The Tattered Net of Mercy

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LABOUR and the LAW
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Chotu narrated his tale. On the fateful day he had to go back to his home town and so he got his due salary (about Rs. 500/-) from his employer. Unfortunately he lost it. Though quite ridiculously, but perhaps out of his innocence he asked for the same amount from his employers, promising that he would work for them in return when he came back from home. As a sensible businessman, the employer refused. On the same evening Chotu tried to steal a piggy - bank from his employer’s residence.

He was caught and handed over to the police. On our assurance that we would do something, Chotu wanted us to request his employer to “withdraw the complaint.”

I am talking of Chotu whom we met in Tihar Prison. He was not all that “Chotu” (young). Probably he got his name by working since when and where he did - in a sweet meat shop in Mukherjee Nagar, Delhi. He sobbed for help. He told us that other inmates had “informed” him that his case was a “Mamooli Chori” (petty theft) and if the complainant “withdrew”, he would be released.

We went to the shop owner. He was extremely cordial and upon our persuasion agreed that even he did not want the “boy” to be jailed for so many months. He was finally ready to “withdraw” the case.

Then, we had a cut out job - to get the legal formalities completed. We went to the police station to check the exact nature of the case. And there came the news as a bolt from the blue. Compounding (as “withdrawal” in such cases is technically called) could be done in such cases by the complainant with the permission of the court (under Section 320 (2) of Cr.P.C. 1973). However, the limit is upto Rs. 250/-. Here the FIR mentioned recovery of a sum of Rs. 450/- in the form of brand new five rupees coins. So, the offence being non-compoundable, we could do nothing for the boy.

We returned back to Chotu with this sad message. He seemed unmoved. He asked us - “Sir, Ram Singh was released like this only, why can’t I?” We explained to Chotu the reasons. “But what is the difference between Rs. 250/- and Rs. 450/- if the employer is ready to “withdraw” the case?” “Well that is the law.” This flat answer was for Chotu’s consumption. I was “coercing” him to accept the norm and he had forced me to question the same - albeit not aloud.

After I returned from Tihar that day, the natural question that haunted me was that if fixed deposit worth Rs. 250/- were made in 1973 (i.e. when the new Cr.P.C. was enacted) it would have become approximately Rs. 4000/- by now. Was it justifiable to insist on the same ceiling still? Definitely not. The ceiling should also have grown automatically. But I felt uneasy on realising that I was about to term a theft of Rs. 4000/- as a petty offence. Perhaps, the worth of that amount in my eyes had something to do with this uneasiness. I asked myself - “am I suggesting that the sum is too high a limit because if I were the victim of a theft of Rs. 4000/- I would have suffered to an extent too great to be termed petty? Perhaps ! And since I could not appreciate the worth of Rs. 250/- in 1973 I was ill-placed to give myself a convincing answer.

So, I consulted some senior people. Even their response was that Rs. 250/- in 1973 is quite less than Rs. 4000/- now. Thus what the economist may call the interest rate method of conversion was inadequate for our purposes.
The general policy seems to be that a theft of such an amount (Rs. 250/- in 1973) is usually trivial. And they need not be punished for - in the interest of minimising litigation, encouraging reconciliation, etc. But such a policy of amnesty would be subject to two considerations - that the victim no longer harbours vengeance against the accused and the compounding is not detrimental to the society at large. This is to say that scope would be left for the employers of Chotu to have mercy on him - even after reporting the case to police - provided of course, firstly the employers thought that for them such a theft did not inflict much damage and secondly, the Court felt that this act of pardon would not put the society at any disadvantage by allowing an "anti-social" element to go scot-free due to any extraneous considerations.

And the target group of such a policy relaxation must have been the innumerable Chotus who are forced into the offence for the first time only out of their poverty and misfortune which falls on them and immediately instigated by some very depressing circumstances.

The meaning of the Rs. 250/- in 1973 had to be translated to its value in 1995. This would of course be different for Chotu and the shop-owner. Because the manner in which the likes of Chotu could fend themselves in 1973 by earning Rs. 250/- would not cost say Rs. 1000/-. For the shop-owner the same may be different. In the "translation" for our purposes, which value do we take? Or do we take a value somewhere in between? This is a moot question demanding an urgent answer from the academicians because the legislature cannot every now and then devote itself to such determination - if not otherwise, only out of sheer physical impossibility. And the victim would then be - as it now is, the human face of law, which would daily take a new theft out of the mercy net of Section 320 Cr.P.C. and like laws. And this amounts to a change in the policy of the legislature - not out of any conscious effort, rather opposite to the directions of its decisions, but due to the changing shape of the economy.

On my next visit to Tihar, I was recalling all these things which had occupied my mind for the past few days. I was feeling sick at the thought of confronting Chotu. This because he was shown a ray of hope only to tell him ultimately that he would have to go through the ordeal of a full-fledged and dilatory trial and that only due to a historical accident. I was feeling terribly guilty. "But it was not my fault..." "Still ..." and whatever I felt or thought for him "chori to chori hai, chahe 251 ki ho ya lakh kee" (Theft is a theft whether of Rs. 251/- or of a lakh). And the moment I had been dreading...was here. Chotu was in front of me with his hand folded in "Namaskar".

Before he said anything my frustration preempted him, "Well Chotu, I told you... that is the law." But not ready to resign to his damned fate, Chotu was a bit aggressive when he spoke - "When the owner does not want to accuse me of theft, why does the law become so rigid? Is it because he reported the case to the police in a moment of rage?" I was feeling so weakened by the tragedy of Chotu that at that moment I could not find the conviction to force the moralist argument upon Chotu - that society had a right of being protected from the peril of criminals. Or perhaps I was convinced that Chotu's case was one where the argument broke down.

How could one see the society being imperiled by Chotu not being punished beyond the ordeal of what he had already undergone? Could really the society be at peril if Chotu was released? And to this question, came a yell from somewhere within me - "How stupid ......"

"I did not know," continued Chotu, "... that what I was stealing was Rs. 450/-. I actually stole the piggy bank, not the amount of money. To tell the truth I thought that there would be around Rs. 200/- in that ... from that I could go home... Sir, please try again... Ram Singh was released Sir, ... do something for me ... please Sir."