasoned decision-making, transparency and consistency with constitutional principles, ensuring that withdrawal is exercised strictly in furtherance of public justice. By retaining judicial consent as a mandatory safeguard, Section 360 BNSS prevents misuse of prosecutorial discretion while allowing flexibility in appropriate cases.38

8.6 Grounds Recognised for Withdrawal of Prosecution in India

Indian courts have recognised several legitimate grounds for withdrawal of prosecution, including insufficiency or unreliability of evidence, collapse of the prosecution case due to hostile witnesses, serious procedural defects in investigation, or situations where continuation of prosecution would amount to harassment or abuse of process. Withdrawal has also been permitted in cases arising from mass political movements or public agitations, provided the decision is guided by considerations of public peace and harmony rather than political expediency. However, courts have adopted a strict approach in cases involving serious offences, corruption, offences against women and crimes affecting society at large, holding that withdrawal in such cases must be rare and supported by compelling reasons .

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IX. LANDMARK INDIAN CASE LAWS ON PROSECUTION:

1. Shiv Kumar v. Hukam Chand39

In Shiv Kumar v. Hukam Chand, the Supreme Court authoritatively defined the ethical and functional role of the Public Prosecutor in criminal trials. The Court held that a Public Prosecutor is not a representative of the investigating agency nor a private advocate of the complainant, but an officer of the court whose primary duty is to assist in the administration of justice. The judgment emphasized that the prosecutor must act with fairness, impartiality and objectivity, placing before the court all relevant facts, including those favourable to the accused. This case firmly established the principle that prosecution is a public trust and not a partisan function aimed solely at securing convictions.

2. Sheonandan Paswan v. State of Bihar40

This landmark decision dealt extensively with prosecutorial discretion, particularly in the context of withdrawal of prosecution under Section 321 CrPC. The Supreme Court held that the Public Prosecutor must exercise independent judgment while seeking withdrawal and cannot act merely on executive instructions. The Court clarified that withdrawal must be guided by considerations of public justice and not political expediency. It further held that the court's consent acts as a constitutional safeguard against misuse of prosecutorial power. This case remains the leading authority on prosecutorial independence in India.

3. Subhash Chander v. State41

In Subhash Chander v. State, the Supreme Court reiterated that the power of withdrawal from prosecution vests exclusively in the Public Prosecutor and not in the government. The Court held that the prosecutor must apply an independent mind to the facts and circumstances of the case before seeking withdrawal. Executive interference in prosecutorial discretion was categorically disapproved, and the Court emphasized that prosecution must not be reduced to an instrument of political convenience.

4. Zahira Habibullah Sheikh v. State of Gujarat42 (Best Bakery Case)

This case exposed serious failures of prosecution in ensuring a fair trial. The Supreme Court strongly criticized the conduct of the Public Prosecutor for failing to protect witnesses, suppressing material facts and acting in a partisan manner. The Court held that a fair trial includes fair investigation and fair prosecution, and any deficiency in prosecutorial conduct strikes at the root of criminal justice. This judgment significantly strengthened the doctrine of prosecutorial accountability and emphasized the prosecutor's duty to ensure fairness, even in sensitive and high-profile cases.[4]

5. Babu v. State of Kerala43

In this case, the Kerala High Court articulated the prosecutor's role as that of a "minister of justice." The Court held that the prosecutor must not act as a persecutor and must present the case in a balanced manner, ensuring that justice is done irrespective of whether it results in conviction or acquittal. The judgment underscored that suppression of material evidence or adoption of unfair trial tactics by the prosecution violates the constitutional guarantee of fair trial under Article 21.

6. R. Sarala v. T.S. Velu44

The Supreme Court in R. Sarala v. T.S. Velu examined the limits of prosecutorial involvement during investigation. The Court held that while the prosecutor may advise the investigating agency on legal aspects, he cannot direct or control the investigation, as investigation is the exclusive domain of the police. This case clarified the institutional separation between investigation and prosecution and prevented prosecutorial overreach that could compromise fairness and objectivity.

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7. State of Gujarat v. Kishanbhai45

In State of Gujarat v. Kishanbhai, the Supreme Court addressed the issue of prosecutorial accountability in cases of acquittal caused by prosecutorial negligence or incompetence. The Court directed State governments to fix responsibility on erring prosecutors and to establish mechanisms for training, evaluation and disciplinary action. This judgment marked a significant shift toward institutional accountability of prosecution services and highlighted the systemic impact of prosecutorial failure on the criminal justice system.

X. COMPARATIVE ANALYSIS OF PROSECUTION SYSTEMS

10.1 United Kingdom

The United Kingdom follows a centralized and independent prosecution model through the Crown Prosecution Service (CPS). Prosecutors are institutionally independent from the police and operate under a statutory framework guided by the "Full Code Test," which assesses evidentiary sufficiency and public interest before prosecution. The CPS model is widely regarded as professionally autonomous, transparent, and consistent, with clear guidelines governing prosecutorial discretion. Compared to India, the UK system provides stronger insulation from political interference and more standardized decision-making.

10.2 United States

The United States follows a decentralized and highly discretionary prosecution system. Prosecutors at the federal and state levels, including District Attorneys, enjoy wide discretion in charging decisions, plea bargaining, and withdrawal of cases. Many prosecutors are elected, which enhances democratic accountability but also raises concerns regarding politicization and unequal enforcement. Judicial oversight over prosecutorial discretion is minimal compared to India, resulting in a system that prioritizes autonomy over uniformity and judicial control.

10.3 France

France follows a civil law–based inquisitorial prosecution model, where prosecutors (Ministere public or Parquet) function as part of the judicial system rather than as adversarial advocates. French prosecutors are appointed as career magistrates and operate under the authority of the Ministry of Justice, which issues general policy directives, though interference in individual cases is formally restricted. The prosecutor plays a central role from the investigation stage, supervising police inquiries, directing investigative steps, and deciding whether to prosecute, divert, or close a case. Unlike India, where withdrawal of prosecution requires judicial consent, French prosecutors exercise structured discretion within a legality-oriented framework, guided by statutory principles and hierarchical accountability.

XI. CRITICISM OF THE PROSECUTION SYSTEM IN INDIA

The prosecution system in India has often been criticised for its lack of institutional independence, as Public Prosecutors are appointed by and function under the control of the executive government. This structural dependence creates scope for political interference, particularly in cases involving public officials, influential individuals or matters of political sensitivity. Although courts have consistently held that prosecutors must act independently and in the interest of justice, the existing appointment and tenure system frequently undermines this principle in practice. Insecure tenure and ad hoc appointments further discourage prosecutors from exercising their discretion objectively and fearlessly.

Another major concern is the inadequate professional capacity of the prosecution service. Many prosecutors operate under heavy caseloads, with limited access to specialised training in areas such as forensic evidence, cybercrime, financial offences and victim-sensitive prosecution. Poor coordination between investigating agencies and prosecutors often results in defective charge sheets, weak presentation of evidence and avoidable acquittals. The absence of a unified, autonomous prosecution service at the national level has also led to inconsistency in prosecutorial standards across States, adversely affecting efficiency, conviction rates and public confidence in the criminal justice system.

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XII. SUGGESTIONS AND REFORMS FOR THE PROSECUTION SYSTEM IN INDIA

To strengthen the effectiveness and credibility of the prosecution system in India, there is an urgent need to enhance institutional independence by insulating prosecutorial appointments from political influence. Establishing an independent Directorate of Prosecution with statutory autonomy, secure tenure and transparent appointment procedures based on merit would significantly improve prosecutorial neutrality and public confidence. Such an institutional framework would allow prosecutors to exercise discretion fearlessly, particularly in cases involving powerful or politically connected accused persons.

Another important reform lies in professional capacity building. Regular and mandatory training programmes focusing on emerging areas such as forensic science, cybercrime, financial fraud and victim-sensitive prosecution should be institutionalised. Improved coordination between investigating agencies and prosecutors at the pre-trial stage would help address investigative lapses, strengthen charge sheets and reduce acquittals caused by procedural defects. Additionally, rationalising caseloads and improving infrastructural support would enable prosecutors to prepare and present cases more effectively.

Finally, clearer statutory guidelines governing prosecutorial discretion especially in matters such as withdrawal of prosecution under the CrPC and BNSS would promote consistency and accountability. Judicial oversight should continue to act as a safeguard against misuse, while internal performance evaluation mechanisms can help identify deficiencies and ensure professional standards. Together, these reforms would align the prosecution system more closely with constitutional principles of fairness, equality and rule of law, thereby strengthening the administration of criminal justice in India.

XIII. CONCLUSION

The prosecution plays a pivotal role in the administration of criminal justice, acting as the bridge between investigation and adjudication while representing the collective interest of society. In India, the prosecutorial institution has evolved from informal community-based mechanisms to a constitutionally regulated function governed by statutory safeguards, judicial oversight and ethical obligations. Judicial pronouncements have consistently affirmed that the prosecutor is not a mere agent of the State but an officer of the court whose paramount duty is to ensure that justice is done through fair, impartial and transparent conduct.

However, despite its normative importance, the Indian prosecution system continues to suffer from structural and functional shortcomings, including limited institutional independence, politicised appointments, inadequate training and weak coordination with investigative agencies. The persistence of these issues undermines prosecutorial effectiveness and erodes public confidence in the criminal justice system. While statutory mechanisms such as withdrawal of prosecution and judicial supervision seek to balance discretion with accountability, their effectiveness ultimately depends on the integrity and autonomy of the prosecutorial institution.

REFERENCES

[1]. R.V. Kelkar, Lectures on Criminal Procedure (K.N. Chandrasekharan Pillai ed., 6th ed. 2017)
[2]. Ratanlal & Dhirajlal, The Code of Criminal Procedure (20th ed. 2023)
[3]. Kautilya, The Arthashastra (R.P. Kangle trans. & ed., 2d ed. 1972)
[4]. James Fitzjames Stephen, A History of the Criminal Law of England (1883)
[5]. P.V. Kane, History of Dharmasastra (Vol. III, 1946)
[6]. Law Commission of India, Fourteenth Report on Reform of Judicial Administration (1958).
[7]. Law Commission of India, One Hundred and Fifty-Fourth Report on the Code of Criminal Procedure, 1973 (1996).
[8]. Law Commission of India, One Hundred and Ninety-Seventh Report on Public Prosecutors' Appointments (2006).