

Rights Of Arrested Person: Indian Perspective

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Abstract

One of the basic tenets of our legal system is the benefit of the presumption of innocence of the accused till he is found guilty at the end of a trial on legal evidence. In a democratic society even the rights of the accused are sacrosanct, though accused of an offence, he does not become a non- person. Rights of the accused include the rights of the accused at the time of arrest, at the time of search and seizure, during the process of trial and the like.

The accused in India are afforded certain rights, the most basic of which are found in the Indian Constitution. The general theory behind these rights is that the government has enormous resources available to it for the prosecution of individuals, and individuals therefore are entitled to some protection from misuse of those powers by the government. An accused has certain rights during the course of any investigation; enquiry or trial of an offence with which he is charged and he should be protected against arbitrary or illegal arrest. Police have a wide powers conferred on them to arrest any person under Cognizable offence without going to magistrate, so Court should be vigilant to see that these powers are not abused for lightly used for personal benefits. No arrest can be made on mere suspicion or information. Even private person cannot follow and arrest a person on the statement of another person, however impeachable it is.

Though the police has been given various powers for facilitating the making of arrests, the powers are subject to certain restraints. These restraints are primarily provided for the protection of the interests of the person to be arrested, and also of the society at large. The imposition of the restraints can be considered, to an extent, as the recognition of the rights of the arrested person. There are, however, some other provisions which have rather more expressly and directly created important rights in favor of the arrested person.