

NAME : V. LALITHA

COLLEGE NAME : VELS UNIVERSITY, CHENNAI

YEAR OF STUDY : 3rd YEAR

COURSE : B.A.L.L.B (HONS)

E-MAIL ID : lalithavelmurugan9@gmail.com



CRIME AGAINST WOMEN

LeGal ZeMs

A Step Towards your Success

ABSTRACT

From the birth till her death, a women faces some kind of violence knowingly or unknowingly. Although women are victims of all kinds of crime, like cheating, murder, robbery, etc. yet the crimes in which a women was specifically dealt is known as the “crime against women”. Rape, torture, molestation, physical abuse, domestic violence, kidnapping, etc has a direct effect on the mental and physical state of the women. They are affected directly or indirectly by these violence against them from the ancient times till now. According to the national crime records bureau, crime against women was increased by 7.3% from 2018 to 2019. A total number of cases 4,05,861 were recorded in the crime against women in India 2019. ¹Assam reported the highest number of cases in crime against women; while Rajasthan for the highest rate of crime against scheduled caste and Uttar Pradesh has the highest crime rate against women and scheduled caste.² Even though we have rights to protect it, people in rural areas doesn't have any knowledge about their own rights. So they face violence silently and their voice are totally suppressed. Violence against women are also known as gender based violence, and sexual and gender based violence. Violence against women is not only a women's right issue it is human rights issue. When the women faces violence, they live in fear of pain, depression and they to blame themselves and lack of self-esteem.

INTRODUCTION

At least 177 out of every 1 lakh women have been victims of a criminal act. According to the NCRB report. In 2019, 4 women were raped every hour in India³. In the present days, women faces many crimes like rape, sexual harassment, domestic violence, etc. in the ancient times, women were considered as goddess and people worship them and they have given more freedom to educate, choose their life partner, have huge respect. As the time passes, they were considered as slaves, not allowed to educate. They were described only as child bearing machines, in the modern era , women were given more freedom like men to educate. Women growth in India has massively increases. Women now works in every field like scientist, doctor, lawyers, politicians, chief minister, etc. they were now equal to men,(women was considered lower to men). Equal to the positive changes, there are many crimes which

¹<https://indianexpress.com/article/india/ncrb-data-7-rise-in-crimes-against-women>

²<https://www.thehindu.com/news/national/other-states/uttar-pradesh-tops-in-crimes-against-women>

³<https://www.indiatoday.in/diu/story/no-country-for-women-india-reported-88-rape-cases-every-day>

started to arise against women everywhere. In today world, you have seen a women facing sexual harassment in workplace, in bus where women faces a kind of sexual abuse. Even a girl child cant walk alone in the road. One of the brutal crime that occurred in India is a 4 month girl baby was raped and killed in luck now. This itself clearly proves the present scenario in India. In a democratic country like India, women are given more freedom and equal status but they face many problems everywhere. Especially in a patriarchal society, men were allowed to take important decision. Women's voice was totally suppressed. In medieval era, a brutal crime that took place was sati, sati is where a women falls in the burning fire of his husband. Now it is a serious offence before it is practiced as a custom. Violence against dowry death. Many people faces harassment and domestic violence by their mother-in-law, husband, husband's relatives. In the period of 2005, the most emerging crime in India was acid attack. Where many women suicide and doesn't want to live after that incident. According to the needs of the society, government makes a new amendment in Indian penal code where they mentioned serious and severe punishment for acid attack cases. From the ancient times many crimes have continued even today in remote areas of India. They practice female infanticide. Thereby killing the female child in birth. In this modern world, knowing the gender of the child is most serious offence. Another evil and heinous crime is the girl child doesn't even know about the word marriage. But they were forced by their parents to marry at such a small age. Rape is a forceful sexual intercourse or without the women's consent having a sexual intercourse. Most women were fallen trap in the cyber crimes today. Women are the primary victims in all cyber related crimes.

The united nations defined "violence against women" as "any act of gender based violence that results, in physical, sexual or psychological harm or suffering to women, including threats such as acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life".⁴

CRIME AGAINST WOMEN

Crime against women means it " directly specifies against woman and women are the only victims". It is direct or indirect physical or mental cruelty to women. Domestic violence involves different means like kicking, biting, throwing objects, restraining. It also includes threats, sexual abuse, harassment, emotional abuse, stalking, economic deprivation, rape, abduction, kidnapping, dowry death, etc. cyber crimes like cyber stalking, cyber harassment,

⁴ https://Refinput/New_Reference_Notes/English/Crimeagainstwomen.pdf

spoofing, profile hacking, email hacking, pornography include internal voyeurism, cyber defamation, cyber bullying, email harassment, cyber black mailing, threatening, emotional cheating by impersonation, intimate partner violence through internet and abetment of such officers. Morphing meaning changing an image or video to another by using computer animation techniques. Due to available of downloadable morphing software's. Cyber stalking involves watching and following the girls movement in social media where she often visits like discussion groups, chat groups etc. and sending her abusive words. Offenders upload videos of the girls intimate photos and videos taken with hidden cameras, without her consent.

The word rape is derived from the Latin word "Rapere" is to seize or take by force. Rape can be defined as a forcible sexual intercourse without the consent of women. There are different types of rapes like

- a. Acquaintance rape – there is a link or connection between the victim and the assaulter
- b. Statutory rape – sexual intercourse with a minor below the age of 18 years
- c. Stranger rape – where the victim is strange to the assaulter
- d. Spousal or marital rape – sexual intercourse is against the will of the spouse.
- e. Gang rape – where a group of assaulters rape the victim.

DIFFERENCE BETWEEN SEXUAL ASSAULT, SEXUAL HARRASSMENT, RAPE

A. RAPE –

Compelling the victim into a penetrative sexual act/sexual intercourse in multiple ways.

B. SEXUAL ASSAULT –

Any criminal act which involves a sexual nature like touching, forcing, kissing, the victim in sexual ways. It can be even said as attempted rape.

C. SEXUAL HARRASSMENT –

Request for sexual favours in any forms like verbal or physical nature of harassment. It is more common in workplace.

RAPE

Rape is one of the most serious and heinous crime a person can commit. Modes of committing rape

- a. Without her consent and will
- b. Threatening her to kill her or someone she really cares
- c. Believing that she was lawfully married to him
- d. Obtaining her consent when she is intoxicated, unsoundness of mind, where she could not able to take decision.
- e. With or without consent when she is from 14 years old.

Exception

- a. Medical treatment or intervention
- b. Sexual intercourse done to his wife even without her consent is not a rape

Certain criteria's

1. Above 18 + consent = no rape
2. Above 18+ no consent = rape
3. Below 18 + with or without consent = rape
4. Above 15 + girl being wife + with or without consent = No rape
5. Below 15 + girl being wife + with or without consent = rape

CASE LAWS

a. TULSI KANOLKAR VS STATE OF GOA⁵

The victim is mentally impaired. The accused took advantage of that and she become pregnant. The accused pleaded that she gave consent. But the court held that mentally challenged persons consent cannot be taken as valid consent. So punishment was given for 10 years and rs.10,000 fine/

b. DILEEP SINGH VS STATE OF BIHAR⁶

In this case, victim and accused was neighbours, they both fall in love, the accused made a promise that he will marry her and he got consent , raped and got pregnant.

The man held liable under 375 of ipc as they obtained consent by fraud.

⁵<https://indiankanoon.org/doc/741918/>

⁶<https://indiankanoon.org/doc/39436919/>

Governing laws –

1. Indian penal code

| Section | Punishment | Cognizance | Bail | Triable by |
|---------------------------------|--|------------|----------------|------------------|
| 376 – punishment for rape | Not less than 10 years and life imprisonment and fine | Cognizance | Non - bailable | Court of session |

CHAIRMAN, RAILWAY BOARD AND VS MRS CHANDIRMA DAS AND ORS 28TH JANUARY 2000⁷

Mr.Chandrima Das an practicing advocate on Calcutta high court instituted a write under art 226 on Indian constitution Smt Hanuفا a Bangladesh national who was a gang-raped by employees of railways in the room at Vatri Niwas at Howrah station of eastern Railway. The issue here is whether an Bangladesh national women can file a write under art: 226 of Indian constitution whether it comes under public domain cannot. The union of India is vigorously liable for the crime committed by the employees of the railway. It was argued by the accused that there is a relief under public law as she was a foreign national. Fundamental rights can be implemented only for the citizens of India. The court gave judgment that it comes under the public domain and the officials and voi are liable under Act:226 of Indian constitution. They were held liable and the amount of compensation has been given by high commissioner of Bangladesh in India.

GANG RAPE

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Gang rape is rape committed by more than one person on a women without her consent. A gang which has a common intention to commit an offence of rape and penalized in eyes of law

Governing laws

1. Indian penal code

| Section | Punishment | Cognizance | Bail | Triable by |
|---------|--------------------------|------------|--------------|----------------------|
| 376-D | Rigorous imprisonment | cognizable | Non bailable | Courts of session |

⁷<https://indiankanoon.org/doc/113663/>

| | | | | |
|--|--|--|--|--|
| | not less than 20 years and life imprisonment | | | |
|--|--|--|--|--|

Case Laws –

a. SHAKTI MILLS RAPE CASE ⁸

STATE OF MAHARASHTRA VS. VIJAY MOHAN JADHAV AND OTHERS

A 22 year old girl a photo journalist was brutally gang raped by 5 members (one of them were minor) while he was taking photos in the worn out mills called Shakti mills.

The court awarded first time capital punishment by applying the principle of “rarest rare case”. The minor was convicted under juvenile justice for the period of 3 years.

b. STATE VS. RAM SINGH AND OTHERS (NIRBHAYA RAPE CASE)⁹

A 23 year old female was brutally gang raped by six men (one of them was minor) she was brutally raped, with an extent that the accused inserted iron rod inside genitals and pulled her intestine out. She along with her male friend was thrown out from the bus. The court awarded death penalty to 5 adults and 1 committed suicide in the jail / rest were hanged up to death.

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CUSTODIAL RAPE

The custody in the legal sense means state of being imprisoned, detained, pending in trial. Custodial rape is the person who has take of women commits a rape, insulting the modesty of women etc. it is most serious crimes and they violate the duty to protect her

Governing laws

1. Indian penal code
- 2.

| Section | Punishment | Cognizance | Bail | Triable by |
|---------|------------|------------|------|------------|
|---------|------------|------------|------|------------|

⁸<https://blog.ipleaders.in/shakti-mills-rape-case/>

⁹<https://indiankanon.org/doc/175704516/>

| | | | | |
|--|---|------------|--------------|--------------------|
| 376- punishment for rape | Any police officer commits rape – rigorous imprisonment not less than 10 years to life imprisonment | Cognizable | Non bailable | Courts of session |
| 376C – sexual intercourse by person in authority | Rigorous imprisonment for not less than 5 years to 10 years and fine | Cognizable | Non bailable | Courts of session. |

Case laws

a. MATHURA CASE¹⁰

Mathura was a young orphan girl lives with her only brother Gama. It was alleged that in the police station she was being raped. The medical report says that her hymen revealed old ruptures but no bodily injury. The police said that they have made false allegations against them. So the court acquitted the police constables.

b. MAYA TYAGI MEERUT, VS ITO BARAUT¹¹

The victim was going to blandisher district in Uttar Pradesh with her husband and 2 friends. When the car was break down near the police station. The police molested her. Seeing that her husband slapped. The police came and attacked the victim, tortured and false accusations were charged on her.

As there is no penetration, all the police officials were acquitted from false allegations.

ACID ATTACK

Acid is any substance which is a corrosive nature. For their house hold works, people in urban areas use acid to clean their house. But what will happen if they were thrown in a human face?. The face gets burned, damaging the skin tissue , muscles and may even dissolve the bones. This is an acid attack. Compared to men, women are mostly affected by this acid

¹⁰<https://indiankanoon.org/doc/1092711/>

¹¹<https://indiankanoon.org/doc/116935954/>

attack. Before 2013, amendment there is no separate provisions for acid attacks. It falls under the category of grievous hurt. After increasing cases and need of new laws a separate provision in IPC is made. This is added in the criminal amendment act, 2013. In 2020, it was reported that almost 1500 acid attacks in 5 years. West Bengal has the highest number of acid attack cases.

Governing laws

a. Indian penal code –

| Section | Punishment | cognizance | Bail | Triable by |
|---|--|------------|--------------|--------------------|
| 326-A Voluntarily causing grievous hurt by use of acid, etc. | Not less than 10 years to life imprisonment and fine | Cognizable | Non bailable | Courts of session |
| 326-B Voluntarily throwing or attempting to throw acid | Not less than 5 years and extend to 7 years and fine | cognizable | Non bailable | Courts of session. |

b. Section 375 of CRPC -

1. Provide compensation and require rehabilitation by central government.
2. District or state legal services authority may calculate the amount of compensation.
3. If the court feel the compensation is unsatisfactory; then they may recommend for necessary compensation.
4. State or district legal authority must try to make a medical treatment at free of cost.

CASE LAWS –

a. PARIVARTAN KENDRA VS UNION OF INDIA –¹²

A 18 year old Dalit girl, was initially sexually harassed. When she was sleeping with her sister, four people threw acid at her. Both of them got affected. There is no sufficient amount of money to give treatment. An NGO helped them and provided minimum of 3 lakh. And NGO filed a case under article 32 of Indian constitution. This case highlighted the government should provide 3 lakh as minimum compensation and both public/private hospitals should provide treatment at free of cost for acid attacks. Both the sisters got Rs.10 lakh of compensation

b. LAXMI VS UNION OF INDIA ¹³

Laxmi, an acid attack survivor, filed a PIL regarding to the acid attack. Meetings were held in the presence of secretary of ministry of home affairs regarding the acid attack cases in India. It imposed guidelines namely

- a. An amendment of section – 357 A in CRPC is inserted and also prepared a scheme for providing funds/compensation for acid attack survivors and rehabilitation.
- b. News sections – section -326A, 326B of IPC was inserted which provides punishment for the accused.
- c. Supreme court mandates Rs.3 lakh compensation to all acid attack survivors.
- d. section – 357 of CRPC amendment, were public or private hospitals should provide treatment with food etc at free of cost. If not legal action can be taken.

STALKING

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Stalking refers to following or contacts or attempts to contact any women or make any personal interaction against her will. It includes watching women in internet, any mode of e-communication. Now-a-days cyber stalking is more common. Different modes of stalking include following the girl, threatening of having sexual assault, making communication forcefully, sending sexually explicated photos, sending presents or gifts, etc. Report says that Maharashtra is said to have high number of cyber stalking cases. It also stated that “One stalking case every 55 minutes”. Compared to physical stalking, cyber stalking is more.

Governing law

¹²<https://indiankanoon.org/doc/16029001/>

¹³<https://indiankanoon.org/doc/90443079/>

1. Indian penal code –

| Section | Punishment | cognizance | Bail | Triable by |
|---------|--|------------|--------------|----------------|
| 354-D | a. First conviction- 3 years, fine and both | cognizable | Bailable | Any magistrate |
| | b. Subsequent conviction- 5 years, fine and both | cognizable | Non-bailable | Any magistrate |

Exceptions-

- a. When a man is stalking a woman for preventing or detecting a crime with an entrusted responsibility given by the state.
- b. Any requirement imposed by any person by the law
- c. Circumstances where it could be justified and reasonable.

CASE LAWS-

a. PRIYA MATOO CASE-¹⁴

A young lawyer faced a problem of stalking by the son of former IPS officer (Santosh). She filed an FIR against him. When she was alone at home, she was raped and murdered by Santosh. The Supreme court gave judgment of death sentence, later changed to life imprisonment.

b. RITU KOHLI CASE ¹⁵–

This is the first case on cyber stalking. Manish was stalking by a person named ritukohli in an illegal website called RituKolhi. He started to illegally chat using obscene language, obscene calls from different chatters, etc. she reported to Delhi police. The court introduced a new principle on IT act, 2008

Sec – 66A of IT act, 2008

- a. Any information that is grossly offensive or menacing character.

¹⁴<https://blog.ipleaders.in/need-know-priyadarshini-mattoo-case/>

¹⁵<https://indiankanoon.org/doc/181354972/>

- b. Any email or message for the purpose of causing annoyance or inconvenience or deceive or mislead the addressee.
- c. Any information which he knows to be false, for the purpose of causing damages, obstruction, insult, etc.

Then the court gave a punishment for 3 years and fine.

VOYEURISM

Voyeurism refers where a person watches or captures the private image of women and even publishing the image. It can also be defined as spying on people who engages in sexual activity or undressing. It is introduced in the criminal amendment of 2013. The first case of digital voyeurism was reported in 2003 where a web camera is found in the changing room. It includes placing cameras or viewing holes in the trial rooms or public toilets which are public spaces where they generally expect a reasonable degree of privacy.

Governing law

- a. Indian penal code

| Section | Punishment | cognizance | Bail | Triable by |
|---------|--|------------|----------------|-----------------|
| 354 - C | a. First conviction not less than 1 year and extend to 3 years | Cognizable | bailable | Any magistrate. |
| | b. Subsequent conviction not less than 3 years and extend upto 7 years | Cognizable | Non - bailable | Any magistrate. |

CASE LAWS

a. R VS JARVIS¹⁶

Ryan Jarvis a high school teacher in London, Ontario. He used to record female students through a pen which he had fixed an hidden camera inside. Anyone who commits an offence by mechanical or electronic means by visual recording of a person which gave rise to reasonable expectation of privacy and it is done for sexual purpose. The supreme court of Canada found him guilty as they violated the reasonable expectation about privacy.

Smiriti rani case

Where the union minister found a camera in the trial room. The police came and the investigation went thereby.

DOMESTIC VIOLENCE

A drunken husband was beating his wife in the road. This kind of cruel act is known as domestic violence against women. Violence not only mean physical violence it can also be emotional torture or mental violence to the women. It can also be called as “intimate partner violence”. According to the national commission of women report during the lockdown period for just 130 days was 1,477 complainants of domestic violence were reported. Emotional violence include verbal abuse, like threatening, insulting and criticizing in front of all, and physical violence include beating, kicking, pushing, burning, etc.

a. Governing law –

1. Indian penal code –

| Section | Punishment | cognizance | Bail | Triable by |
|---------|-----------------------------------|------------|----------------|-------------------------|
| 498 -A | Imprisonment for 3 years and fine | cognizable | Non - bailable | Magistrate of any class |

¹⁶<https://www.mondaq.com/canada/privacy-protection/784670/a-new-approach-to-the-reasonable-expectation-of-privacy-r-v-jarvis-2019-scc-10>

b. Special acts –

1. Prevention of women from domestic violence act, 2005

Punishments under this act -

- a. Breach of order given by magistrate – punishment of 1 year and fine of rs. 20,000
- b. Compensation order for mental torture, injuries, emotional problems.
- c. Monetary relief for expenses incurred and losses / medical expenses/ maintenance for aggrieved person.
- d. Custodial order – to grant custody of child or children to the aggrieved person.

Case laws

a. D. VELUSWAMY VS PATCHAIMMAL

This case widened the scope of 2(a) of domestic violence act, 2005. Where the aggrieved persons include live-in-relationships who are same as that the couple who are legally married. The court issued certain guidelines

1. behave as husband and wife in front of the society
2. attained a legal age of marriage
3. lived together and shared household ie. Voluntarily cohabited for the period of time.

b. AJAY KUMAR VS LATA ALIAS SHRUTI

According to section – 2(q) of PWDVA, 2005 that an aggrieved wife or living in relationships may file an complainant against male partners or relatives of husband. Section 12(1) provides right to aggrieved person to get relief from filing an application under the magistrate of this act. And monetary relief for the incurred loss to aggrieved persons and child.

MISCARRIAGE

Miscarriage refers to “abortion of child in the foetus with or without the consent of the mother”.If the minor is pregnant, and not want to continue with pregnancy she can take help from the medical termination of pregnancy act, 1971.

When the miscarriage is crime

- a.. voluntarily causing miscarriage without any result of accident
- b. it was not done in good faith

c. without the consent of the mother

d. with the consent of mother and doctor causes miscarriage and they were held liable under section – 312 of IPC

Governing laws

a. Indian penal code

| Section | Punishment | Cognizance | Bail | Triable by |
|---|---|----------------|--------------------------------|----------------------------|
| 312 – Causing miscarriage | a. Imprisonment for 3 years and fine. b. Women be with quick child for 7 years and fine | Non-cognizable | Non – bailable Bailable | Any first class magistrate |
| 313 – causing miscarriage without womans consent | Imprisonment for life , or for 10 years and fine | cognizable | Non bailable | Any courts of session |
| 314 – death caused by act done with intent to cause miscarriage | With consent – imprisonment for 10 years and fine. Without women consent – imprisonment for life | cognizable | Non - bailable | Courts of session |

Exceptions to miscarriage

a. Medical termination of pregnancy act, 1971

Grounds which the pregnancy can be terminated

1. Due to rape
2. Threat to mental and physical health of women
3. Risk of abnormal or handicapped child

4. Women is at risk
5. Couples wan to limit the number of children.
6. Doesn't exceed the period of 12 weeks and should be done only by medical practitioner.
7. If the act is done by good faith (section 52 of IPC) it is not an offence.

Case laws -

a. DR. MANGLA DOGRA AND OTHERS VS ANIL KUMAR MALHORA

Whether the husband has to right to give consent to abortion. The court gave the judgment that “the MTP requires consent from just one person, the women undergoing MTP. A husband cannot force his wife to continue with pregnancy”

b. SAMAR GHOSH VS JAYA GHOSH

Whether a women decision to terminate pregnancy without husbands knowledge amount to mental cruelty.

The court held that if the abortion is not done in good faith and without the consent of husband it amount to mental cruelty.

SEXUAL HARRASSEMENT

Sexual harassment means any unwanted behavior is using abusive words in form of words, writing or gestures that makes women feel uncomfortable to work in their work place

Section – 2(a) aggrieved women – include any female who works either in part time or full time etc.

There are two forms of sexual harassment

a. Quid pro quo

It comes from the Latin word “ this is for that”. The employer will raise promotion, additional benefits, salary increment, etc if the women employees accepts his sexual demands. Otherwise he will threaten her to many problems like de- promotion, change in job responsibilities. Etc.

b. Hostile work environment

It means any employer shows any sexually colored remarks, gender related comments, shows gestures, porn videos, or pictures, send email, messages etc.

Governing law

a. Indian penal code

| Section | Punishment | Cognizance | Bail | Triable by |
|---------|--|------------|----------|-----------------|
| 354 -A | Nature of unwelcome physical contact and advances or demand for sexual favours, showing pornography – 3 years and fine | Cognizable | Bailable | Any magistrate. |
| | Nature of making sexually coloured remarks – 1 year and fine | Cognizable | bailable | Any magistrate |

Special acts

a. Sexual harassment at workplace act (prevention, prohibition, redressal), 2013

b. Internal complaints committee

a. Presiding officer at senior level at work place is the head

Where they have to help in

- a. Relief to aggrieved person
- b. Reduce the post or salary
- c. Transfer of women to another branch.

Case laws

a. VISHAKA AND ORS. VS STATE OF RAJASTHAN¹⁷

Bhanwari Devi, from Bhatari, Rajasthan working under the women's development project (WDP) stopped the child marriage on auspicious day. To seek vengeance attacked her husband and brutally gang raped her. The police tried to detain the complainant and the medical examination was delayed by 2 days. The accused tried to get an acquittal with sufficient evidence. The judgment gave certain guidelines with reference to international conventions as follows

- a. To prevent or deter the commission of acts of sexual harassment/ to provide procedures for resolution, prosecution of acts of sexual harassment.
- b. Sexual harassment includes
 1. Physical contact and advances
 2. Sexually colored remarks
 3. Showing pornography
 4. a demand or request for sexual favors
 5. Any other unwelcome physical, verbal or nonverbal conduct of sexual nature.
- c. to prevent sexual harassment from both public and private sector
- d. misconduct of employees by employers in the employment. They need to take disciplinary action against that person in accordance with rules.
- e. a appropriate complainant mechanism where the employees can have a redressal mechanism to address the complainants headed by women.
- f. to spread the awareness of rights of female employees.
- g. raise issues of sexual harassment at workers meeting in the appropriate forum.

DOWRY

¹⁷<https://indiankanoon.org/doc/1031794/>

Dowry is a gift like any movable or immovable property given to the bride grooms family at the time of marriage. It is the oldest custom followed by decades ago. Even though there are many stricter laws, to stop dowry practice, but still the practice of dowry is not completely eradicated.

Governing laws

1. Indian penal code

| section | punishment | cognizance | bail | Triable by |
|---------|---|------------|-------------------|--------------------|
| 304- B | Not less than 7 years and extend to life imprisonment | Cognizable | Non - bailable | Courts of session. |

Special acts

1. Dowry prohibition act

a. Section 2 defines dowry as

1. Any movable or immovable property is given By one party to another at the time of marriage
2. By parent of either party of the marriage gives dowry to another party at any time before or after the time of marriage.

b. Section 3 – ablets giving or taking of dowry

Punishment – not less than 5 years and fine of rs, 50,000

c. Section 4 – penalty for demanding dowry

Directly or indirectly demands dowry from parents, relatives etc, shall be punished with the imprisonment of not less than 6 months to 2 years.

CASE LAWS

a. VEMURI VENKATESHWARA RAO VS STATE OF ANDHRA PRADESH¹⁸

It provides guidelines under section 304(B) of IPC

- a. Demand and harassment for death
- b. Deceased must be died under unnatural circumstances
- c. There should be proof that there is a demand for dowry before the death.

b. PAMIBEN VS STATE OF GUJARAT¹⁹

It was alleged that deceased mother in law poured kerosene on deceased while she was sleeping. When she woke up, she cried. Eventhough the deceased husband reacher the hospital for treatment but could not able to save her life

The court convicted under section 304 (B) of IPC relying on the dying declaration. No proof shows that she committed suicide.

OFFENCES AGAINST GIRL CHILD

CHILD RAPE

Rape is itself is a most serious and worst crime. But what does this happens to a child. They don't even know about the society. There are three types of child rape

- a. Sexual abuse by another child or adolescent men when a child at age of 13 years violently intercourse with children without their consent of adolescence child or another child.
- b. When the child is engaged in sexual intercourse due to threat to any relative or family members.
- c. Forced sexual intercourse by threat of school teachers, religious authorities, sports trainers,etc.

In 2018, first time India introduces death penalty for child rapes.

¹⁸<https://indiankanoon.org/doc/1767687/>

¹⁹<https://indiankanoon.org/doc/1007294/>

Governing laws –

a. Indian penal code –

| section | punishment | cognizance | bail | Triable by |
|--|---|------------|----------------|-----------------------|
| 376 – punishment for rape under 16 years of age | Not less than 20 years and extend to life imprisonment | cognizable | Non - bailable | Courts of session |
| 376AB – punishment for rape on woman under 12 years of age | Not less than 20 years and to life imprisonment | cognizable | Non - bailable | Courts of session. |
| 376D.A- Punishment for gang rape under 16 years of age | Life imprisonment to capital punishment and fine | cognizable | Non bailable | Courts of session |
| 376D.B – Punishment for gang rape on woman under 12 years of age | Life imprisonment to capital punishment and fine | Cognizable | Non bailable | Courts of session |

Punishments mentioned under POSCO act –

- a. Sec 4 - penetrative sexual assault
Punishment not less than 7 years and fine
- b. Section 6 – aggravated penetrative sexual assault
Not less than 10 years to life imprisonment and fine
- c. Section 10 – non penetrative assault like touching of the private parts of the child.
Not less than 3 years and extend upto 5 years and fine

- d. Section 12 – sexual remarks, taunting, sexual favours – 3years and fine

CASE LAWS –

A..SHEELA BARSE AND OTHERS VS UNION OF INDIA

A girl below the age of 13 was illegally detained in jail. The court held that speedy trial should be made under Posco Act and it should be a fundamental right under article 21 of Indian constitution.

ROHIT VS STATE ON 17TH JULY 2020

The child victim of 12year old was sexually assaulted and raped by the nearer.

The trial gave rigorous imprisonment of 15 years u/S. 376 of IPC / and Section 6 of POSCO And fine of about Rs.10,000. The accused filed an appeal. It was argued that accused was falsely accused by the victims mother. The appeal was dismissed and it upheld the trial court judgment.

FEMALE FOETICIDE

Female foeticide is a termination of life inside the mothers womb when they found it as a girl child. Main reasons for female foeticide is culture that they were followed from past .they prefer male child than female child. And second reason is financial burden as they have to spent too much for girl child.

Primary causes

- a. Patriarchy set up for the society
 1. Gender discrimination
 2. Girl cannot continue the family lineage
 3. Desire of boy child
 4. Dowry system
 5. Lack of education

- b. Misuse of ultra sound technology – IVF specialist misuse the technology and find the sex of the child and abort it.

- c. Corruption in medical field

Governing laws

A.MEDICAL TERMINATION OF PREGANANCY ACT, 1971

First abortion related laws. In 1980, sex screening technologies in India was commonly accessible to the people. It concerning it government passed pre natal diagnostic technologies act(PNDT), 1994. Its main objective is to prevent and punish of pre natal sex screening and female foeticide.

Schemes for female foeticide

- a. Betibachaobeti padho – Central Government

Its main motive is to save girl child form sex-selective abortions, and advance the girl children life

- b. Balikasamridhiyojana

It provide financial aid to young girls and their families which are below the poverty line.

- c. Mukhibiryojana –

The Government provides an incentive upto 2 lakhs to any person who alert the state authorities regarding the involvement of any doctor or medical staff in sex determination.

CHILD MARRIAGE

In remote areas, we still heard a news that 40 year old man gets married to 13 years old girl. This is most cruel and worst crime. Even though there is a strict laws, to eradicate it but still it is not yet completely stopped in rural areas

Major reasons for child marriage

- a. Poverty
- b. Social insecurity
- c. Allowing expenditure on female marriage

Governing Laws

- a. Prohibition of child marriage act, 2006-

Marriage age for male at 21 years, female is 18years

b. Section 9 – punishment for male adult marrying a child

It includes 2 years imprisonment and Rs.10 lakh fine

c. Section 10 – punishment for solemnizing child marriage/ Abets or conducts any child marriage

It includes 2 years imprisonment and Rs.10 lakh fine

OTHER OFFENCES AGAINST WOMEN

| Section | Punishment | cognizance | Bail | Triable by |
|---|--|--|----------------|-------------------|
| 376A – punishment for causing death or resulting in persistent vegetative state of victim | Not less than 20 years extend to life imprisonment and capital imprisonment and fine | cognizable | Non bailable | Courts of session |
| 376B- sexual intercourse by husband upon his wife during separation | Imprisonment of not less than 2 years and extend to 7 years and fine | Cognizable(only by victim complainant) | Bailable | Courts of session |
| 376E- punishment for repeat offenders | Life imprisonment to capital punishment | cognizable | Non - bailable | Courts of session |
| 354B- assault or use of criminal force to women with intent to disrobe | Imprisonment for 3 years and extend to 7 years and fine | cognizable | Non bailable | Any magistrate |
| 366 – kidnapping, abducting or inducing | Imprisonment for 10 years and fine | cognizable | Non bailable | Courts of session |

| | | | | |
|---|--|----------------|--------------|------------------------|
| women to compel her marriage | | | | |
| 366A- procurement of minor girl | Imprisonment for 10 years and fine | Cognizable | Non bailable | Courts of session |
| 366B – Importation of girl from foreign country | Imprisonment for 10 years and fine | Cognizable | Non bailable | Courts of session. |
| 294 – obscene acts and songs | Imprisonment for 3 years and fine | Cognizable | Bailable | Any magistrate |
| 496- marriage ceremony fraudently gone through without lawful authority | Imprisonment for 7 years and fine | cognizable | Bailable | Frist class magistrate |
| 498 – enticing or taking away or detaining with criminal intent a married woman | Imprisonment for 2 years and fine or both | Non cognizable | Bailable | Any magistrate |
| 509- words, gestures or act intended to insult the modesty of woman | Simple imprisonment for 1 year or fine or both | Cognizable | Bailable | Any magistrate |

COMPENSATION TO VICTIMS²⁰

| Loss or injury | Compensation |
|---|----------------------|
| Rape | Rs. 4 lakh to 7 lakh |
| Gang rape | Rs. 5 to 7 lakh |
| Unnatural sexual assault | Rs. 4 to 7 lakh |
| Loss of life | Rs. 5 to 10 lakh |
| Acid attack victims(disfigurement of face) | Rs. 7 to 8 lakh |
| Loss of foetusie miscarriage as result of assault | Rs. 2 to 3 lakh |
| Loss of limb on part of the body | Rs. 2 to 4 lakh |

EMERGING CRIME AGAINST WOMEN:

(i) Rape done by minor:

During the last month, a most shameful act happened in Bihar where two minor at the 10 and 11 years gang-roped a 5 year old girl.

International rights say that a minor cannot be punished within a death sentence. And they cannot be given a punishment which is similar to an adult. In the Indian laws also they have mentioned, an exception in the IPC that an offence committed below the age of 12 is not an offence. But now-a-days as technology improved, a minor is said to commit an offence like on adult.

B. Cheating for money and sexual demands

Everywhere it is digitalized even a small child know how to use a smart phone. New types of physical crimes doesn't exist today but different types of cyber crimes arises each and every day. Especially teen age girl child, having an unknown relationship with the person who are strangers. School children were fallen as a prey in the cyber harassment. Whether the accust (can be married and unmarried) but creates a fake profile like young man and use sweet languages to the girl child and makes her fall in love. After that he tries to get nude pictures of

²⁰https://wcd.nic.in/sites/default/files/Final%20VC%20Sheme_0.pdf

that minor girl. And then demand her , money and to fulfil has sexual demands. This kind of crimes is being heard everyday in news.

(ii) Child pornography:-

Child pornography is a form of sexual exploitation, each image graphically memorialized the sexual abuse of the child. This have a worst mental and physiological issues within the child. And they cannot be able to concentrate in the studies. So there need to get a separate provisions with strict laws and with effective implementation.

HOW DOES A WOMEN SHOULD HANDLE THAT CRIMES AND PRECAUTIONARY METHODS:

- (i) Before all the precautionary measures, REPORTING THE CRIME to any officials is more important to stop the officers is more important to stop the further crimes.
- (ii) Children should be given a awareness about the good and bad touch in schools. When the child faces any kind of bad a behavior they should report it to their parents or insisted person. Most of important crimes happens because they don't report the crime to their parents, any person. This kind of negligence helps the amount accused to do more crimes. The victims should not be afraid and be bold to say it to their parents.
- (iii) They should report to the national commission for women.
- (iv) Report it to the nearest police station or cyber cell unit.
- (v) Victims can get free legal aid help.
- (vi) If the victim doesn't want to make any physical appearance in the police station. They can file an online complaint.
- (vii) An zero can be field that could not be filed in any police station irrespective of the Incident happened in any jurisdiction after that report will be transferred to respective jurisdiction.

LAW PROTECTING THE VICTIMS

- a. Section 228A of IPC ²¹– disclosure of identity of victim of offences

²¹<https://indiankanoon.org/doc/1696350/>

Whoever prints or publishes any name or any matter which makes the identity of person under section 376, 376AB, etc. shall be punished with the imprisonment of 2 years and fine.

CHALLENGES AND SHORTCOMINGS

- a. Even though we impose strict laws to reduce the crimes but still the crimes are increasing. Because there is no proper implementation of these rights.
- b. The person who has to protect the people commits a crime and we can't get evidence easily. In this Mathura case, even though the victim was molested by the police, as there is no penetrative assault the police officials were acquitted.
- c. Delay in making procedures and in taking medical reports as the police supports the accused. This may lead to delay in evidence
- d. When the women is subjected to physical violence and if there is any injuries. It can be sustained but if the female is subjected do mental violence (or) cruelty how she can prove it.
- e. In the Nirbhayacase,even though we know that accurate have committed their offence, but the court could not be able to give capital punishment within a few months. Instead it took nearly 8 years to hang out the accused.
- f. Huge number of pending cases
- g. Even the court of declares him as accused, he easily gets a bail within 2 months and freely enjoys in the society.

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SOCIAL- ECONOMIC IMPACT OF THESE CRIMES ARE IN SOCIETY

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a. Family life gets affected:-

Family is set to be a basic unit of the society as the parents is the role model for there children. When this is subjected to domestic violence and the child who is growing in that mindset will develop and think it as a correct. This may have a greater impact in society.

b. Low literary level

When the girl is subjected to any harassment rape abused, acid attack she always has fear to face the society. She has to avoid the schools, this deprives her to educate. They it has to low literary level.

c. Economically dependent :-

There is low literacy level , they have started to work at low jobs. Even there, they fare a sexual harassment they doesn't want to go out. Thereby they started to economically depend on their loved ones.

d. Early marriage:

Parents, who fear their daughter may be sexual assaulted and they feel their child to be at home and they get safety married. Thereby their education get affected due to their early marriages.

e. Injuries to children:

Sometimes in the families, children are also been affected as victims in the domestic violence cases. This makes a bad impression in the children's mind.

PHYSICAL CONSEQUENCES OF THE VICTIM

f. Suicide

The women who have been sexually assaulted or beaten, the emotional and physical strain can lead to suicide.

g. Mental health

Research says that after they were sexual abused. women get more psychological suffering due to the violence they have faced.

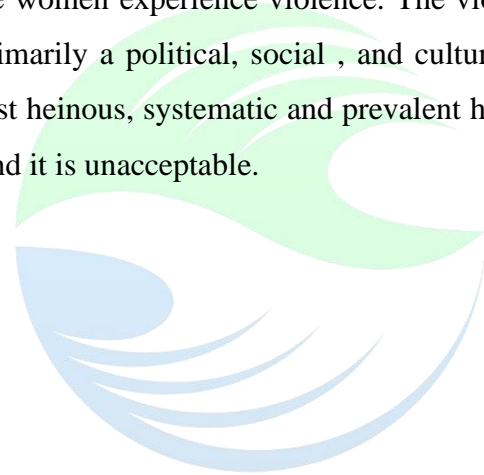
SUGGESTIONS AND RECOMMENDATIONS:

In order to have proper implementations of laws, there should be vigilance commission to check and order punishments for the ineffectiveness. Privacy and safety of women are intricately in any legal system. If any legal system does not protect the privacy of both the body and information there will always be in the ineffective judicial system. So there should be faster trials with a proper and reasonable investigation. It is stated that justice denied, is justice delayed, the victim needs to get proper justice as soon as possible. A fair investigation should be done in the shorter period of time. Bail should not be granted in more

serious offence like cognizable offence. The persons who has to protect the people from doing a crime, does a crime then they should be dismissed from the government jobs they are holding. Women are not only affected, some innocent men are affected by false allegations. In that case, if neither men or women makes a false allegations the law should be more strict. There should be amendment in the information technology act, which provides more punishments in the existing crimes, and new crimes that arise in the society. Thereby by new sections should be availed

CONCLUSION

Violence against women in various forms is a violation of human rights. The actual incidence of violence against women in India is probably more higher than the data suggest and because of this most of the women experience violence. The violence against women is not just a women issue but primarily a political, social, and cultural issue that happens in the society. It is one of the most heinous, systematic and prevalent human abuses in the world. It is always a Seriouscrime and it is unacceptable.



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