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Violence Against Men in India

Athul Soman Thekkedath

ABSTRACT

The primary focus of this paper is to highlight the various kinds of violence or harassment that men face and false rape allegations against them. The pre-conceived notion of gender roles that exist. The paper states that domestic violence is not only a women's plague and suggests that the term "Spousal Violence" is more appropriate than "Domestic Violence" as men to fall prey to the violence of his wife or his in-laws. The effect of spousal violence pushes the husband to certain habits like smoking, drinking, and causes suicidal tendencies in their minds. The various constituents of sexual harassment and the scenarios where men can fall prey to perpetrators are mentioned. Sodomy being the only law that can be litigated against any man who makes wrongful sexual advancements towards another man is briefly compared with the stringent laws that protect the women. The paper also specifies certain reasons why men hesitate to report sexual harassment or violence they face. The paper also points out the abuse of stringent rape laws after the 2013 amendment in the Criminal Law and how women use it to settle their scores. The aftermath of the false rape allegations, how the allegations of rape affect their reputation and mental health. The role of media and society played in the life of an acquitted accused of the false rape allegation and the aftermath of the allegations is dealt with in this paper. The paper concludes with certain suggestions from my behalf that can also be considered so that justice can be served to everyone irrespective of gender.

KEYWORDS: - Allegation, Domestic Violence, Perpetrators, Sodomy, Litigated, Amendment, Acquitted.

INTRODUCTION

A few decades ago, the role of men globally was deemed as a protector, leader, teacher, and a provider. The parts played by men and women were pre-designed. Women were expected to play the role of mother and wife, taking care of the family, and men are expected to meet the necessities of the family. As years have passed the line that demarcated the role of men and women has eventually become obscure. Women have become ambitious and are competing fiercely with men in their world to establish their right to equality. The age of notion of men has minuscule as women today are conquering the territories of men. Today women have marked their identities in domains that were considered to be men's only.

Despite all the achievements and struggles of women to be successful in the fields that have male competitors, are there competitions to commit offenses? As stated before, women have proved that no zone or domain is only for men, and does that mean there is a hardcore competition to commit offenses which we were once convinced that such offenses can solely be committed by the male to female. The underlying offenses can also be regarded as against men but unfortunately, our society puts a blindfold on their eyes.

1. Domestic Violence
2. Sexual Harassment
3. Rape and false allegations of rape.

DOMESTIC VIOLENCE OR SPOUSAL VIOLENCE

As we hear domestic violence, most of us presume that it is done by a man to a woman. The term itself covers a wide range of violence committed by a member of a family or household against another. The major characteristic feature which separates a sexual assault and a domestic violence is the relationship between the victim and the offender. The following are the reasons to why domestic violence against men are not reported:

- As the gender role that has been prevalent since the time immemorial in our society, that a man's position is higher than a woman's position, it has in fact caused many domestic violence against men unreported.
- Another factor is the fear among men of being arrested for reporting domestic violence because the patriarchal misconception of men always being the abuser and are strong enough

to protect themselves still persist in the minds of our society due to which people find it hard to conceive that fact.

- Feeling shameful is indeed another factor that prevents a man from reporting domestic violence because in a patriarchal or male dominated society it is quite resentful to be beaten by one's wife.
- The belief and hope that issues would be settled in a relationship.
- Losing respect, protection, children, family and the fear of being blamed are considered to be the reasons for not reporting the issue of domestic violence.

The wives tend to misuse The Protection of Women from Domestic Violence Act, 2005¹ to settle the score and also as a means to escape from the relationship with her husband or die any other motives. As per the National Family Health Survey, 2004 it has been reported that of the male relatives of the wife assault the husband for any nefarious reasons. The WHO has stated that there can be increase in smoking, alcoholism, mental illness, chronic diseases, suicidal tendency, social problems such as crime when one is exposed to violence². It is also observed that more suicides are caused among married men than unmarried or separated men³. Even adultery is considered as a man's crime and unfortunately there are no laws for a man to charge a complaint against his wife or her relatives. In child custody, maintenance and divorce laws a women is always taken as victim and considered sympathetically.

SEXUAL HARASSMENT

The definition of sexual harassment is built upon various societal factors such as religion, experience and education. The major elements that constitute sexual harassment are:

- Sexual harassment at workplace.

¹ This Act is a civil law that provides protection to women in household and also from her husband and her in-laws.

² "Violence Prevention" (*World Health Organization*) June 24, 2019)

<https://www.who.int/violence_injury_prevention/violence/en/> accessed July 23, 2020

Around 4,70,000 homicides occur every year and people suffer from violence related injuries. Though violence can be prevented by following 4 steps such as 1) defining the problem, 2) identifying the cause, 3) designing the interventions, 4) increasing the scale of effectiveness.

³ "DOMESTIC VIOLENCE AGAINST MEN" - WordPress.com"

<<https://ipc498a.files.wordpress.com/2007/10/domestic-violence-against-men.pdf>> accessed July 23, 2020

- Asking personal questions of sexual nature.
- Using vulgar or offensive language.
- Unwelcomed sexual advances

For the past few years, sexual harassment has been delineated as a patriarchic act of violence against women in order to sustain the male chauvinism. Sexual harassment cannot be solely regarded as a patriarchal crime. Sexual harassment or sexual violence need not always be a women's plague, it can happen to any person irrespective of age, sexuality and even gender identity. It is the problem with our perspective, as we focus harassment and rape cases of women as a result women victims are more favored in legislation. The victims and offenders or perpetrators of sexual harassment do not have any fixed gender. To be precise, it is not necessary that only a male can be a perpetrator and victim is always a female.

The very thought of a woman sexually harassing a man is inconceivable in our society. Men also fall prey or become silent victims to verbal, physical, emotional, psychological and sexual abuses. The perpetrators use physical, emotional coercions, psychological tactics against victims of sexual harassment, for example at workplace, the female bosses shout and humiliate the male workers or colleagues. This does not only harm the victim's body but attack him mentally and thus destroying his very soul. Men in order to get any reward or to avoid any punishments, they are forced to be involved in any sexual activities.

According to Indian laws, only sodomy which can be litigated using section 377⁴ of the Indian Penal Code recognizes wrongful sexual advancements on a man as an offence. Sexual harassment can also amount to rape. The sexual harassment against women was recognized after the incident of Bhanwari Devi⁵. So, is it necessary that similar situation should happen to a man for the Indian legislation to consider and realize that men can also fall victims to sexual harassment.

RAPE AND FALSE ALLEGATIONS OF RAPE

According to Justice Krishna Iyer⁶ “ A murderer kills the body but a rapist kills the soul.

⁴ Unnatural offences.—Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with 1 [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Explanation.—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

⁵ *Smt. Bhanwari Devi vs The State Of Rajasthan*(1996) 2 WLN 387

⁶ Justice Vaidyanathapuram Rama Iyer Krishna was n activist lawyer who became a pioneer of judicial activism in India.

The ideology that “men can be raped” has found a peculiar and unsound position in the Indian Legal system. Section 375⁷ defines it as an offence done by a man to a woman. It is unfortunate that by legal definitions provided in the IPC, rape cannot be committed against men.

Lord Chief Justice Matthew Hale ⁸ had quoted that “ Rape is an accusation easy to be made and hard to be proved and harder to be defended by the party accused, tho never so innocent.”

It has been illustrated in the book ‘Against our will: Men, Women and Rape⁹’ by Susan Brownmiller that men even during the scriptural times, have dreaded of false rape accusations. The attitude of the society on ‘women and rape’ has provided an ample reasons to lie about sexual assaults and rape to mask the unchastity of such women. Unfortunately a man’s accusation against a woman, if in response to the woman’s accusation or not, can be difficult to prove. However, in the case of *Girdhar Gopal v. State*¹⁰ it has brought a wide angle interpretation of section 354 IPC¹¹, the offence can be committed by any man or a woman who has the necessary knowledge or the intent to do so. It means that not only a man but also a woman can outrage the modesty of another woman by using criminal forces or

⁷ Rape.—A man is said to commit “rape” who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the six following descriptions:—

- 1) Against her will.
- 2) Without her consent
- 3) With her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt.
- 4) With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.
- 5) With her consent, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.
- 6) With or without her consent, when she is under fourteen years of age. Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

(Exception) —Sexual intercourse by a man with his own wife, the wife not being under thirteen years of age, is not rape.]

⁸ Lord Chief Justice Matthew Hale was a barrister, judge and jurist of the 17th century
He became the chief justice of the King's bench in 1671.

⁹ Susan Brownmiller depicts the story of an Egyptian whose wife cried rape and imprisoned Joseph, an Israelite slave, who fled away from the wife who sought sexual favors from Joseph.

¹⁰ *Girdhar Gopal v. State*(1953) CriLJ 964; In the arguments of Mr. Gupta he states that while enacting the section 354 IPC, it is deemed that the legislature discriminates and supports women and in turn contravenes Article 14 and stands against Article 15(1) of the Indian Constitution.

¹¹ Assault or criminal force to woman with intent to outrage her modesty.—Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

can assault with necessary intention or knowledge. Mr. Gupta in this case has also brought forth a notable argument. He argued that the Indian Penal Code, 1860 has not focused on making a law that recognizes the act of assault or using criminal force to any “man” with intent to “outrage his modesty.”

In 2013, the Ministry of Women and Child Development enacted the sexual harassment of women at workplace (Prevention, Prohibition, and Redressal) Act, 2013 (“ POSH act”). In the same year, the criminal law(Amendment) Act, 2013 has proclaimed in criminalizing sexual harassment, stalking and voyeurism. With this amendment in the criminal law, it has created a broad ambit, so that even a statement of allegation from the victim of rape can throw the person in prison and her statement is considered to be an unquestionable truth or gospel truth. Due to which numerous number of rape cases have arisen throughout the country. In fact, it is not wrong to amend the laws and make it stricter to protect women. But they should not be used as a tool to settle the scores or missed for any self satisfaction or for any other nefarious motives.

After the adoption of the stringent laws by the parliament to prevent any kind of sexual harassment against men, the Delhi Commission of Women(DCW) has exposed a report which says out of 2,753 complaints of rape charges between April 2013 and July 2014, 1,287 cases were bona fide and the rest 1,464 cases were mala fide. The report further revealed a 22% jump from 46% to 78% of acquittal rate and the number of fake rape cases from 680 to 1,559 from the year 2012 to 2013. A statistics of rape cases brought to trail in Delhi, 2013 by Rukmini Shrinivasan, The Hindu reveals that just 12 of 460 rape cases that had gone through full trial in Delhi District Court were stranger rape¹² and more than half were consensual sex that are criminalized by their parents, they have used the laws to end the relationship.

With the rise of the “#metoo” movement under the limelight of amended criminal law that protect women from any sexual harassments has transformed consensual sex to fabricated allegations. Therefore, it has created a greater advantage to settle their score and the laws are misused as tools of vindictive measures.

Normally, when a man is alleged to have raped a woman and a complaint against him is registered. Our system as well as our society cares a very little about the evidence that can acquit him and cares a

¹² It means that a woman being a victim of rape by a random perpetrator or offender. There is no sort of relation between the victim and offender.

lot on branding him as a rapist. With the recommendations of the Justice Verma Committee¹³ the crimes were made Gender-Neutral in Criminal Law (Amendment) Ordinance. However, the ordinance were reversed with Criminal Law (Amendment) Act in the year 2013.

Despite the government's hardcore efforts to prevent any sort of violence towards women by:
widening the definition of rape,

Introducing special fast tract courts.

So, that justice can be served to the victimized women and to overcome the sexual violence after the infamous 2012 gang-rape in Delhi¹⁴

CONCLUSION AND SUGGESTIONS TO PREVENT VIOLENCE AGAINST MEN

Article 14¹⁵ of the Indian Constitution states about the "Right to Equality" where everyone is treated the same irrespective of any inequalities. Therefore, it is of utmost importance to grant equal justice to men also. It is unfortunate to realize that India has no legal framework to protect a man from any sexual harassment committed by a woman.

"Legal Terrorism" that has been used by women or her relatives in the form of abuse of every laws to prevent violence and consider women as victims must be stopped.

There shall be necessary amendments to prohibit any violence against men. Domestic violence should be taken as "Spousal violence" and therefore, it should not be further differentiated on the basis of gender. I suggest that there shall be a law which addresses any false allegations of dowry or violence.

It is shocking but a true fact that there is no exact statistics of how many men are sexually assaulted or harassed and also how many have filed cases against it. Men who face harassment or violence of any kind must report them and shall not be discouraged by any factor that obstacles them. As the government can only be satisfied after viewing the data to base their arguments for taking necessary actions in favor of men.

¹³ This committee was constituted to recommend amendments in the criminal law. This committee replaced sexual assault for rape, provided quicker trial and made the punishments grievous.

¹⁴ *Mukesh & Anr vs State For Nct Of Delhi & Ors*(2017) 6 SCC 1

¹⁵ Equality before law The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

Times have changed, certain pre-conceived notions regarding gender roles have changed and hence, it is also true that the norms regarding gender violence have also changed. Men who are facing physical and mental harassment by their wives or her relatives must be recognized as socio-legal and public health issue.

It is of paramount importance to understand as well as to acknowledge that sexual harassment is all about power that is being imposed on another. There is no room for gender roles in sexual harassment. The need of the hour is to insert sections under the Indian Penal Code to protect men from harassment, other than sodomy(S. 377 IPC). It is quite convincing that Sexual Harassment at Workplace Act considers men as victim and women as offender.

The judiciary and the legislature must see to it that the sexual harassment laws are not misused due to which men are falsely alleged under dowry harassment¹⁶, domestic violence and sexual harassment at workplace

This paper does not intend to state that Indian Laws that prohibit sexual harassment are ad hoc to women. There are POCSO(Amendment) Act, 2019¹⁷ and UGC Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013¹⁸. If at all these laws are Gender-Neutral, it is obscure and perplex to why the law does not recognize women as an offender and man as a victim.

It is pragmatic and of utmost importance that the legislature shall make sexual harassment and rape laws gender-neutral crime in India. The gender-neutral laws are embraced and complied in about many countries like U.K., U.S.A, Australia, Denmark and many other countries. It is necessary that the government of India focuses more on sexual harassment of men than other crimes. So, any victim irrespective of the gender can be assured equal access to justice in India.

It is immaterial to question which gender should be considered first, as harassment itself is against humanity and whoever be the perpetrator shall be punished. In order to provide 'equal access to equal justice' it is must to invoke gender-neutral laws.

It is important that our society should accept the facts that 'men can be raped' and 'women can also rape'. The society, media and government are keenly interested to hear about the sexual harassment

¹⁶ 498A of IPC states if the Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

¹⁷ This Act Is intended to protect children from any sexual offenses and has established a special court for trial. In the recent amendment the minimum punishment is 20 years and maximum punishment is death penalty for aggravated penetrative sexual assault.

¹⁸ This Act ensures protection of employees and students from any sexual harassment.

of females and therefore give no room to males who have faced sexual harassment. I also suggest to define rape as non-consensual penetrative orifice interactions rather than non-consensual penile-vaginal interactions.

In my opinion the acquitted accused of false rape cases shall be considered seriously and be compensated. As rape is the most hated crime in India and thereby acquittals will also be hated and disgraced. Though, money cannot compensate the ruined reputation, but it can indeed help them to start afresh. Therefore, the courts shall be empowered to compensate them by amending section 357 of CrPC¹⁹ or include another section into the CrPC. At least, considering the poor victims who are financially backward and suffered loss due to the false accusations. The compensation shall act as a financial rehabilitation.

The primary reason for the surge in false sexual harassment allegations and the rampant misuse of sexual harassment laws is that, so far no court has taken initiatives in perjury proceedings against the

¹⁹ Order to pay compensation.

(1) When a Court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied-

(a) in defraying the expenses properly incurred in the prosecution;

(b) in the payment to any person of compensation for any loss or injury caused by the offence, when compensation is, in the opinion of the Court, recoverable by such person in a Civil Court;

(c) when any person is convicted of any offence for having caused the death of another person or of having abetted the commission of such an offence, in paying compensation to the persons who are, under the Fatal Accidents Act, 1855 (13 of 1855), entitled to recover damages from the person sentenced for the loss resulting to them from such death;

(d) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating any bona fide purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto.

(2) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

(3) When a Court imposes a sentence, of which fine does not form a part, the Court may, when passing judgment, order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced.

(4) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

(5) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under this section.

complaint who have misused sexual harassment laws and falsely charged cases. . The person, particularly a woman, who falsely allege a man of rape should be first proved or investigated if the women has a proclivity to lie that she was raped. This proof shall solely be enough to impeach the woman and her allegations of rape.

The person, irrespective of the gender who falsely allege the innocent of rape must be prosecuted for fabrication of the case and the evidence. Therefore, I suggest that a separate body shall be initiated to curb out the perjury and to analyze the genuineness of the case before further trail takes place. By doing so, the media and the society can realize who actually is guilty.

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