

## “Law Relating to Crime against Women”

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### **Introduction<sup>1</sup>**

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 postranomic stress disorder. The result of rape can be pregnancy and sexual transmitted infection.

## **SEXUAL INTERCOURSE AND PENETRATION**

State of Kerala V Kundum Kara Govindam<sup>1</sup>. 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. state<sup>2</sup> Nathu ram V State of Harayana<sup>3</sup>.

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 Pradesh<sup>4</sup>.

The Madan Lal V State of Janak<sup>5</sup> 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 Gujrat<sup>6</sup>. 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 Punjab<sup>7</sup> 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 Bihar<sup>8</sup> 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 mention 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 cut of sexual intercourse of husband without the wife's consent the lack of consent is an essential element in marital rape. This concept has change in some country. Now marital rape is consider as an offence in USA, Sweden, Denmark, Australia and the UK.

## **SEXUAL HARRASMENT**

The universal recognized basic human rights includes protection from sexual harassment and right to work with dignity. In the most well-known case Vishakha V State of Rajasthan<sup>9</sup> held that sexual harassment at the work place in the most glaring example of human rights violation, gender in equally and injustice all the incident of sexual harassment at the work place 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 work place is incompatible with the dignity and the honour of the women needs no argument.

In the concept harassment at work place ,it may be described is unwelcome sexual conduct which has effecting on creating an intimidating hostile , degrading , humanity or offensive environment for employs . CL Nagario V syndicate this include unwanted verbal and non-verbal conduct<sup>10</sup>. It includes discriminating and distracts from a productive work environment. Writing unwelcome and unsolicited love letter to women would about the sexual harassment, it mentioned in the guidelines of D.S. Grewal V Vimmmi jhoshi<sup>11</sup>.

The concept of sexual harassment at work place was brought into focus in the year 1997 with passing of the judgment Vishakha V state of Rajasthan this judgement had come to be opposed certain discriminating 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 judgement delivered with objective of creating an availblity and safe environment at the workplace for rapidly increasing female workforce.

The guidelines of Supreme Court in this case was to eliminate situations or possibilities where the presence where could abuse lies trust and turn predator<sup>12</sup> Samridhi Devi V union of India. In case of Medha Kotwal V union of India<sup>13</sup> the Supreme Court took a note of continued sexual victim of women and 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 the field even in cases where complains of sexual harassment were pending adjudicating as on date of coming into force of the act some case are Bhaskar de Sarkar V state of WD<sup>14</sup>, puthuppan V. Girja<sup>15</sup>

In case Saurabh Kumar mallick V. comproller and auditor general of India<sup>16</sup> the Delhi high court discussed the concept of work place at large.

## **DOMESTIC VIOLENCE**

Violence against women is a worldwide problem that affects women of all ages, races, nationalities and socio-economic backgrounds. The term violence against women can be interpreted to mean any act of gender-based violence that results 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 the case of Sydney Bardon in *M. Borland*<sup>17</sup> the guidelines of this case state 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 expressions of the widespread phenomenon of domestic violence, which include wife beating and mental rape, cruelty, torture and humiliation. After the realization of these inhuman things, women's groups demand that wife abuse be treated as an offence too.

Domestic violence manifests as verbal or physical or psychological abuse, often in forms that are more subtle than the violence elsewhere in society. The reconciliation with subjugation in a state of limiting social circumstances violates the basic rights of human liberty and human dignity. The situation harms 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 that go unreported because women are reluctant to bring a complaint against a member of their own family.

All these factors under the issue of domestic violence are very different from each other, forms of violence because of the women's weak and vulnerable position 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 the safest. There are certain provisions under the Indian Penal Code which deal with domestic violence. Sections 313 to 316 of the IPC mention forcing a wife to terminate her pregnancy, which is also a form of domestic violence and is declared an offence under the IPC. Causing hurt and grievous hurt are recognized as offences under sections 319 and 320 of the IPC. It defines the expression 'hurt' as causing bodily pain, injury, infirmity and disease to any person, and 'grievous hurt' is defined under section 320 of the IPC. Unlawful confinement is also a form of domestic violence within the four walls of a home. It is a punishable offence under section 320 of the Indian Penal Code. Under section 498A of the Indian Penal Code, 1860, matrimonial cruelty is defined. It is a physical or mental offence<sup>18</sup> in the case of *Inder Raj Amlik V. Mrs. Sumitra Raj*<sup>19</sup> 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 is 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 Maharashtra<sup>20</sup>.

## **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 vitro fertilization clinics have mushroomed all over such as separation of X-Y chromosomes of the sperm or an embryo selection following IVF. The purpose amendment to be made this act which covers post conception techniques such as sex determination from through ultrasound and amniocentesis 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 from 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 2of dowry prohibition act 1961 .In case Intyiaz Khan V state of Jharkhand<sup>21</sup> 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 the 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 Anupan<sup>22</sup> 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 procsecuter, high court of A.P.V tota Barava punniah <sup>23</sup> and others. In case it was mentioned that even the decreased 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 Pradesh<sup>24</sup> 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 Gujrat<sup>25</sup>.

## **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