

“Law Relating to Crime against Women”

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Introduction¹

There are many types of crimes committed all over the world against the women. Right from the time of women's birth sometimes before the birth of the girl could become victim of crimes. Common forms of crimes against the women all include such as domestic abuse, sexual assault, murder, female foeticide. Dowry death etc. those performance are committed by men as a result of long standing gender inequalities present in countries. From the time of before birth there is a preference for the sons, the pregnancy diagnostic tools can lead to the female foeticide. Many adolescent girls become victims of sexual harassment. Many women are tortured physically and mentally by their husband and in-laws. They even don't get proper medical care after her pregnancy even at the work place they suffer from exploitation.

For the overcome from these situations and for the protection of each and every women there have many laws which has made for the crubing of crimes against women, female prostitution, pornography etc. are there for the defence of the women. Let's discuss all the crimes one by one and scrutinize all common violence's.

RAPE

Rape is considered as the most heinous crime all over the world. The offences of rape occur in the CHAPTER XVI of IPC. It is an offence which affecting human body. In the Chapter XVI there is separate mention for sexual crimes which encompass in section 375, Section 376, Section 376A to Section 376D of Indian Penal Code.

Rape is the type of sexual assault involving forms of the sexual penalties claimed out against a person without person's consent. The women who have been raped can suffer from trauma and it develop postranumic stress disorder. The result of rape can be pregnancy and sexual transmitted infection.

SEXUAL INTERCOURSE AND PENETRATION

State of Kerala V Kundum Kara Govindam¹. The essence in this case offence under section 376 of IPC is rape and it postulates a sexual intercourse. In the intercourse these are temporary visitation of one organization by a member of another for certain clear and limited objects. The primary excitement by means of a detent of the nerves consequent on the sexual crises. This Kerala decision explaining the word penetration states that it means through. Sexual penetration held in Ghanshyam Mishra V. state² Nathu ram V State of Harayana³.

The Supreme Court repelling the disagreement of defense mention the argument miss the fact that in absence of penetration there would not be absence of hymen with bleeding from the vagina. This was held in Prithi Chand V State of Himachal Pradesh⁴.

The Madan Lal V State of Janak⁵ it was held that a case merely assault under Section 354 of IPC and not an attempt to commit rape. In facts of that case the offence was clearly established and the high court rigidity convicted him under section 376 with section 511 of IPC.

CUSTODIAL RAPE

The criminal law [amendment] act, 1983 introduce some new section in IPC, to stop sexual abuse of women in custody, care and control by various categories of persons namely 376B to 376D. It is an aggravated form of rape than ordinary rape. For Controlling and combating the evils of autodial rape, rape in pregnant women, girls under twelve and gang rape a minimum punishment of ten years imprisonment has now been prescribed.

Bharwada bhonginbhai hirijibhai V State of Gujrat⁶. In this case the fact that in India, a disclosure of rape is likely to ruin the prospect of the girl's rehabilitation in a society for all the times to come her story particular custodial rape is very difficult to get any important evidence to corroborate the testimony of the prosecution.

GANG RAPE

Gang rape has defined in explanation 1 to section 376.2.g of IPC. Where there were two persons they were guilty of the offence of committing gang rape.

In Balbant Singh V State of Punjab⁷ these was an appeal against conviction for gang rape, it was contended that the conviction should be set aside because the medical report did not indicate the number of person who had raped the prosecutor.

The next case Promod hatho V State of Bihar⁸ four persons enter into in a house forcefully. They were charged with raping a young girl. Medical evidence supported the fact of rape. The conviction of all them was upheld without it being necessary the show whether all them or which of them participated in the crime.

MARITAL RAPE

Marital rape is mentioned in the exception to section 375 of IPC sexual intercourse by a man with his own wife. The wife not being under fifteen years of age, is not rape. Marital rape is the act of sexual intercourse of husband without the wife's consent. The lack of consent is an essential element in marital rape. This concept has changed in some countries. Now marital rape is considered as an offence in USA, Sweden, Denmark, Australia and the UK.

SEXUAL HARASSMENT

The universal recognized basic human rights include protection from sexual harassment and right to work with dignity. In the most well-known case *Vishakha V State of Rajasthan*⁹ held that sexual harassment at the workplace is the most glaring example of human rights violation, gender inequality and injustice. All the incidents of sexual harassment at the workplace also result in the violation of fundamental rights under the constitution, these rights are rights to gender equality and Right to life and liberty. The sexual harassment of female at the workplace is incompatible with the dignity and the honour of the women. No argument is needed.

In the concept of harassment at the workplace, it may be described as unwelcome sexual conduct which has an effect on creating an intimidating, hostile, degrading, humiliating or offensive environment for employees. *CL Nagaraj V Syndicate* includes unwanted verbal and non-verbal conduct¹⁰. It includes discriminating and distracts from a productive work environment. Writing unwelcome and unsolicited love letters to women would constitute sexual harassment, as mentioned in the guidelines of *D.S. Grewal V Vimmi Jhoshi*¹¹.

The concept of sexual harassment at the workplace was brought into focus in the year 1997 with the passing of the judgment *Vishakha V State of Rajasthan*. This judgment had to be opposed to certain discriminatory practices. The focus of this case shifted from a criminal wrong to a systematic gender discrimination which needed eradication. This case was a path-breaking judgment delivered with the objective of creating an available and safe environment at the workplace for the rapidly increasing female workforce.

The guidelines of the Supreme Court in this case were to eliminate situations or possibilities where the presence of power could abuse trust and turn predator¹². *Samridhi Devi V Union of India*. In the case of *Medha Kotwal V Union of India*¹³ the Supreme Court took note of the continued sexual victimization of women and the lack of effective implementation of the Vishakha guidelines. The court observed that Vishakha guidelines were not being followed in the substance and spirit by state functionaries and all other concerned. Vishakha guidelines need to be followed even in cases where complaints of sexual harassment were pending adjudication as on the date of coming into force of the act. Some cases are *Bhaskar de Sarkar V State of West Bengal*¹⁴, *Puthuppan V. Girja*¹⁵.

In case Saurabh Kumar mallick V. comproller and auditor general of India¹⁶ the Delhi high court discussed the concept of work place at large.

DOMESTIC VIOLENCE

Violence is against women is worldwide problem that affects women all ages, races, nationalists and socio economic backgrounds. The term violence against be interpretation to any act of gender based violence that the result in physical , sexual or psychological harm or suffering to women including threats of such acts coercion or arbitrary deprivation of liberty or private life. In case Sydney bardon in M, Borland¹⁷ guidelines of this case say that violence against women both in their homes and outside is directly linked to women's unequal positions in a patriarchal society across both class and community . There are more brutal expression of the widespread phenomena of domestic violence which include wife beating and mental rape, cruelty torture and humiliation. After realization of these inhuman things made women's group demand that wife abuse to treated as an offence too.

Domestic violence manifests as verbal or physical or psychological abuse, often in form that are more subtle than the violence elsewhere in society. The reconciliation with subjudication in a wake of limiting social circumstances violates the case of human right- liberty and human dignity. The situation harms the women more than the violence itself as it erodes their personality and faith in their own people ignoring the victim and not making any attempts to provide restitution is a challenge to human rights. Many of the victims of domestic violence are at a risk of further violence or even death when they attempt to leave abusive relationships. There are many incidents of domestic violence go unreported because of women are reticulate to bring a complaint against a member of their own family.

All these factors under the issue of domestic violence very different from each other forms of violence because of the women's wear and vulnerable portion inside their home. It also explodes the myth that women are subjected to harassment and violence on the streets and at their workplace while the home is safest. There are certain provisions under Indian penal code which deal with the domestic violence. In section 313 to the section 316of IPC mention forcing the wife to terminate her pregnancy are also varies of domestic violence which declares as an offence under IPC. Causing hurt and generous recognized as an offence under 319 of IPC. It defines the expression hurt as causing bodily pain injury infirmity and diseases to any person and serious hurt termed as generous hurt under section 320 of IPC.unlawful confinement is also the one of the type of a domestic violence within four walls of home. It is a punishable offence section 320 of Indian penal code. Under section 498A of Indian penal code 1860 matrimonial weather. It is a physical or mental on punishable offence¹⁸ in the case Inder raj amlik V Mrs. Sumitra raj¹⁹ the Delhi high court observed that there is no question of giving any arbitrary power to the police as well as to the court. The word cruelty was defined and its importance well known. The

importance of the word harassment was also known and there cannot be any arbitrary exercise of power in interpreting the word.

The section 498A of the Indian penal code 1860 is must be establish that harassment cruelty was with a view to forcing wife to commit suicide or illegal demands of husband and in laws, in this can see in the case sarala prabhakaran waghmare V state of Maharashtra²⁰.

FEMALE FOETCIDE

Female foeticide is the abortion of female foetus. In India the frequency of the female foeticide is increasing day by day. India has always possessed the hateful legacy of killing the female child. In this act parliament passed the Pre-natal diagnostic techniques act, 1994.

The act also provide the use of pre-natal diagnostic techniques for the purpose if detecting genetic and metabolic disorders. Pre-natal diagnostic act, 1994 consist 34 section spread over eight chapters. The act regulates genetic counselling centers and laboratories and diagnostic techniques.

Section 22 of this act defines that prohibition of the advertisement relating to sex determination act provides that no organization should advertise in any form facilities for prenatal determination of sex. In their publicity includes publishing or distribution of notices labels, wrappers and include visible representation made by light, sound, smoke and gas.

The union family welfare secretary saying with pious legislative back drop we have IVF. In virto fertilization clinics have mushroomed all over such as separation of X-Y chromosomes of the sperm or an embryo selection following IVF. The purpose ambendmentto be made this act which covers post conception techniques such as sex determination from through ultrasound and amnicenties is to be cleared by the cabinet. Pre-natal diagnostic technique act have a new title as it cover the preconception stage. It will be called the Pre conception and Pre-natal diagnostic act. Under the section 18 of the act, No person shall be open Centre unless registration is made separately.

In case of Chitra Agarwal V state of Uttaranchal the petitions having the ultrasound center which was registered under the PNDT act, 1994. The petitioner's registration was first suspended and cancelled. In this against the ultra sound Centre there was also criminal proceeding were pending. The refusal was challenged in the writ petition.

In CEHAT V union of India moved in stop illegal sex determination. All the states confiscate ultrasound equipment from clinics that are being run without licenses. The center and the state

government were issue advertisement to create awareness in the public. These should be not discrimination between male and female child.

DOWRY DEATH

Dowry death is one of the worst form of the domestic violence where many named women have been killed at their matrimonial home by her husband and relatives out of greed for dowry. Section 304-B of Indian penal code deals with the offence of dowry death with the offence of dowry this sedition included in IPC by criminal law Act. The essentials of requirement of dowry death case. The husband as relative of the husband have treated the married women with cruelty such cruelty should have been committed soon before her death.

The term dowry is defined in section 2 of dowry prohibition act 1961 .In case Intyiaz Khan V state of Jharkhand²¹ it was held that the opinion regarding marriage between parties could not be formed merely by living together and homing illicit relationship it did not constitute marriage. It was possible that victim was for that reason she was burnt here, it could be a case of culpable homicide in post-modern report in the column of husband was in material.

In case Reaana Aggwarwal V Anupan²² observed that of the validity of marriage if say is under legal works the demand of dowry in respect of an invalid marriage would be legally not recognizable. Public prosecutor, high court of A.P.V tota Barava punniah²³ and others. In case it was mentioned that even the deceased died in accent of the hanging within three years after her marriage ,still the death comes under the section 304-B IPC ,if it is shown that there was subjected cruelty or harassment by her husband or any relative of her husband in connection with any demand of dowry.

In Rodam gangram V State of Andhra Pradesh²⁴ was from that clear statement are fully corroborated , it can be presumed that it was only harassment resulted in the death. Nothing could be more inhuman barbarous, nothing could be more heinous than this sort of crime. The reason for killing young bride or daughter in law is greed all feeling which alone make the humanity noble from the heart , it was observed in the case Panitem V state of Gujrat²⁵.

CONCLUSION

After mentioning all the crime against women we want to conclude that crimes against women is the one of the most crucial social aspect. By reading general different cases we can see that the problem is very big and all. The crimes are heinous in nature government has made many laws and rules there are many. There are many provisions for the protection of women. But if a women themselves are not aware about what are the rights they are having to protection from the violence and crimes against them, it will be to make an effort for the employment of rights for

the overcome from this problem awareness, it is a time to spread awareness and make the women aware of their rights through education. The responsibility upon the government and non-governmental organization and public at large to motivate all the women.

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1. 1969 Cri LJ 818
 2. 1957 Cri LJ 469
 3. 1994 1 SCC 491
 4. 1989 1 SCC 432
 5. 1997 7 SCC 677
 6. 1983 3 SCC 753
 7. 1987 2 SCC 27
 8. 1989 Supp(2) SCC 627
 9. 1997 6 SCC 241
 10. L. Nagaraj V. syndicate bank 2014 (2) ALD 758
 11. Civil appeal no. 7355 of 2008 17.12.2008, SC
 12. 2005 125 DLT 284
 13. 2013 1 SCC 297
 14. W.P. no. 29034 of 2014 13.11.2014 , Calcutta high court
 15. 2008 (3) KLG 416
 16. 2008 (5) DLT 216 (DB)
 17. Violence in family (1976)1
 18. Drawati & other V. union of India, 1(1991) DHC 117(ALL)
 19. 1986(2) crimes 435(DEL)
 20. I (1991) DMC 310(BOM.)
 21. 2004 Cr. LG 2500(jhar.)
 22. 2004 Cr. LG 892(SC)
 23. 1989 Cr. LG 2330(A.P.)
 24. 1999 Cr. LG 2181(A.P.)
 25. HR 1992 SC 1817