

Professional Plaintiffs False Complaint in Court

Yadoallah Toulabi and Mohammad Hosein Hajarjan,
Department of Criminal Law and Criminology, Islamic Azad University, Tehran, Iran

Abstract: Judicial system view of existential philosophy government and reflect the values and model of government structure and ideology of a society. And also focal is on the rights and annulment void. The effectiveness of the judicial system implies proceedings affairs away from any prolongation of with full autonomy, under the rule of law and judicial security will be done with speed and accuracy. Rulings and votes reasonable and documentary under the supervision of competent judicial the wise and righteous with respect for human dignity and citizenship rights far from any discrimination to the competent courts issued and conflicting ends. Iran's judicial system is based on Islamic legal framework somehow caught is prolongation of the proceedings. This is contrary to justice and public order. Iran's judiciary due to short comings in the educational system legal and judicial ambiguities, legal defects and disadvantages of the organizational structure with the development of judicial means his ideal namely the Islamic court (judicial healthy, efficient and complete) is away. That needs fundamental changes in educational structures, rules and regulations, management and organizational structure in the context of legal and judicial health. Not skimp cases which individual due to unfounded accusations and attempted to make complaint. Since, the duty of judge is investigating and duty of magistrate is to accept all complaints. The Chimeras claims that evidence of complaints without sufficient reason and sometimes for harassment posed other side with brief investigation will be closed. Complaints or dispute false is title for lawsuit or complaint unrealistic. Usually for dirty purposes done such as delaying payment of debt. Professional plaintiffs phenomenon as a problem in the criminal justice system can cause many problems such as material and moral damage on innocent people, a huge financial cost on the judicial system, taking time the courts and police stations and create sense of lack of confidence to the police and judicial system. However, already allegations of unfair and counterfactuals complaints focus for legislators and law scholars have been and the subject of professional plaintiffs for those involved in the justice system is not an unknown concept. But as a criminal phenomenon and harmful to the criminal justice system it is argument that at least in Iran's criminal law has not been considered and has been done less discussion and practical work in this field.

Key words: Professional plaintiffs, complaints counterfactuals, judiciary system, judicial system, counterfactuals

INTRODUCTION

The definition of professional plaintiff: The plaintiff is applied with meaning include complaint, the justice, grievant, the get holder in the litigation.

The complainant is the victim that a crime has been done against him. If he applies to filing the complaint and wants chase of person he is plaintiff. In other words, someone acting to design a complaint with the criminal described the say complainant. In other words everyone from incurred crime become to losses called the victim of a crime. The victim is the same concept. If the victim to handle in a position complaint called the complainant and if petition has not submitted a claim for losses it is private complainant.

Professional complainer who is person that with forming files the judicial false causing bother and

discomfort for citizens and will be a waste of court time. And by the way disturb arrange in the judicial system and instead obtained most of the benefits (Farokhi, 2009).

Article 10 of the criminal procedure act adopted in 2013 in defining the plaintiff states that: victim is who which from incurred crime become to losses and wants chase of person, he is «plaintiff» and if demand compensation for losses incurred is called private claimant.

There was not definition of the plaintiff in jurisprudence. However, the complainant's position in the jurisprudence can be interpretation the rightful owner. The criminal law has not the definition of professional plaintiff.

Decedent Keynia these accusations such as defamation and conscious defined as defamation and plaintiff as slanderer. Incriminology book did not mention in the background of professional plaintiff. But

(professional criminals) was first proposed by Lambzo. Thought the role of the criminal career in America was founded in 1965 by Gibbons (Abrandi Abadi and Beygi, 1998).

A VARIETY OF PROFESSIONAL PLAINTIFFS

Professional plaintiffs have various types. For example, some of them as the plaintiff done lawsuit. And so far indicate that the other party will have to pay their scapegoats and are living with it. The main profession of this complaint unrealistic and litigation is a counterfactual. And to achieve their illegitimate goals they action to insult, defamation, spreading lies and any other illegal such as who attempted to self-mutilation and through obtained legal medicine certificates and attempted to file a complaint against another and finally getting their money damage unjustly. But a number of professional plaintiffs not done action to design file a complaint false for permanent. But one time that has been action design of counterfactual complaint randomly so have committed with skill and shrewdness particular the reviled acts which in this way they can be considered both in the number of professional plaintiffs. Otherwise, the group may do not have intended to earn and benefit from the professional way and was not main profession in contrast to previous group (Farokhi, 2009).

Some of the plaintiffs are professionals who do their job professionally for example are champers. Champers is someone that in the dispute by giving money to buy the right from one of the parties and at all stages until the final result to be his successor.

Some legal scholars in accept lawyer in litigious that it was obvious invalidity. And lawyer trying to show to the researcher the client and as well as transferring or taking (the lawyer) the subject of the litigious of the rights probable between the client and the lawyer then layout of its does have in the court in favor of the lawyer (Jafari-Langroudi, 2000).

This means that someone transaction with another and the receipt check for that. But for some reason could not have completed the transaction and fulfill their obligations efficiently than perform the other party and the transaction does not have often authenticity condition referred to in Article 190 of the Civil Code because for transactions that have a the accuracy condition doesn't need champers and done by the person or his lawyer and often reaches the result. But if the does not have the basic conditions and doubt invalidity is the transaction. In the case gave the check to the champers. And champers considering the possible profit or loss without considering the nature of the transaction gives

money less than of the check to the check holder. And he is the successor of the transaction. And by various means and even if necessary to put pressure on the other side of the transaction he forced to complete the transaction.

Due to highlight the role of the champers in Iranian criminal system is check reform statutes enacted in 1993. Because according to the law almost all export of check has been described as penal and encounter of leg is lative with the check which is a widely used commercial document has created problems for people and the Iranian judicial system. In addition because issuances check unpaid is a crime merely materialistic. That the leg is lature to punish that person (intentional act and the result) unknowingly necessary even existence any criminal fault is not bet for this crime and due to have not money to pay check or unpaid absence he was considered offenders. And work becomes easy for a false complaint by professional plaintiffs (Abrandi-Abadi, 2011).

Several factors have caused this problem in the judicial system of our country; one of the reasons is for false complaint which leg is lator unlike the in Article 109 of Civil Procedure Act has predicted guarantees to plan a false litigation in court. In criminal matters such as guarantees is not anticipated. One of the causes of such problems in the penal is insignificant cost of complaint. And 3rd requirement of legislator in Articles 37 and 69 Civil Procedure Act adopted in 2013. Based on these materials enforcement officials and prosecutors are obliged to accept the complaint and interpretation of all time. So, cases mentioned sometimes problems and abuses will be by the complainants professional (Farokhi, 2009).

MOTIVES OF PLAINTIFFS PROFESSIONAL

Motivation literally means is defined the cause, caused, reason and whatever motivate someone to work and in terms of in favor or concession that encouraged the perpetrator of the offense is to commit crimes say motivation.

Terms of intent and motive is in the criminal law concepts like cause and direction the civil rights. As the "direction" is defined to the dealer done to get the transaction in criminal rights as well as internal efforts and a hidden desire which leads man toward a particular action is called motivation. In the criminal law of the motivation is interpreted to "cause", "reason" and "motive".

The motivation is interpreted sometimes the motive, caused and purpose. The internal factors the ultimate goal of crime is such as jealousy, love, revenge, pleasure, fame-seeking and justice. And committed will lead to the crime. In fact, the motivation is do of movement and the work. The motivation is not enough for the crime. But

beside that there is the external factors and these factors combined together to create a crime (Ardebili, 2006).

The motivation behind the professional plaintiffs said that sometimes these people due to mental disorders or personality disorders and due to the satisfaction of their spiritual needs also to attract the attention of others ascribe unwarranted slander innocent people and more allegations attributed by these people which have motives of ill. Most of allegations are related to ethical events like a woman has accused her husband is against chastity acts with her daughter. A year later, this woman due to severe lustful illusions delirium was given in madhouse and it turned out to allegations was due to the patients.

Sometimes these people for motives of sexual are accusation others. These complainants are often women which sometimes due to the neglect of their favorite person done anything including his claim of being raped by innocent person. So, he was forcing to be amenability and to attain their desired.

Finally, the most important motivation of the people of false complaints is financial incentives. These people to achieve the money and economic benefits people prominent, prestige, simple and has a high social position been target of them. And they are in the way of them to communicate with them in any way. And on occasion to create an event desired and after that with file a complaint obtain target benefits.

Today, traffic accidents form a significant percentage of criminal proceedings. The number of significant digits can be found that fabricated by professional complainants.

FACTORS AFFECTING THE OCCURRENCE OF THE PHENOMENON PROFESSIONAL PLAINTIFFS

Several factors can cause a person to attain their goals uses from reputation others and by undermining the dignity of others to obtain benefits. The most important factor is ideological and economic issues. When the society role of religion and spiritualities is highlighted no doubt the crime rates are significantly reduced. Because criminals often those who have been away from religion and are often raised in families where there has been weak spirituality; in fact these people in addition to the economic poverty have spiritual poverty also.

Economic crises may occur in each family. Persons make deprived of financial independence and into poverty. In this situation appears the role education correct of religious and social. People who do not have proper upbringing social and firm belief and their will is weak will not be able to adapt to the crisis facing and become libertine. And for compensation of lack was done various committing crimes.

EFFECTS AND SOCIAL CONSEQUENCES OF THE PHENOMENON OF PROFESSIONAL PLAINTIFFS

Any change and transformation at today's world due to the complexity of human activities will bring whether or not the effects and consequences. These effects can be both positive aspects and negative aspects.

The positive aspects of this social phenomenon can be mention a focus for legislators to shortcomings in the law and brokers the court system and this phenomenon could reveal in efficiencies some rules such as check law clearly. Also lead to that legislation has a revision of the check law. But including the harmful and negative effects of this phenomenon is imposing high costs on the judiciary. This means that the plaintiff with pay cost very little begins complaints. And by paying a negligible fee appointed the judicial system which the bulk of the funds allocated due to many staff and personnel to serve. In addition, upon receipt of the complaint judicial enforcement officials will be obliged to start chasing. In which case also their time as well as energy of enforcement officials dissipated in the wake of the complaints false and no results have been someone. In addition to prosecution stage the research stage have the same issue and court proceedings on and time courts and tribunals vain to be handled.

The 3rd negative effect is the loss of order and security in society. Because false complaint cause which innocent person due to fear of discrediting in society and miss the reputation losses emotional and psychological security. And therefore has undergone decline the social security and somehow people loss the trust in the judicial system of the country.

VICTIM OF PROFESSIONAL PLAINTIFFS

The introduction of victim professional plaintiffs is a bit difficult. The most innocent people may be delicate and accurate network of malice, dishonesty and betrayal and be caught in the trap of evil (Key Nia, 2003).

From point of view sciences of the victim are not all innocent victims. The phenomenon of professional plaintiffs can also be seen this issue. The crime export of check, undated, blank check, check the subject of usury transactions, the victim plays a major role in the crime. On allegations of indecent the behavior of the victim, the suspect commutes, communicate with unsavory individuals plays significant impact on the incidence of the allegations. Recommendations of infallibles is in the field confirms a believer should not unreasonably behavior itself was suspect (Farokhi, 2009).

The majority of people who are injured by professional plaintiffs who people are unaware of the law

and citizen's rights. So, if the victims of their legal rights in courts and tribunals have sufficient knowledge has less into the trap of professional plaintiffs. In cases of sexual violence, "most crimes sexual violence are not punished because victims do not complain design against them". Victims may be silence for the following reasons:

- Most of the victims were not able to identify the perpetrators or those who do not know where to find them
- Victims often fear that if the accused prosecution or the attacker they threaten to hurt or be harassment
- In the case victims may feel ashamed or guilty and have the fear that if the disclosure of the crime are notorious in the society (Kippenberg, 2005)

The "barriers to pursuing" in victimological related to the victim and reasons for willingness and his decision is to participating or not participating in criminal pursuing and as it was said, "there are many reasons for why a victim may be reluctant or unable to participate in prosecution". Attorneys that understand the reasons are more likely avoid of the development of adversarial relations with victims. Because victims may to respond positively to strategies active pursue and empathetic that take into consideration the individual needs of victims. (Bailey *et al.*, 2004).

REHABILITATE OF VICTIM FROM FALSE COMPLAINT IN CRIMINAL COURT

A socially any person who has caused losses of other with their action and damage in terms of his material or moral and should be in terms of causality (role or causative foreman) to compensate damages. In other words, this action attempts the reputation missed person to be revived in public opinion or at a specific sum and the acknowledged blamelessness of his social status victim to return to the original state.

Those who have been a victim of false complaints and their reputation are tarnished. Usually are looking for a way to take best method possible to revive their reputation. Rehabilitation following thing like slander, spreading lies and mistake of judge arises in verdict condemnation. In other words if seriously personalities of person to question some person in public individual. That person should have the right to rehabilitate of their reputation. It means that can defend and bring back his reputation (Abrand-Abadi, 2001).

In general, rehabilitate is more to return person intellectual credibility through legal. Legislator in most

countries have different approaches for predict it. The first method is publication of innocent verdict person through the media and ways is that to inform the message of this verdict to public people.

The second mechanism is pursuing a slanderer person. It means that a person that who caused defamation with unrealistic complaint. He has been someone to accuse of offense which after judicial review it becomes clear that he is innocent. So, prove plaintiff's bad faith and that he had intended to harm another. Slander condemned to punishment defamation. This is the rule that in most countries is true.

In the Iranian law, the 20 sec constitution principal mentions in this regard which the reputation person is immune from invasion. If reputation someone to be tarnished in society. The person on the base thirty-fourth constitution the principle shall have the right to petition. And regard to the principle of one hundred fifty six of the constitution investigating and passing judgment on complaints, abuses, grievances and restoring public rights are of the tasks of the judiciary. So, people who are located defamation can refer to the court for justice.

FILE COMPLAINT DEFAMATION

When the person proceed in criminal matters to the file a complaint unreal. This action consists of defamation and is evidence of crime. For example, claim obscenities containing that followed with several witnesses. So that witnesses lied essentially or claims of fraud that evidence is due to be fake by the plaintiff.

The victim from professional plaintiffs in the lawsuit false has only choice litigation and criminal complaints. Victims in the form of defamation must raise their complaint. Defamation means that slander. And legislator in Article 697 in definition of defamation states that: everyone via printed matter or inserts in newspapers and magazines or speech or by any other means attributed to someone expressly or publishes them it is considered a crime in accordance with the law and cannot prove document authenticity. They were being convicted to one month to one year imprisonment and up to 74 lashes of the whip or one of them (Talachian, 2010).

Defamation means to lie to someone, unfair to accuse a person, group or entity from malicious motives selfishness, jealousy, revenge, etc. The person with defamation of other and also accusations them cut off his relationship with society and rejects them. Foundations and components legal of defamation include:

- It attributed the crime explicitly to another
- The crime is the absurd and false that's mean that made imagination the mind of plaintiff
- Motivated to harm and defamation contribute crime to other
- Plaintiff cannot subject properly that be attributed to another to prove in the judicial authority

Therefore, those who were unjustly accused can to attempt to their rehabilitate with a complaint of defamation against the person who proposed the complaint unlawful. That person can after prove his innocence under Article 697 Islamic Penal Code pursue as a slanderer a plaintiff person. Usually in this case person with file complaint defamation to the court for the he have request of investigation and conviction of the slanderer. In this regard summoned slanderer and offers its own defenses. But if proved his bad faith issued indictments and the case to investigate to the accusation is sent the criminal general court.

REHABILITATION OF THE ISLAMIC PENAL CODE

The Penal Code Act 2013 specific changes and innovations on the compensation of spiritual (rehabilitation) have not been created and rehabilitate the former situation remains the same.

According to the law to rehabilitate of the person has tarnished his reputation among relatives and acquaintances with the complaint false. There are two ways: the first way is defamation file a complaint.

In the event that the crime is proven, someone that false complaints raised will be punished and thus compensate the tarnished reputation of citizens. But there is a different approach to compensation of such persons. It is their spiritual compensation.

In Article 1 of the law of civil liability is been emphasized. Anyone who without legal permission deliberately or as a result of recklessness the life or health or property or freedom or the reputation of or business reputation or to any other right that has been created by law for individuals the brunt that causes moral or material loss another. Responsible is for compensate for damages caused by their action) (Riahi, 2013).

As it turns out the spiritual loss is expressly declared to in this article of the law of civil liability compensation and it can be documented for court with exportation of judgment to compensate for moral damage into citizens to be supported them to false complaints without support.

CONCLUSION

Guarantee of citizen's rights and criminal justice is the essential duties of the criminal justice system. If

realization of this goal is not possible and we are facing with crisis and public dissatisfaction is from the performance of the criminal justice as a result. Because the criminal justice system is as much as it can cause security, order and reference to the rights of the oppressed also can be a reason crime. What is school of criminology has been proposed in social reaction. As long as three fundamental pillar the judicial system the law, judge and legislator are not developed, complete, comprehensive and competent. Expect reform society and the fight against delinquency and including professional plaintiffs is unattainable and also far from impressive.

The investigation status of the judiciary is represents the existence of crisis in the criminal realization of justice process and the main factors of crisis that caused creating the crisis phenomena such as the phenomenon of professional plaintiffs in the judicial system include a multiplicity of legislative bodies, multiplicity of judicial bodies and outside the part of them from areas of authority of the judiciary and inflation of criminal law that causes is inflation criminal and an increase in crime. So that the criminal realization of justice faced with barrier which the head of its goals is important function of the judiciary. It seems that our laws are facing with serious weakness on the important discussion rehabilitate. Although, issues such as defamation, roorback, dissemination of satire are been criminalized in Iranian criminal law but method rehabilitate people and way of calculating their spiritual losses is not clear in the law and the judicial procedure of Iran.

Modification general policies in the field of cultural, political, economic, social and transformation in order to adapt to the needs of the society with regard to social realities so that the provisions of criminal and criminalization and punishment to be used as the last resort only at necessary. It should be reviewed so far in this field in order to develop and cases of crime, criminal population and as a result of inflation and to predict the alternative and appropriate solutions.

Values and norms acceptable to society should grow up and respect for civil rights and individual freedoms to be institutionalized in the country and it is considered so valuable and important which desecration, insult, defamation of reputation and disgrace and discredit of individuals is not simply possible. Plaintiffs professional and they know that this action will follow the severe sanction and on this basis, the human dignity of people in society is valued and respected.

Pay more attention to religious teachings because incidence of such phenomena is represents weakness of religious beliefs and religious teachings and to promote the belief of the people it is necessary to be supported the poor and in division of resources and privileges be adhered equality, fairness and social justice and set up a system of meritocracy.

As justice system should be pay attention to the defendant's character also should be paid attention to the plaintiff character. To material incentives and his mental determine of complaint. If the referral office man before the referral discussion a few minutes with the plaintiff about the complaint and the reasons. A substantial number of these cases will not have an opportunity to plan and causing further problems.

REFERENCES

- Abrand-Abadi, A.H.N. and H.H. Beygi, 1998. The Encyclopedia of Criminology. 1st Edn., Shahid Beheshti University, Tehran, Iran.
- Abrand-Abadi, A.H.N., 2001. Criminology pleadings. M.A. Thesis, Shahid Beheshti University, Tehran, Iran.
- Abrand-Abadi, A.H.N., 2011. Pleadings of criminal policy. Shahid Beheshti University, Tehran, Iran.
- Ardebili, A., 2006. General Criminal Law. 8th Edn., Vol. I, Ferdousi Publication, Tehran, Iran.
- Bailey, D., S. Marshall, R. Johnston, S. Lloyd and P. Demos *et al.*, 2004. Guidelines for prosecution of domestic violence cases: A report of the domestic violence prosecution committee. Alabama Coalition against Domestic Violence, Montgomery, AL., USA.
- Farokhi, H.R., 2009. Professional plaintiffs. Journal of Law and Jurisprudence, No. 5, Tehran, Iran.
- Jafari-Langroudi, M., 2000. Expanded the Law Terminology. 1st Edn., Vol. III, Treasure of Knowledge Library, Tehran, Iran.
- Key Nia, M., 2003. Principles of Criminology. 6th Edn., Vol. I, Tehran University Press, Tehran, Iran.
- Kippenberg, J., 2005. Seeking justice: The prosecution of sexual violence in the Congo war. Human Rights Watch, Vol. 17, No. 1(A), March 2005.
- Riahi, O., 2013. Rehabilitation and Comparative Study of the Laws of Some Countries. 1st Edn., Jungle Publication, Tehran, Iran.
- Talachian, E., 2010. Rehabilitation of the Criminal Law and Comparative Study of French Criminal Law. 1st Edn., Jungle Publication, Tehran, Iran.