

A CRITICAL ANALYSIS OF CURRENT PROVISIONS IN INDIA TO CRIMINALIZE MATCH FIXING

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I. INTRODUCTION

Globally there has been an increase in legislation to criminalize competition manipulation from 5 countries in 2013, to 25 in 2016 and 45 in 2021.¹ However, India is not one of these countries. India currently is reliant on the Indian Penal Code 1860² (“**IPC**”), The Public Gambling Act, 1867³, the Protection of Corruption Act, 1988⁴ and the Maharashtra Control of Organized Crime Act, 1999⁵ (“**MCOCA**”). The National Sports Policy of 1984⁶ re-formulated in 2001⁷ and the National Sports Development Code of 2011⁸ are the only existing regulations which govern national sports federations, but these do nothing to criminalize match fixing.

This article will critically analyze the current provisions in India, previous Bills to introduce criminalisation, and the latest draft legislation titled:

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¹ United Nations Office on Drugs and Crimes, *Legal Approaches to Tackling the Manipulation of Sports Competitions: A Resource Guide* (International Olympic Committee, 2021)
<https://www.unodc.org/documents/corruption/Publications/2021/Legal_Approaches_to_Tackling_the_Manipulation_of_Sports_Competitions_EN.pdf> accessed 13 March 2022.

² Indian Penal Code 1860 <<https://legislative.gov.in/sites/default/files/A1860-45.pdf>> accessed 13 March 2022.

³ The Public Gambling Act 1867
<https://www.indiacode.nic.in/bitstream/123456789/2269/1/AAA1867_03.pdf> accessed 13 March 2022.

⁴ Protection of Corruption Act, 1988
<<https://legislative.gov.in/sites/default/files/A1988-49.pdf>> accessed 13 March 2022.

⁵ Maharashtra Control of Organized Crime Act, 1999
<https://www.indiacode.nic.in/bitstream/123456789/16362/1/the_maharashtra_control_of_organised_crime_act%2C_1999.pdf> accessed 13 March 2022.

⁶ The National Sports Policy 1984 <<https://yas.nic.in/sports/national-sports-policy-2001>> accessed 13 March 2022

⁷ The National Sports Policy 2001
<<https://yas.nic.in/sites/default/files/National%20Sports%20Policy%202001.pdf>> accessed 13 March 2022

⁸ National Sports Development Code, 2011
<<https://yas.nic.in/sites/default/files/File918.compressed.pdf>> accessed 13 March 2022.

“The Prevention of Match Fixing and Promotion of Fair Play in Sports Bill, 2020”⁹ proposed by The Sports Law and Policy Centre and the Vidhi Centre of Legal Policy.

The authors conclude the position is the same as it was at the turn of the century. In the case of Indian hockey federation, the judgement of Delhi High Court¹⁰ has clearly stated that sport is necessary for the development of the nation, as it promotes political as well as diplomatic relations between the countries. Sport in India is key to cultural, educational, social and economic development and is also a source of national pride and corruption continues to pose a serious threat¹¹.

Existing legislation needs to be strengthened to successfully prosecute organised criminals who seek to manipulate sports competitions. Appropriate investigative and law enforcement tools need to be in place to safeguard sport and mitigate the grave risks that corruption poses and act as an appropriate deterrent to corrupters. With the rapid explosion of online gaming and e-sports competitions this has now become much more urgent. E-sports is vulnerable to not only competition manipulation, but also digital cheating as highlighted in a recent report from United Nations Office on Drugs and Crime (“UNODC”).¹²

II. GLOBAL REPORTS AND RESOURCES

At the end of 2021, the UNODC published the first ever Global Report on Corruption in Sport (“GRCS”).¹³ Previous work has identified that corruption, linked to betting in sport has been around for centuries¹⁴ but the rapid commercialisation and digitalisation of sport has led to more

⁹ The Sports Law & Policy Centre, *Fixing It: Tackling Match Manipulation* (Vidhi Centre for Legal Policy, 2020) <<https://vidhilegalpolicy.in/wp-content/uploads/2020/07/Report-v.3.pdf>> accessed 13 March 2022.

¹⁰ *Indian Hockey Federation v. Union of India*, 2012 SCC OnLine Del 5863.

¹¹ S. Dasgupta, ‘Match Fixing: Threat to Indian Sport’s Integrity’ (2013) <<https://ssrn.com/abstract=2261311>> accessed 13 March 2022.

¹² UNODC, *Global Report on Corruption in Sport* (November 2021) <<http://grcs2021.unodc.org/>> accessed 13 March 2022.

¹³ *ibid.*

¹⁴ *Indian Hockey Federation v. Union of India*, 2012 SCC OnLine Del 5863; See Sports Law & Policy Centre (n 9).

prevalence and in 2017 the UNODC formed a Programme on Safeguarding Sport from Corruption and Crime.¹⁵ Also, in 2017 the International Partnership against Corruption in Sport (“**IPACS**”)¹⁶ was formed and in April 2021 it launched a Task Force aimed at enhancing effective cooperation between law enforcement, criminal justice authorities and sport organisations.¹⁷

In October 2021 the G20 Anti-Corruption Working Group (“**ACWG**”) agreed on High Level Principles on tackling corruption in sport¹⁸ (India is a member of the G20, an intergovernmental forum).

The Report adds to existing UNODC work aimed at supporting parties to the United Nations Convention against Corruption (“**UNCAC**”)¹⁹ in the implementation of paragraph 15 of Resolution 8/4 on safeguarding sport from corruption, adopted by the Conference of the States Parties to the Convention at its eighth session, held in Abu Dhabi from 16 to 20 December 2019.²⁰ In that paragraph 15, the Conference encouraged the signatory States to tackle the problems of competition manipulation, illegal betting and related money-laundering activities by periodically evaluating national policies, effective practices and national law with a view to determining their efficiency and effectiveness in preventing and

¹⁵ See UNODC, ‘Safeguarding Sport from Corruption and Crime’ (2017) <<https://www.unodc.org/unodc/safeguardingsport/index.html>> accessed 13 March 2022.

¹⁶ See *International Partnership against Corruption in Sports* <<https://www.ipacs.sport/>> accessed 13 March 2022.

¹⁷ ‘New IPACS task force to improve cooperation between law enforcement, criminal justice authorities and sport organisations’ (*IPACS*, 27 April 2021) <<https://www.ipacs.sport/news/launch-of-task-force-4>> accessed 13 March 2022.

¹⁸ See G20 Anti-Corruption Working Group, ‘G20 High Level Principles on Tackling Corruption in Sport 2021’ (Italia, 2021) <https://www.unodc.org/documents/corruption/G20-Anti-Corruption-Resources/Principles/2021_G20_High-Level_Principles_on_Tackling_Corruption_in_Sport.pdf> accessed 13 March 2022.

¹⁹ United Nations Office on Drugs and Crime, United Nations Convention Against Corruption (G.A. Res. 58/4, 31 October 2003) <https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf> accessed 13 March 2022.

²⁰ ‘Safeguarding sport from corruption’ (Conference of the States Parties to the United Nations Convention against Corruption Resolution 8/4 on Safeguarding Sport from Corruption, Abu Dhabi, December 2019) <https://www.unodc.org/documents/Safeguardingsport/Documents/UNCAC_-_resolution_8-4.pdf> accessed 13 March 2022.

combating corruption in sport. Resolution 7/8 in 2017²¹ also agreed to a set of commitments aimed at tackling corruption in sport. UNCAC is the only legally binding universal anti-corruption instrument and therefore should be the starting point for all signatories, including India.

India is a signatory to the UNCAC which came into force in December 2005, it should therefore be looking at improving legislation which tackles corruption, not just in the sport sector but across all sectors. It is noted that India has shown some commitment to this topic by taking part in UNODC Conferences in 2018 and 2019.²²

Now with the advent of online gaming, increased and rapidly developing technologies and crypto currencies, the potential for further corruption in sport is amplified. UNODC has provided numerous resources and assistance to signatories to the Convention. In this area of sports corruption, model legislation clauses and examples of best practice are available. India should be making good avail of these resources²³ and using all additional means to safeguard sport as a matter of urgency.

III. CURRENT LEGISLATIONS ARE INADEQUATE FOR CRIMINALIZING MATCH FIXING IN INDIA

Fixing of a match is process in which the players play a game for predetermined results, which are made by breaking rules and laws. There are cases of groups purposefully performing ineffectively to acquire a future benefit or for a superior draft pick or losing for future benefit, these are a few practices which are remembered for the limits of match fixing. Games that are intentionally lost are called tossed or tanked games.

²¹ 'Corruption in sport' (Conference of the States Parties to the United Nations Convention against Corruption Resolution 7/8 on corruption in sport, Vienna, November 2017)
<https://www.unodc.org/documents/Safeguardingsport/Documents/Res.7.8_Corruption_in_Sport.pdf> accessed 13 March 2022.

²²'Safeguarding sport from corruption' (Conference of the States Parties to the United Nations Convention against Corruption Resolution 8/4 on Safeguarding Sport from Corruption, June 2018); Safeguarding Sports from Corruption (n 20).

²³'Resources' (UNODC)
<<https://www.unodc.org/unodc/en/safeguardingsport/resources.html>> accessed 13 March 2022.

The UNODC documentation also provides a definition of Match Fixing.²⁴ Other works have also explored the history, definition and reasons for match fixing²⁵.

This act of Match Fixing is nowhere specifically mentioned in criminal laws; hence it is considered to be a crime of “criminal conspiracy” as stated in IPC.²⁶

It is clearly mentioned under the IPC, Section 120(A)²⁷ that a criminal conspiracy is constituted when two or more people come together and commit any legal act by illegal means or any illegal act which is prohibited under the law, such agreements are said to be in accordance with criminal conspiracy.

For any individual to be prosecuted under this section certain components are required; cheating, committing fraud and misappropriation of an act. For a prosecution to be successful it has to be proved how the party has committed fraud and cheating. It is difficult in sport to make the link and actually show how the player has been involved in the crime. This can be seen in the unsuccessful prosecution of Ashwani Aggarwal,²⁸ which could not succeed as no link between the accused and the organized crime group could be established.²⁹

Under Section 120(B) of IPC, whosoever is a part of the criminal conspiracy could be punished with the death, imprisonment (for life) or rigorous imprisonment for the period of two years or more, depending upon the situation and on a case-to-case basis.³⁰

²⁴ See below ‘NOTE - Definitions taken from UNODC reports’.

²⁵ Kevin Carpenter, ‘Match Fixing - Why Do People Involved in Sport Agree to Match Fix?’ – Part 2’ (*LawInSport*, 12 June 2011) <https://www.lawinsport.com/topics/sports/hockey/item/match-fixing-why-do-people-involved-in-sport-agree-to-match-fix-part-2?category_id=172> accessed 13 March 2022.

²⁶ UNODC Global Report(n 13).

²⁷ Indian Penal Code 1860, s 120(A).

²⁸ *State v. Ashwani Aggarwal* (Delhi District Court, 25 July 2015)

²⁹ See below for further discussion.

³⁰ Indian Penal Code 1860, s 120(B).

1. The Public Gambling Act, 1867³¹

This outdated Act was intended to deal with gambling in a public place or a gaming establishment with an exception for games of skill as opposed to those of chance. Other works and case law have discussed whether an act is classed as skill or chance³². Some states have brought in their own laws, some allowing casinos and lotteries like Daman, Sikkim, and Goa. Given the outdated nature of the law there has been a debate in India as to whether all gambling should be permitted. In 2016, the Supreme Court asked the Law Commission of India to investigate whether betting in India should be legalized. The Law Commission released its report two years later. The report proposed that betting should not be allowed but if the government were considering it then betting should be heavily regulated. It also stated quite clearly that “*match-fixing and sports fraud should be specifically made criminal offences with severe punishments*”³³.

There have also been some enactments to deal with money laundering and online manipulations, the Information Technology Act, 2000,³⁴ and the Payment and Settlement Systems Act, 2007,³⁵ but there is still no definition and clear application to match fixing.

2. The Maharashtra Control of Organized Crime Act, 1999³⁶

In the wake of many instances of coordinated wrongdoing in sports, the State of Maharashtra thought of a demonstration to explicitly target

³¹The Public Gambling Act 1867
<https://www.indiacode.nic.in/bitstream/123456789/2269/1/AAA1867____03.pdf>
accessed 13 March 2022.

³²Law Commission of India, ‘Legal Framework: Gambling and Sports Betting including in cricket in India’ (Report No. 276, July 2018)
<<https://lawcommissionofindia.nic.in/reports/Report276.pdf>> accessed 13 March 2022.

³³ *ibid* at 126.

³⁴Information Technology Act, 2000
<<https://www.indiacode.nic.in/bitstream/123456789/13116/1/it act 2000 updated.pdf>> accessed 13 March 2022.

³⁵ Payment and Settlement Systems Act, 2007.

³⁶ IPACS (n 16);
The Maharashtra Control of Organized Crime Act, 1999.

coordinated wrongdoing and sanctioned an extraordinary law with severe obstruction accessories to control the plague of coordinated wrongdoing. The Act subdued whatever other laws which are overall or made in negation with the arrangements of the demonstration.

The Act was instituted to turn into the most encouraging rule to control and compete against the organization of coordinated wrongdoing in the State, however it had some significant provisos as the Act didn't unequivocally condemn match fixing and to demonstrate an individual for match fixing, proceeded with unlawful demonstration or enrolment in a coordinated criminal organization was required which made it inevitably hard to prove the criminal demonstration in a courtroom.

As organized crime is not restricted to any particular region, in a similar way the application of MCOCA is wider. It not only deals with the cases arising in the State of Maharashtra but also holds validity in other States too.

3. The Prevention of Corruption Act, 1988³⁷

The pertinent aim of this Act was to prevent the corruption in the various sectors by public servants. However, for making anyone liable for corruption it is compulsory for the prosecution to prove that the public servant was offered a bribe. In the case of *Zee Telefilms*,³⁸ it was stated by the court that the Board of Control for Cricket in India (“**BCCI**”) had all the resemblance features of a State; hence, all the Cricketers/Athletes employed under this body would be considered as public servants. However, as with the case of *Azharuddin*,³⁹ the offence must be committed whilst acting in their status as public servants in order for it to be enforceable under the PCA.⁴⁰

³⁷The Prevention of Corruption Act, 1988 <https://www.indiacode.nic.in/bitstream/123456789/15302/1/pc_act_1988.pdf> accessed 30 April 2022.

³⁸*Zee Telefilms Ltd. v. Union of India*, AIR 2005 SC 2677.

³⁹*Board of Control for Cricket in India v. Mohammed Azharuddin*, 2003 (3) ALD 873.

⁴⁰ See Vanita Singh, ‘Understanding the Prevention of Corruption Act, 1988: An Analysis’ (*Legal Services India*) <<https://www.legalserviceindia.com/legal/article-5375->

Even besides BCCI, if there are any other national sports authorities that also have all the features of a State, then the players appointed by them would also be considered as a public servant for the purposes of any prosecutions. However, in a nation like India, the crime of match fixing has still not got any mention in any of the law books or acts, so in accordance with the PCA whenever such situation of fixing arises between two clubs then none of the players can be considered to be a public servant under the mentioned act.

A major investigation, which was conducted by Central Bureau of Investigation (“CBI”) in the year 2000,⁴¹ concluded that the PCA, 1988 was the only Act that could be used for criminalizing the act of match fixing.

The Hon’ble High court of Delhi in pursuance of a Public Interest Litigation (“PIL”) filed against BCCI in 2000⁴², stated that it’s a major drawback that sport, being an important institution of the nation, had no proper set of guidelines for the corruption that happens within the institution itself, the court also expressed the inability of government in not having a proper framework rather than imposing their own guidelines. And asked the government to have a serious concern in this matter and put in place a proper legal framework for sports.

4. The Lokpal and Lokayuktas Act, 2013

In 2010, a very prominent Anti-Corruption movement arose with a bill proposed to introduce an Ombudsman or Lokpal (Sanskrit: *lokapāla*, "defender of people" or "people's friend"). It was finally passed in 2013⁴³ but it is of limited use for the sports sector as the applicability is restricted to inquiring into allegations of corruption against certain important public

[understanding-the-prevention-of-corruption-act-1988-an-analysis.html](#)> accessed 18 March 2022.

⁴¹ Central Bureau of Investigation, ‘Report on cricket match-fixing and related mal-practises’ (October 2000) <<https://www.rediff.com/cricket/2000/nov/01full.htm>> accessed 18 March 2022.

⁴² *Rahul Mehra v. Union of India*, (2005) 4 Comp LJ 268.

⁴³ The Lokpal and Lokayuktas Act, 2013.

functionaries, including the Prime Minister, cabinet ministers, members of parliament, Group A officials of the Central Government and matters connecting such public servants. Clearly, if a public functionary is involved in match fixing and/or sports corruption then the matter can be reported to the Lokpal but to date there have been no such reports.

As stated above, the National Sports Policy, 2001 and the National Sports Development Code, 2011 are the existing regulations which govern national sports federations.

5. National Sports Policy, 2001⁴⁴

In order to get positive development and growth of sports across the country a uniform policy was laid down popularly called the National Sports Policy. The purpose - to attain a proper mechanism and working with dual processes of achieving excellence and “broad-basing” (universalization or mass participation in Sports) in sports at international as well as national level.

The Indian Olympic Association and National Sports Federations, the Union government and state governments all have to work in synchronization to attain better results of the policy. Sports that have a competitive edge and possible growth in the nation need to be encouraged aggressively to put in place structures which are transparent, accountable and professional. The involvement of physical education in the curriculum was one of the motives behind this policy and it is not focussed on stamping out corruption in sports.

6. National Sports Development Code of India, 2011⁴⁵

The National Government is dedicatedly trying to implement a uniform code for good governance practice in organizations and for the

⁴⁴ Central Bureau of Investigation, ‘National Sports Policy’ (*Press Information Bureau*, 3 December 2014) <<https://pib.gov.in/newsite/PrintRelease.aspx?relid=112495>> accessed 18 March 2022.

⁴⁵ Department of Sports, ‘National Sports Development Code, 2011’ (Ministry of Youth Affairs and Sports, 31 January 2011) <<https://yas.nic.in/sites/default/files/File918.compressed.pdf>> accessed 18 March 2022.

management of sports at the national level. The Code is mandatory for National Sports Federations and there are multiple judgements passed by Supreme Court and High Courts falling under the ambit of this code mainly, against those bodies who have been found to be non-compliant with the Code.⁴⁶ The Code, similar to other governance Codes relates to the functioning and management of the sports bodies and more recent focus on the appointment, tenure, age and disciplining of board members.⁴⁷ Whilst it can be a useful tool in developing regulations for the sports to tackle corruption it does little to assist with the criminalization of match fixing. Further it has come under criticism for being inadequate to tackle recent evolutions in the sports sector.⁴⁸

Although Indian criminal laws have certain sets of punishments for corruption, the lack of a proper definition of match fixing as a crime means that any instance of match fixing is treated as general corruption under the criminal justice system and the nature of punishment is thus unprescribed and often inadequate. This is why it is an alarming time for demanding proper national legislation that would govern the sports sector and determine the proper range of punishments.

The Prevention of Match Fixing and Promotion of Fair Play in Sports Bill⁴⁹ focuses on strengthening provisions for the sports sector. As well as creating an offence of Match Fixing, it proposes that all Sports Federations shall have an ethics commission and a disciplinary committee

⁴⁶Mahipal Singh v. Union of India (Delhi HC, 3 August 2018); Maharashtra Archery Association v. Rahul Mehra, 2017 SCC OnLine SC 1849; V. Ranjit & A. Rastogi, 'Complying With The National Sports Development Code Of India, 2011' (Mondaq, 30 June 2020) <<https://www.mondaq.com/india/sport/959720/complying-with-the-national-sports-development-code-of-india-2011>> accessed 18 March 2022.

⁴⁷ Manali Kulkarni, 'India's New National Sports Code: Problems with Implementation and the Effect on the Autonomy of Sport' (*LawInSports*, 15 May 2014) https://www.lawinsport.com/topics/item/india-s-new-national-sports-code-problems-with-implementation-and-the-effect-on-the-autonomy-sport?category_id=152 accessed 18 March 2022.

⁴⁸ 'Senior Advocate Aruneshwar Gupta on Sports law, BCCI & more' (*Bar and Bench*, 7 June 2021) <<https://www.barandbench.com/apprentice-lawyer/senior-advocate-aruneshwar-gupta-on-sports-law-the-bcci-more>> accessed 18 March 2022; Dasgupta (n 11).

⁴⁹ Sports Law and Policy Centre (n 9)

and that a National Fair Play Appellate Board and an investigative body entitled the National Fair Play Authority are established. This is welcome as the formation of a central sports regulatory authority is necessary to ensure uniform development and implementation of match fixing policies across all sports and all states.

IV. EXAMPLES WHERE LACK OF CRIMINAL DEFINITION OF MATCH FIXING HAS IMPACTED PROSECUTIONS

In the case of *S. Sreesanth v. The Board of Control for Cricket in India*,⁵⁰ Sreesanth was arrested for spot fixing during an Indian Premier League match in 2013. A lifetime ban was imposed by BCCI in September 2013. Sreesanth had a criminal prosecution under Section 406 of the Indian Penal Code i.e., whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years or with fine or with both, charges under the MCOCA and the Public Gambling Act, 1867 were also considered. On the 25th of July 2015, the criminal court discharged Sreesanth, and he then sought to have his lifetime ban by the BCCI rescinded. In 2017, the Honorable court set aside the life ban imposed on the cricketer and directed the board to decide a fresh quantum of punishment stating that previously imposed life ban was too harsh for the crime. The BCCI appealed and the lifetime ban was re-imposed. However, in the most recent judgement, *Board of Control for Cricket in India*,⁵¹ followed through on March 15, 2019, composed by Justice Ashok Bhushan and Justice K.M. Joseph, the Supreme Court has asked the BCCI Disciplinary Committee to accept a new approach to the quantum of his discipline under the Anti-Corruption Code. The Apex Court requested that the BCCI choose 36-year-old Sreesanth's discipline ideally inside 90 days. It requested that Sreesanth would get just one opportunity to express his opinion on the quantum of punishment. It was finally decided that his

⁵⁰ *S. Sreesanth v. BCCI*, (2019) 4 SCC 660.

⁵¹ *ibid.*

lifetime ban would end at end of August 2020. Sreesanth served a total of 8 years banned from cricket.

The criminal prosecution could not continue as it was said there was prima facie “no sufficient material” against the accused to establish their “nexus” with organised crime syndicate⁵².

In the case of *Ajay Sharma v. The Board of Control for Cricket in India*⁵³, Additional District Judge, Sunil Chaudhary, passed the directions while allowing a suit by Sharma challenging the appointment and report of advocate K. Madhavan and Sharma’s subsequent debarment from playing by the Disciplinary Committee constituted by the BCCI.

The Board had appointed Mr. Madhavan a Commissioner in 2000, following the submission of an inquiry report on the match fixing allegations by the CBI to the Union Ministry of Culture and Youth Affairs.⁵⁴ The Disciplinary Committee had barred the player from participating in the sport, holding him guilty of match fixing on the basis of the Commissioner’s report. The CBI had in its probe report stated that the facts did not disclose any offence under provisions of Indian Penal Code, and neither was it possible to prosecute anyone under the Public Gambling Act.⁵⁵

In the case of *Ashwani Aggarwal v. The State*,⁵⁶ the Delhi Police sought the custody of the main bookie arrested by Mumbai police, Ramesh Vyas. Delhi police had also sought the custody of key bookmaker Ashwini Aggarwal, known as ‘Tinku Mandi’. This man was earlier brought to Mumbai from Delhi in connection with the IPL spot-fixing case and on

⁵² Press Trust of India, ‘Sreesanth, Chandila, Chavan discharged in IPL spot-fixing case’ (*The Hindu*, 16 November 2021) <<https://www.thehindu.com/sport/cricket/ipl-spot-fixing-sreesanth-chandila-chavan-acquitted/article7464447.ece>> accessed 18 March 2022.

⁵³ *Ajay Sharma v. The Board of Control for Cricket in India* (Delhi District Court, 24 May 2014).

⁵⁴ Madhavan, ‘Madhavan report on cricket match-fixing’ (*Hindustan Times*, 1 July 2001) <<https://www.hindustantimes.com/india/madhavan-report-on-cricket-match-fixing/story-NoAvAUDNMSaav2disOYKcO.html>> accessed 15 March 2022.

⁵⁵ The Public Gambling Act, 1867.

⁵⁶ *State v. Ashwani Aggarwal*, AIR 1956 All 158.

June 1 remanded to Police custody by a Mumbai court till June 6. Delhi police has charged the bookie under the MCOCA, and meanwhile in custody, Tinku Mandi spilled out the details regarding his involvement with IPL for spot-fixing. However, the bookie Ramesh Vyas was granted bail by the Mumbai police but as per Delhi police he was charged under the MCOCA for spot-fixing. The case was dismissed:

No nexus or link between various accused with part of an organized group has been established. Also, the offence in relation to which MCOCA is sought to be invoked, pertains to betting and match fixing, which as discussed above does not fit in any Penal statute. All the necessary ingredients to establish a prima facie case under the provisions of MCOCA is not made out. The best case could have been under Public Gambling Act, but that also is not prima facie established from the evidence placed on record by the prosecution. The offence of cheating is also not made out prima facie, even if the entire evidence of prosecution is admitted without formal proof.⁵⁷

In the case of *Azharuddin v. Board of Control for Cricket in India* 2003,⁵⁸ the cricketer Azharuddin along with several other cricketers like Ajay Sharma was booked for the crime of cheating and match fixing in international cricket matches. Azharuddin reportedly confessed that he had fixed three one-day matches; the first against South Africa at Rajkot in 1996, then Pepsi Cup matches in Sri Lanka in 1997 and Pakistan in 1999. But he was subsequently quoted in an interview denying that he was involved in any such activity. However as per the BCCI rules, the accused along with the other co-cricketers was banned from playing any further matches. As in every case Judgment at last is what matters, so in this particular case, Delhi court, basing its verdict on Azharuddin's Andhra Pradesh High Court judgement, rescinded his ban in May 2014.⁵⁹

The case of Azharuddin was civil and centred around the BCCI's disciplinary processes. The CBI 2000 report upon which the basis for the case is made identified that there could be no successful prosecution

⁵⁷ *ibid.*

⁵⁸ *Azharuddin v. Board of Control for Cricket in India*, 2003 (3) ALD 873.

⁵⁹ See Pradeep Magazine, *Not Quite Cricket – The explosive Story of How Bookmakers Influence the Game Today* (Penguin 2007) 6.

under section 120-A IPC dealing with criminal conspiracy and/or section 415 IPC dealing with cheating. As stated above the prosecution under PCA was also not possible as the cricketers could be classed as public servants, but they were not acting as public servants when they committed the match fixing offences.

V. RECENT BILLS INTRODUCED TO TACKLE MATCH FIXING IN INDIA

1. The Prevention of Sporting Fraud Bill, 2013⁶⁰

The main motive of the bill was to criminalize the frauds happening in sports industry including fixing as well, this bill was brought by the congress led UPA government in response to the scandal of spot fixing in 2013. However, this bill got the full stop by the BJP-led NDA government. The then Sports Minister, Vijay Goel, also made a statement that “*We are not considering this Bill. We have no plans for it as of now.*”⁶¹ The task of drafting the bill was handed over to Justice Mukul Mudgal, later in 2015 it moved to the Law Ministry for further changes but in a short time span the bill was amended and returned to the Sports Ministry and since then it’s been lying pending, and no further steps have been taken.

2. National Sports Ethics Commission Bill, 2016⁶²

President Ram Nath Kovind cleared BJP MP Anurag Thakur’s private member Bill – the National Sports Ethics Commission Bill 2016 – to be considered by the Parliament. Thakur, the former president of BCCI and three-time MP from Hamirpur in Himachal Pradesh, had moved this Bill

⁶⁰ The Prevention of Sporting Fraud Bill, 2013.

⁶¹ Sabi Hussain, ‘Government shelves Sports Fraud Bill’ (*The Tribune*, 2 June 2017) <<https://www.tribuneindia.com/news/archive/sports/government-shelves-sports-fraud-bill-416408>> accessed 15 March 2022.

See also D.G. Sekhri, ‘A Critique Of India’s ‘Prevention Of Sporting Fraud Bill, 2013’ (*LawInSports*, 22 January 2014) <<https://www.lawinsport.com/topics/anti-corruption/item/a-critique-of-india-s-prevention-of-sporting-fraud-bill-2013>> accessed 15 March 2022.

⁶² National Sports Ethics Commission, 2016.

in 2016 to counter the growing menace of match-fixing, doping, age fraud, and sexual harassment in Indian sports.

While Thakur was unceremoniously evicted from the BCCI by the Supreme Court in January 2017, it did not end his pursuit of changing the root cause of trouble in sports. Thus, this Bill is also still lying pending.⁶³

3. The Sports (Online Gaming and Prevention of Fraud) Bill, 2018⁶⁴

This bill was introduced by Parliamentarian Shashi Tharoor in the Lok Sabha (lower house), stating that such a strong sector needs a strict mechanism to regulate itself. The bill was aimed “*to establish an effective regime to maintain the integrity of Sports in India by preventing and penalizing sports fraud, regulation of online sports gaming; and for matters connected therewith or incidental thereto.*”

Further the reason for bringing the bill was explained by him, “*the need of the hour is a comprehensive regulatory framework, overseen by a competent regulatory body, to check the flow of black money in online sports gaming, and to curb any illegal activities in connection with it.*”⁶⁵

This was the first act specifically aimed at regulating online gaming. It has not been passed and has since lapsed.

4. Prevention of Match Fixing and Promotion of Fair Play in Sports Bill, 2020⁶⁶

The Bill takes forward the findings of the report “Fixing It: Tackling Match Manipulation”⁶⁷ and recognizes three key stakeholders who have the potential to make an adverse impact on a sport. *First*, members of the

⁶³ N. Kamath, ‘Fighting Sports Corruption In India: A Review Of The National Sports Ethics Commission Bill 2016’ (*LawInSports*, 1 July 2016) <<https://www.lawinsport.com/topics/item/fighting-sports-corruption-in-india-a-review-of-the-national-sports-ethics-commission-bill-2016>> accessed 15 March 2022.

⁶⁴ The Sports (Online Gaming and Prevention of Fraud) Bill, 2018.

⁶⁵ Gaurav Laghate, ‘Shashi Tharoor Moves Bill to Regulate Online Gaming’ (*The Economic Times*, 15 January 2019).

⁶⁶ Sports Law and Policy Centre (n 9).

⁶⁷ *ibid.*

concerned sport which include the players, officials and staff. *Second*, interested persons, which include broadcasters, advertisers, sponsors. *Lastly*, any other person who aids and abets the offence of match fixing.

To oversee implementation of the proposed Bill and also undertake sensitisation measures to reduce corruption in sports, an authority known as the National Fair Play Authority is sought to be established.

The Bill provides that responsibilities are placed on Sports Associations (defined as federations or bodies governing a sport in India) to form an Ethics Commission, enact a Code of Ethics and have in place adequate disciplinary measures to take action if there is a breach of the Code of Ethics. There is also proposed a National Fair Play Appellate Board to deal centrally with appeals from Sports Associations decisions.

The proposed National Fair Play Authority would have powers to direct the Sports Associations in relation to their compliance with the Act and would also have investigative powers through a newly created Director of Investigation.

The Bill includes an offence of “Spot Fixing” which is very welcome as this has been absent in all previous Bills. Spot Fixing being “*to deliberately alter the outcome of an event during the course of the match*”. With the prevalence of spread betting, it is now possible to bet on a wide range of events within a sports match, not just the outcome of the match. For example, in soccer, who scores first? How many corners there are in the first half? In cricket, how many no balls in the third over? etc.

The definition of match fixing does not include the provision of “inside information” to those who would use such information for corrupt purposes, but it does allow for those who work in and around sport to be prosecuted. For instance, a ground keeper who has changed the condition of a pitch so as to facilitate a fix.

The proposals to increase education and improve the overall culture of sports is a helpful approach to safeguarding sports but not all Sports Associations in India have the resource and capability to put in place the

proposed structures of an Ethics Commission and a Disciplinary Commission as they are predominately voluntary. It is an ambitious Bill which requires significant financial backing to put in place the proposed national structures (National Fair Play Authority, National Fair Play Appellate Board and Director of Investigations) and then fund their operation. Significant resource is also needed to not only monitor but also assist the Sports Associations.

The report also includes an in-depth analysis of previous Bills and in particular, examines the definition of match fixing which is key. There have been subtle differences and it is clear that if any legislation is to succeed in its aim of criminalizing match fixing across the whole country the definition must be appropriate and fit for purpose.

VI. UNODC RESOURCES

The UNODC resources provide model criminal law provisions for the prosecution of competition manipulation⁶⁸. Using the analysis of legislation in other jurisdictions the model provisions are not exhaustive but could assist in relation to providing a specific definition for match fixing. The model provisions offer passive and active options:

Any person, who solicits or accepts, directly or indirectly, an undue advantage or its offer or promise for himself or herself or another person or entity in order to alter the course or the result of a sporting competition or any of its particular events in breach of legislation or sports regulations, or accepts a reward for doing so, shall be punished by _____ Passive (bribe taker)

Any person, who promises, offers or gives, directly or indirectly, an undue advantage to another person for himself or herself or for another person or entity, in order that the person alters the course or the result of a sporting competition or any of its particular events in breach of legislation or sports regulations, or gives him or her a

⁶⁸ United Nations Office on Drugs and Crimes, *Legal Approaches to Tackling the Manipulation of Sports Competitions: A Resource Guide* (International Olympic Committee, 2021)

<https://www.unodc.org/documents/corruption/Publications/2021/Legal_Approaches_to_Tackling_the_Manipulation_of_Sports_Competitions_EN.pdf> accessed 13 March 2022.

reward after doing so, shall be punished by _____
Active (the briber)

1) Any person, who alters the course or the result of a sporting competition or any of its particular events in breach of legislation or sports regulations in order to use the altered course or result in a betting scheme, shall be punished by _____.

2) Any person who participates in betting with a knowledge that it has been influenced by the course or result of a sporting competition altered in breach of legislation or sports regulations, shall be punished by _____.

NOTE: This criminal offence sanctions two different types of perpetrators:

1. An individual match-fixer, who fixes the match with the intention to get to illicit proceeds through (legal or illegal) betting schemes. It is not even important if s/he really gains anything from the betting planned. In the case of organised criminality, other members of the group might be sanctioned through provisions on participatory acts or organised crime.
2. An individual, who knows that s/he is betting in a betting scheme influenced by match fixing. Since the person betting can at the same time also be the person fixing the match, the gravity of his offence can effectively be dealt with through a proper range of sanctions - either for the first or for the second paragraph.⁶⁹

More recent analysis of legal measures around the world was produced by the UNODC and the International Olympic Committee (“**IOC**”) in 2021. The ‘Legal Approaches to Tackling the Manipulation of Sports Competitions’⁷⁰ offers other good guidance for States. Using these resources as a basis, India should be looking to bring about robust criminal legislation and enforcement measures. There is also a need to include sport in a concurrent list so that it gets easy and convenient for both the state and the union government to make laws regarding match fixing and the application and operation of the match fixing provisions are thus uniform.

VII. RECENT CALLS FOR CRIMINALIZATION

⁶⁹ *ibid.*

⁷⁰ *ibid.*

There have been lots of debates revolving around criminalizing corruption in sports. In a recent interview of ICC Anti-Corruption Unit,⁷¹ one of the senior officials, Steve Richardson, made a statement that criminalizing the sports corruption in India was one of the most effective things one could do for the country, where police were acting while having one of their hands tied at their backs due to lack of stringent laws.

Richardson also added that making proper legislations was the only way in which sports in India could be protected. He pointed to the enactment in 2019 of the 'Prevention of Offences Relating to Sports Act' in Sri Lanka⁷² as the first initiative in the Asian Sub-Continent to criminalize match fixing. The panel was formed for the discussion that 'Does India need a match-fixing legislation?'⁷³ as part of the Sports Law and Policy Symposium held in June 2020.⁷⁴ BCCI Anti-Corruption Unit head Ajit Singh was also the part of the panel and he highlighted that all the case law confirmed that existing legislation was ineffective in tackling corruption and especially in dissuading the actions of corruptors who are outside the sport.⁷⁵ The full panel discussion is available to view and provides further valuable insight and persuasions.⁷⁶

VIII. CONCLUSIONS

⁷¹ 'Match-Fixing Law Would be a Game-Changer in India: ICC Official' (*Times of Sports*) <<https://www.timesofsports.com/cricket/news/match-fixing-law-would-be-a-game-changer-in-india-icc-official/>> accessed 14 March 2022.

⁷² Prevention of offences relating to sports Act 2019 <<https://www.srilankalaw.lk/Volume-VI/prevention-of-offences-relating-to-sports-act.html>> accessed 18 March 2022.

⁷³ Press Trust of India, 'Criminalising match-fixing in India will be single-most-effective move for cricket: ICC ACU official' (*The Indian Express*, 25 June 2020) <<https://indianexpress.com/article/sports/cricket/criminalising-match-fixing-in-india-will-be-single-most-effective-move-for-cricket-icc-acu-official-6475432/>> accessed 14 March 2022.

⁷⁴ The Sports Law & Policy Centre, 'Symposium 2020' (Bangalore) <<https://sportslaw.in/symposium>> accessed 14 March 2022.

⁷⁵ Nihal Koshie, 'Need a law against fixing: BCCI Anti-Corruption Unit Chief Ajit Singh' (*The Indian Express*, 30 June 2020) <<https://indianexpress.com/article/sports/cricket/bcci-acu-chief-ajit-singh-ravinder-dandiwal-fixing-corruption-6482223/>> accessed 14 March 2022.

⁷⁶ Symposium 2020 (n 74).

Brodkin⁷⁷ in his presentation highlights that in a post-Covid world, e-sports are even more at risk. There is a rapid growth in the gaming and fantasy market in India and the risk are high due to fact that the governing bodies are new, there is no players union, players are younger and more susceptible to corruptors and there are many different ways to manipulate and spot fix the e-sports competitions. The Global e-sports and gaming market is set to generate \$175.8 Billion in 2021 with the market being on track to surpass \$200 Billion in 2023⁷⁸ so it is clear this rapidly developing and expanding industry shows no signs of decline and requires urgent protection now.

Corruption and match fixing continue to be a threat to sport in India as long as there are large amounts of money involved would be corrupters will be drawn to the sector. No sports are immune as illustrated by the recent report in table tennis.⁷⁹ The average betting turnover per Indian Premier League (IPL) match in 2019 was \$88.9 million with an estimated total annual betting turnover for the IPL being \$4.98 billion.⁸⁰ As illustrated by the case law discussed above, existing mechanisms do not criminalize the act of match fixing and are therefore inadequate for tackling corruption in sports. National and International sports federations will continue to carry out their duties⁸¹ and put in place anti-

⁷⁷ 'The Sports Law & Policy Centre, 'Match Fixing in a Post Covid-19 World' (*YouTube*, 25 March 2021) <<https://www.youtube.com/watch?v=LdVDsN6KWPg>> accessed 18 March 2022.

⁷⁸ Tom Wijman, 'Global Games Market to Generate \$175.8 Billion in 2021; Despite a Slight Decline, the Market Is on Track to Surpass \$200 Billion in 2023' (*NewZoo*, 6 May 2021) <<https://newzoo.com/insights/articles/global-games-market-to-generate-175-8-billion-in-2021-despite-a-slight-decline-the-market-is-on-track-to-surpass-200-billion-in-2023/>> accessed 18 March 2022.

⁷⁹ 'TTFI forms inquiry panel to probe Manika's 'match-fixing' allegations against Soumyadeep Roy' (*The Tribune*, 11 September 2021) <<https://www.tribuneindia.com/news/sports/ttfi-forms-inquiry-panel-to-probe-manikas-match-fixing-allegations-against-soumyadeep-roy-309811>> accessed 14 March 2022.

⁸⁰ 'Match fixing on the rise as global sports betting turnover surpasses €1.45 trillion for the first time' (*SportsRadar*, 3 March 2022).

⁸¹ See U. Naidoo & S. Gardiner S, 'On the front foot against corruption' [2007] *The International Sports Law Journal* <<https://go.gale.com/ps/i.do?p=AONE&u=googlescholar&id=GALE|A213032906&v=2.1&it=r&sid=AONE&asid=2d631c19>> accessed 30 April 2022.

corruption measures but without the backing of criminal legislation attempts to tackle organised crime linked to match fixing will be futile.

The Prevention of Match Fixing and Promotion of Fair Play in Sports Bill, 2020 is appropriate for the domestic sports sector but it is not far reaching enough. It does not specifically address the area of e-sports and digital cheating. It does not address the ills of those betting on matches which they know to be fixed and organised crime and a definition of such organised manipulations. In conjunction with provisions for sports sector general criminal law provisions need to be added so as to specifically define match fixing and thus make prosecutions more likely against corruptors outside of sports bodies. As noted above, other Bills introduced on the subject of integrity and sports have not come to pass. It remains to be seen if this Bill will succeed in becoming law.

Legislation is only one part of the solution as the framework provided by UNODC outlines, education, training and awareness is also required, including inter-state and international co-operation. For the benefit of public interest some information sharing is required – ‘IPACS Task Force 4: Enhancing Effective Cooperation between Law Enforcement, Criminal Justice Authorities and Sport Organisations’ could provide good collaborations in this regard.

A multi-stakeholder approach must also be adopted in the fight against organized crime in sport and co-operation not just with national sports bodies but also with international sports bodies and partners such as the IOC. In 2018, the IOC formed the Olympic Movement Unit on the Prevention of the Manipulation of Competitions⁸² and whilst initially for the benefit of international sports and international sports competitions, it has some exceptional resources⁸³ which can assist in the education,

See also International Cricket Council (ICC) – Anti Corruption Unit, The International Tennis Integrity Agency (ITIA) and FIFA Global Integrity Programme.

⁸² ‘Prevention of Competition Manipulation’ (*International Olympics Committee*) <<https://olympics.com/ioc/integrity/prevention-competition-manipulation>> accessed 13 March 2022.

⁸³ ‘Olympic Movement Unit on the Manipulation of Competitions Strategy, 2019’ (*International Olympics Committee*) <<https://stillmed.olympic.org/media/Document%20Library/OlympicOrg/IOC/What->

training and awareness and is freely available to all National Olympic Committees including the Indian Olympic Committee. Given the murky nature of this corruption, protections must be afforded for whistle blowers and investigative journalists.

The INTERPOL Match-Fixing Task Force (“**IMFTF**”) was formed in 2011 to support member countries with investigations and law enforcement. INTERPOL has 195 member countries and India is one of those countries.⁸⁴ Recently, working with the IOC and UNODC, it produced a resource aimed at assisting in post-Covid times. Whilst the world is still coping with the devastation of the global pandemic, attention, focus and funds may be diverted from corruption in sports, but this could lead to greater potential for corrupters to take over sport. “*It is therefore recommended to all relevant stakeholders to ensure that the fight against corruption in sport and specifically preventing the manipulation of competitions is part of any responses to the pandemic and remains a priority in their post pandemic era.*”⁸⁵

Numerous works have been written on match fixing in India⁸⁶ and more widely on corruption in sport⁸⁷ and it is impossible to give weight to all of them in this article. It is a complex rapidly evolving threat to the integrity of sports. For the purposes of this article, it is sufficient to say that there is a body of thinking which points to criminalisation and an accurate

[We-Do/Protecting-Clean-Athletes/Competition-manipulation/Protecting-clean-athletes-competition-manipulation.pdf](#)> accessed 13 March 2022.

See also ‘How I was Asked to Cheat’ (*YouTube*, 7 December 2017)

<https://www.youtube.com/watch?v=RicHEIFiGjI0&list=PLX9eJ_kgiRLYr_k5Krp4nLh8qC9nmtozK&index=6> accessed 13 March 2022.

⁸⁴Corruption in Sports’ (INTERPOL)<www.interpol.int/Crimes/Corruption/Corruption-in-sport> accessed 13 March 2022.

⁸⁵ ibid at 2.

⁸⁶ Ashutosh Misra and Abhishek Vikram, ‘Corruption in Sports in India’ (Briefing Paper, Alberta Gambling Research Institute, November 2011) <<https://prism.ucalgary.ca/handle/1880/49799>> accessed 13 March 2022; The Sports Law and Policy Centre (n 9); Dasgupta (n 11); See Ed Hawkins, *Bookie Gambler Fixer Spy: A Journey to the Heart of Cricket's Underworld* (Bloomsbury 2012).

⁸⁷ See C. Ordway (ed.), *Restoring Trust in Sport: Corruption Cases and Solutions* (1st ed., Routledge 2018); L.A. Kihl, *Corruption in Sport: Causes, Consequences, and Reform* (1st ed., Routledge 2018).

definition of match fixing as an appropriate start to changing the culture in sports.

The publication of the Report, the G20 Principles, the work of the IOC and INTERPOL, and the creation of the IPACS Taskforce all indicate there is a great deal of momentum and support for tackling corruption in sport at this moment in time. All academics, politicians and interested parties should therefore be lobbying for urgent change and for an appropriate legislative framework and better systems to be implemented across India to tackle corruption in sport. The risks posed from corruptions will only increase with every advance in technology and e-sports, is especially vulnerable. If India is to be at the forefront of harnessing the huge social and economic benefits of sport and e-sports it must be proactive and take action now.

IX. NOTE- DEFINITIONS TAKEN FROM UNODC REPORTS⁸⁸:

“Organized criminal group” shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit

“Match-fixing” shall mean the arrangement on an irregular alteration of the course or the result of a sporting competition or any of its particular events (e.g., matches, races etc.) in order to remove all or part of the uncertainty normally associated with a competition.

“Legal betting” shall mean all types of betting that are allowed on a specific territory or jurisdiction (e.g., by licence given by a regulator or recognition of licences given by the regulator of a third country). “Illegal betting” shall mean all types of betting that are not allowed on a specific territory or jurisdiction. –

⁸⁸ UNODC, ‘Criminalization Approaches to Combat Match-Fixing and Illegal/Irregular Betting: A Global Perspective’ (International Olympics Committee) <https://www.unodc.org/documents/corruption/Publications/2013/Criminalization_approaches_to_combat_match-fixing.pdf> accessed 13 March 2022; See Kamath (n 63).

“Irregular betting” shall mean all types of betting based on match-fixing.