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## Manipulation, not advocacy

**H**igh-profile cases in India, particularly those in which the rich and the powerful are accused, have been plagued with the problem of prosecution witnesses turning suddenly hostile. But the BMW hit-and-run case — in which the grandson of a former Indian Naval chief and son of a wealthy arms dealer is alleged to have killed six people in 1999 after driving his car through a police checkpoint — is the most shocking example of how justice is subverted by 'persuading' witnesses to turn hostile. In this case, a sting operation conducted by a television channel showed the defence lawyer and the prosecution counsel colluding to bribe the sole surviving witness to change his testimony. The Delhi High Court's conviction of senior advocates R.K. Anand and I.U. Khan for obstructing the administration of justice is the result of the shocking expose, which revealed that senior lawyers on opposing sides are not beyond cosyng up and collaborating to manipulate the course of justice. Surprisingly, given the gravity of the charges, the two lawyers, who were fined Rs.2,000 each, have got off extremely lightly in the contempt case. Courts have imposed stiffer penalties, including imprisonment, for lesser offences in such cases — for example on journalists and writers for what they have written. It is difficult to say how much more lenient the High Court would have been had they apologised, either conditionally or unconditionally.

The ruling has recommended that the two be barred from appearing in courts for the next four months. This is for the Bar Council of India to implement. The decision of the BCI — which is empowered to bar or cancel the licence of lawyers and which has done nothing following the expose — will be watched closely. It would be a shame if this body, which has the jurisdiction to punish lawyers guilty of misconduct, fails to take stringent action. Public confidence in the criminal justice system has been seriously undermined by cases such as the BMW episode, and the BCI must keep this in mind while arriving at its decision. At a different level, the High Court's ruling draws attention to the need for a comprehensive and effective scheme to prevent witnesses from turning hostile. The Jessica Lal and Best Bakery cases were but two high-profile cases that called attention to the urgent need for such a programme. At the same time, there is a parallel need to strengthen the perjury laws to prevent witnesses from being won over through financial and other inducements. At the end of the day, the successful working of any criminal justice system depends on the existence of individuals who can furnish information without either being intimidated or bought.