

Rape Analysis

Vijay Kumar

Abstract: *History attests that man has subjected women to his will, used her as a means to promote his self-gratification, to minstrel to his sensual pleasure, as an instrument in promoting his comfort, but never he has desired to elevate her to that rank which she was created to occupy. He has done all he could, to debase and enslave her mind and now he looks triumphantly on the ruin he has brought. All women for, is that men should ask our brethren, is that they will take their feet from our neck and permit them to stand upright on that ground which God designed us to occupy. Therefore, these instances pinpoint that though they occupy a high position in the family, yet they were subjected to the dominance of male and were denied of any right. This domination gradually led to sexual perversities and was found to be the main cause of destruction of civilization as well as the family unit. The sexual perversities in breeding took place in the society on account of the inferior position of the females and their easy transferability and accessibility.*

Keywords: Rape, Women, victim

1. Introduction

Sexual crimes against women; the most shocking crime against human conscience and morality occupy a significant place in the penal statutes of every country. Though women can be subject to all types of crimes but some crimes are specific to women such as rape, molestation, sexual harassment and immoral trafficking. Among them rape is perhaps the most damaging and a serious offence against the dignity of women

The increase in the instances of rape not only threatens to bid good bye to the moral precepts but also questions the adequacy of existing criminal law on rape. Coupled with it is the agonizing factum of failure of control system in modern India due to which intensity and frequency of violence against women is increasing day by day.

A woman suffers not only because of rape but also for aftermath of rape in the police station, in the hospital, in the court, among family members, among friends, in the matrimonial market and so on. The rape victim suffers from social stigma, the fear of public criticism, ostracism and emotional trauma. She seldom gets moral support from her relatives, friends and neighbors who in their mistaken belief that socializing with her would ruin their reputation in the society. Therefore, the alarming rate of increase in violent crimes against women warrants a re-look at the legal regime.

This topic for study is chosen as the researcher is of the view that the issue of rape sentence needs immediate attention with an upgraded system for justice.

2. History in Rape

The chapter titled, "Historical Perspective of Rape", discusses the concept of Strisangrahana (Rape) and punishment given by the ancient law gives like Manu, Narada, Bhraspati, Katya and many others. In ancient India, rape was a heinous crime and the sanction attached to it was high. It further elaborates the menace of Rape as put forth in the epics and Muslim law as well as early British period.

The Hindu law giver Manu gives example of incestuous relation as follows:- sexual relation with sisters by same mother, he places sexual relation with teachers wife at the top incestuous crime. He denounces sexual intercourse with

wife of other man in strong terms. He prescribes heavy punishment followed by banishment of such offender. But they all went so far as to say that of a man had a sexual intercourse with a maiden (of the same caste) who encouraged his advances, then there is no offence punishable by the king, but he was to bestow ornaments on her, honor her and must marry her

Perception of Macaulay's Commission [1]

In British India, the Courts set up by the East India Company administered and adopted Muslim penal norms of criminal justice. In 1828, an Act for improving the administration of criminal justice in the British colonies in Asia was passed, which declared rape as an offence punishable with death, provided the girl was below 8 years and with imprisonment in other cases.

Legal Framework of RAPE in India

Section-375 of the final version differed from Clause-359 as it incorporated an important amendment that "sexual intercourse by a man with his own wife, the wife not being under ten years of age, is not a rape". No reasons for this change were given by the Select Committee. For thirty years, after the enactment of Indian Penal Code 1860, rape law remained the same. The later change was owing to a number of cases in Bengal in which the child wife died due to consummation of marriage. Out of these, the most notable was *Queen Empress v. Haree Mohan Mythee* [2]. This case tells the pathetic story of Phulmonee Dasse, who was eleven years and three months old when she died as a result of rape committed on her by her husband. The medical evidence showed that Phulmonee had died of bleeding caused by ruptured vagina. In this case, rape of child wife was severely condemned and it was held that the husband did not have the right to enjoy the person of his wife without regard to the question of safety to her [3].

In 1891, Sir Andrew Scoble introduced the Bill, which culminated into Indian Criminal Law (Amendment) Act, 1891. This Act raised the age of consent to 12 years both in cases of marital and extra-marital rapes. The object of Act was humanitarian, viz. "to protect female children from immature prostitution and from pre-mature cohabitation". Pre-mature cohabitation resulted in immense suffering and sometimes even to death of the girl and generally resulted in injury to her health and that of her progeny

Law since Independence

In 1949, rape laws were further amended in respect of the age of consent. The age was raised to 16 years in clause fifth of section-375, dealing with extra-marital cases and 15 years in the exception dealing with the marital cases, by section-3 of the amending Act. Another amendment was brought about in 1955, which substituted the words 'transportation for life' by 'imprisonment for life' in section-376

It was only after twelve years, in 1971 that the Law Commission could send its report on the IPC to the Union Law Minister. The main recommendations of the 42nd Law Commission Report [4] are as follows

- 1) The members of Law Commission noted that under the third clause of section-375, consent of the woman is vitiated only when she has been put in fear of death or bodily hurt to herself. The clause did not cover the situations, where death or grievous hurt is threatened to someone else present on the spot. They suggested the addition of words — either to herself or to anyone else present at the place after the word 'hurt' to cover such situations.
- 2) The members of Law Commission took note of the case of forcible sexual intercourse by the husband, when the couple had been living apart under a decree of judicial separation or by mutual agreement. They considered that such sexual intercourse should be treated as rape.
- 3) The members recommended that the forcible intercourse by husband when the wife is under 15 years of age, should not be called rape in the technical sense and the punishment for the offence may be provided in a separate provision. They recommended section-376-A, which provided for the punishment for sexual intercourse with his child wife.
- 4) The members opined that in case of a girl between 12-16 years, who consented for the intercourse, the offence should not be equated and not punished as severely as rape. They recommended a separate section-376-B for such cases and the maximum period of punishment was prescribed as 7 years.
- 5) The Law Commissioners prescribed enhanced rigorous punishment of 14 years for the offence of rape.
- 6) The most significant contribution by the Law Commission was the recognition of the phenomenon of 'custodial rape'. It was commented that under certain situations, woman's submission to sexual intercourse is really not a willing consent, whereby men in authority take advantage of the women under their custody. Sections -376-C, D and E were recommended, prescribing for punishments in cases of illicit intercourse by a public servant, superintendent of women's or children's institution and manager of a hospital.

Turning point in Rape Sentence

Impact of Mathura Case; Campaign for Amendments and the 84th Law Commission Report [5]

The decision of the Supreme Court in *Tuka Ram v. State of Maharashtra* [6] created furors in the field of rape law. The facts of this case were so peculiar and the decision so coldly legalistic and unjust that it led to the culmination of mass movement for the amendment of rape laws.

Mathura was a young girl of 14-16 years. She had developed a relationship with her employer's cousin. On March 26 1972, her brother filed a report that Mathura was kidnapped by her employer and her boyfriend. They were all brought to the Police Station at 9 P.M. and their statements were recorded. When everybody started to leave, Mathura was directed to remain at Police Station by Tuka Ram, the Head Constable and Ganpat, a Constable. While both Policemen were on duty, they bolted the doors and put off the lights. Ganpat raped Mathura and Tuka Ram fondled her private parts. Tuka Ram was too drunk to rape Mathura. A crowd gathered outside and then shortly after Mathura came out and announced that she had been raped by Ganpat. Mathura was examined on the next day. Her report showed old ruptures of hymen and that she was habituated to sexual intercourse. In Sessions Court, this fact was held against her and the accused were acquitted. It was held that Mathura had in fact consented to the act.

The Bombay High Court reversed the decision and sentenced Tuka Ram to rigorous imprisonment for 1 year and Ganpat for 5 years. The High Court held that mere passive submission or helpless surrender of the body and its resignation to the other's lust induced by threats or fears cannot be equated with consent.

The Supreme Court reversed the decision and held that Mathura had consented to the act. There were no injuries on person of Mathura, thus, it was held that the story of rape was concocted by her and her testimony was disbelieved. Further, it was held that only fear of death or hurt could vitiate consent in the clause thirdly. The operation of clause secondly was not even considered.

Furthermore, 'Open Letter to the Chief Justice of India', protesting against the judgement was written by the Law Professors. The Open Letter criticised Supreme Court judgment and stated that there is a clear difference in law and common sense between consent and submission. The facts of the case revealed submission on part of Mathura and not the consent. It was questioned in open letter, "is the taboo against pre-marital sex was so strong as to provide a licence to Indian Police to rape young women."

It is yet another an infuriating example of a rather singular approach to consent as the SC's acquittal of the two policemen accused in the Mathura rape case. It was pointed out that because the 16-year-old had not raised an alarm and there were no marks of injury on her body, she was a "liar" habituated to sexual intercourse

The judgment was widely criticized both inside and outside Parliament as an extraordinary decision scarifying human rights of women under law and the Constitution. The Government took serious note of the rare degree of sensibility of public as well as of the parliamentary criticism of the law and its failure to safeguard the rights of innocent rape victims. Thus, the Law Commission was appointed to submit its report on law relating to rape and allied offences in 1980. The Law Commission submitted its 84th Report in a remarkable time period of less than one month.

Recommendations of the 84th Law Commission Report [7] :-

Arrest and Investigation

- 1) The Law Commission suggested the addition of a proviso to clause (1) of section-46 Cr. P.C., dealing with the manner of arrest of a person, which would spare a woman the indignity of being touched by strange men. Thus, a male Police Officer could lay hands on a woman being arrested only in exceptional circumstances.
- 2) The Law Commission recommended the addition of section-417-A in CrPC. for keeping a woman under detention in women's or children's homes.
- 3) The Law Commission considered that woman Police Officers alone should interrogate female victims of sexual offences. They also recommended the additions to section-160, Cr. P.C. to provide that the statement of the rape victim, when she is under 12 years of age should be recorded by a female Police Officer or a person interested in welfare of women or children as recognized by the State Government.
- 4) The Law Commission emphasized that the interrogation under section-160 (1) of Cr. P.C., should take place at the dwelling place only and the Police Officer, who violates such provisions should be punishable under the new Section 166-A, IPC with one year punishment or fine or both. The Law Commission also recommended a woman should not be interrogated after sun set and before sunrise and a social worker should be permitted to be present during interrogation.
- 5) The insertion of section-167-A to IPC was also recommended, which punishes the failure of non-recording of any information regarding any cognizable offence.

THE BILL OF 1980, JOINT PARLIAMENTARY COMMITTEE REPORT OF 1982 AND THE AMENDMENT ACT OF 1983 [8].

The House was divided over the issue of marital rape and the punishment to be awarded in rape case. On marital rape, there were many suggestions that it should not be treated as an offence at all whereas few members were in favour of its recognition as an offence. Regarding punishment, few members recommended the infliction of capital punishment in rape cases, while few others found the punishment already provided by law was too severe. Rapes in custody were severely criticised and many members recommended that more severe punishment should be prescribed for such cases. Few members also reacted that all custodial intercourses cannot be treated as rape because some element of consent could be present in such cases. Compensation to the rape victim found firm support in the Lok Sabha. The reactions of Lok Sabha members are a good reflection on the patriarchal influence and perceptions in our society.

The Existing Law

In 1983, after being debated in Lok Sabha for three days and in Rajya Sabha for two days, the Bill finally received President's assent on Dec 25, 1983 and culminated into the Criminal Law (Amendment) Act, 1983, which is the existing law at present. The legal definition of rape as incorporated in section-375 of the Indian Penal Code, 1860.

PUNISHMENT OF RAPE: Section 376 itself is a substantive one as it describes as to how many years of imprisonment will be suffered by a person who commits a rape. In view of section 376(2) punishment appended therein shall be inflicted upon a convict with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine unless the woman raped is his own wife and is not under twelve years of age, in which cases, he shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both. The court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years.

When the offence is committed against those listed under section 376(2) (a) to (g) [9] i.e., Whoever –

- a) being a police officer commits rape i) within the limits of the police station to which he is appointed; or ii) in the premises of any station house whether or not situated in the police station to which he is appointed; or iii) on a woman in his custody or in the custody of a police officer subordinate to him; or
- b) being, a public servant, takes advantage of his official position and commits rape on a woman in his custody as such public servant or in the custody of a public servant subordinate to him; or
- c) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a woman's or children's institution takes advantage of his official position and commits rape on any inmate of such jail, remand home, place or institution; or
- d) being, on the management or on the staff of a hospital, takes advantage of his official position and commits rape on a woman in that hospital; or
- e) commits rape on a woman knowing her to be pregnant; or
- f) commits rape on a woman when she is under twelve years of age; or
- g) commits gang rape,

Shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may be for life and shall also be liable to fine:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment of either description for a term of less than ten years.

The main features of the Criminal Law (Amendment) Act, 1983 [10], are as follows:

- 1) The Act, for the first time recognized the existence of aggravated forms of rape, viz. rape of minor, gang rape, rape of a pregnant woman, custodial rape committed by police Officer, public servant, a person on the management or staff of jail, remand home, women's or children's home, hospital etc. It also provided enhanced punishment under section-376 (2) for cases of aggravated rape.

- 2) The Act also distinguished the rape of a judicially separated wife under section-376-A and provided for a punishment, which may exceed to 2 years alongwith imposition of fine.
- 3) Prescription of mandatory minimum punishment can be regarded as the most important achievement, by 1983 Amendment Act. It enhanced the punishment by providing the mandatory minimum imprisonment of either description for 7 years under section-376 (1) in general rape cases along with imposition of fine. section-376 (2) took care of aggravated rape cases and provided a mandatory minimum of 10 years rigorous imprisonment along with the imposition of fine.
- 4) A new clause 'fifthly' was added to section-375, which made the consent of a woman of unsound mind or the consent, which is given under intoxication or administration of some stupefying or unwholesome substance, irrelevant against a rape charge.

Flavia Agnes observed in her article, that the 1983 Act was an inadequate answer to the campaign for change in rape laws and what started with a bang ended in a whisper. But at the same time, the Act was welcomed as a progressive step and it symbolised the beginning towards future changes.

The Code of Criminal Procedure (Amendment) Act, 2008 [11]

Many victims of rape do not want to register a police complaint due to the cumbersome procedures that it involves, and the unsupportive atmosphere at police stations. Further, they must narrate their ordeal to male police officers. Even if a woman musters up the courage to initiate criminal proceedings, there are inordinate delays in the trial of the case, with needless adjournments. She is always psychologically harassed in open courts, undergoes long trials and is forced to repeatedly describe her traumatic experiences in front of people who view her testimony with suspicion. It has also been found that in most cases the accused gets acquitted for lack of evidence. The courts have also failed to provide immediate and long term relief to the victim, let alone punishment to the accused. All these issues were looked at when the CrPC was amended in 2008. These amendments came into effect in 2009.

The amendment of the CrPC in 2008 has brought in progressive legislation by inserting a new section 357(A) CrPC, the victim compensation scheme. All state governments in consultation with the central government are to prepare a scheme for victim compensation. On recommendation by the court for compensation, the district legal service authority or state legal service authority must decide on the quantum of compensation.

The salient features of the Draft Criminal Law Amendment Bill 2010 are as follows

- 1) It widens the gamut of sexual assault committed by people in positions of authority, private as well as public, and prescribes enhanced punishment, which may include imprisonment for life as well. This covers institutions such as hospitals, remand homes or any place of custody.
- 2) The bill also provides for enhanced punishment for a term not less than 10 years for gang rape; sexual assault on pregnant or mentally or physically disabled women;

and maiming, disfiguring or endangering the life of a woman while committing sexual assault.

- 3) Some positive aspects relating to procedures include recording of offences, as far as possible, by a woman police officer; substitution of the term "sexual intercourse" with "sexual assault" in the Cr.PC; and recording of evidence of a person under 18 years of age, and who has been assaulted, in such a manner that the accused has the right to cross-examine but will not confront the victim; and substitution of "rape" with "sexual assault". However, it does not specify the method of cross-examination in order to ensure that the victim is not harassed and victimized further.
- 4) Another important amendment suggested in the Indian Evidence Act is on the issue of consent. The bill provides that in a prosecution for sexual assault under Section 376 of the IPC, where sexual intercourse by the accused is proved and the question is whether it was without the consent of the person alleged to have been sexually assaulted, and if the person states during examination in the court that consent was absent, the court shall presume that there was no consent. Additionally, where consent is under question, cross-examining the victim on character issues or previous sexual experience for proving consent or the quality of consent will not be allowed.

The draft Bill of 2010 could not culminate into the final bill as it was felt by the women activists and NCW etc. that it required certain modifications. The modified version is contained in the draft Criminal Law Amendment Bill 2012. The salient features of Criminal Law Amendment Bill 2012 are as follows [12]:

- 1) The bill proposes to replace the term 'rape' with 'sexual assault' in the Criminal Law (Amendment) Bill, 2012 in order to widen the scope of this heinous crime. If this amendment is passed by Parliament, then rape will become gender neutral as it has been treated as crime against women and children.
- 2) The bill proposes that sexual intercourse by a man with his wife under 16 years of age is not sexual assault.
- 3) The age of consent has been raised from 16 years to 18 years in case of sexual assault and the punishment will be minimum seven to ten years.

In spite of the efforts of the legislature to provide protection to rape victims, the existing rape law has been hardly able to make even a dent in the societal structure responsible for such violence. The ever escalating graph of the rape crime demands serious probe in the area and then the rape law should be designed accordingly

What we can ultimately summarize are that the criminal justice system adopts the attitudes of disbelief and hostility and treats the victim with suspicion instead of sympathy. Raped women are subjected to an institutionalized sexism that begins with their treatment by the police, continues through a male dominated system influenced by the notions of victim's precipitation and ends with the systematic acquittal of many defacto guilty rapists.

The double victimization, which is thrust upon the rape victim by the criminal justice system, is the mockery of all notions of justice in a civilized society. An Indian Supreme

Court Judge, while strongly condemning the ‘fossil formulae’ applied to rape cases referred to the treatment of rape victims by the legal system as “the ravishment of justice”.

The traditional legal thought continues to be tainted by two misogynistic images of woman —

- a) Woman as a liar indulging in false accusations of rape.
- b) Woman as a temptress leading to victim precipitated rape.

Rape: Judicial Approach In India

Time and again the Supreme Court of India has extended the ambit of Article 21 of the Constitution of India and held that mere existence was not the right to live- it was the right to live with dignity. Thus, whenever the crimes were committed against women the same should be viewed in the context of violation of her right under Article 21 of the Constitution of India and not merely as a crime against the society.

In order to show the change and improvement in the Judicial approach with respect to rape law, an attempt is made herein to discuss some of those cases, which showed the apathetic and indifferent judicial attitude towards rape victims.

As in the case of *Mahla Ram v. The crown* [13], the victim was raped in a moving train by the accused that dragged her down the bench and tucking up her loincloth forcibly raped her. When the train reached the next station, one guard came into that compartment and found the woman lying on the bench and the accused picking up his loincloth that was untied. There was an independent witness also who heard the victim screaming.

The court emphasized on the necessity of corroborated testimony of the victim and also the evidence of resistance to hold the accused guilty of rape and to determine her consent or want of consent. In the present case, as there was lack of all these evidences the court found the victim to be a consenting party and the accused not guilty of offence of rape.

In *Ibrahim v. Emperor* [14], the cattle of the accused trespassed on a grassy plot in which the victim was grazing her cattle. She drove away the cattle and then remonstrated with the accused. The accused thereupon seized her and proceeded to rape her. Her cries attracted the attention of two independent prosecution witnesses who rescued her.

In this scenario, the court held that the evidence of the victim was corroborated by the evidence of a disinterested witness that left no doubt that the girl was raped. At the same time the medical evidence showed that the girl was used to sexual intercourse and as she was unmarried it followed that she was unchaste. Under the circumstances of the case the court considered that the sentence of seven years' rigorous imprisonment was too severe and it reduced it to four years' rigorous imprisonment.

In this case, the reasoning of the court in reducing the sentence of the accused clearly shows the apathetic attitude of the Judiciary towards the victim. It gives an impression that a girl of easy virtue can be raped by anybody and she

has no right to protect her person in such cases of sexual assault.

The judgment of Apex Court in *Prem Chand v. State of Haryana* [15] is quite peculiar as the punishment of the accused was reduced from 10 years RI to 5 years RI on account of the victim's conduct and circumstances of the case. It was observed by the Court that the victim was ‘a woman of questionable character and easy virtue with lewd and lascivious behavior’.

This decision attracted the attention of the various women organizations and they expressed their anguish in An Open Letter From the Women's Organizations of Delhi. It was emphasized in the letter that the protection of criminal law is extended to all women and not exclusively to ‘virtuous women’. In review petition, the Court clarified that the expression ‘conduct’ was used in the Lexi graphical meaning for the limited purpose. The Court observed –

The character or reputation of the victim has no bearing or relevance either in the matter of adjudging the guilt of the accused or imposing punishment... Such factors are wholly alien to very scope and object to section-376 and can never serve either as mitigating or extenuating circumstances for imposing the sub minimum sentence.

The clarification given by the Court raises more questions than it answers. The only inference, which can be drawn from the judgment, is that the victim's past sexual character influenced the court while imposing the meagre punishment.

Another landmark decision of Apex Court – *State of Maharashtra v. Madhukar Narayan Mandikar*, [16] serves to correct certain indefensible extensions and assumptions drawn by patriarchal laws, which violate the human rights of a category of women referred to as –‘women of easy virtue’. In this case, the Supreme Court remarked that the victim, who was a mistress to somebody, acted honestly when she submitted the dark side of her life.

The Court observed –“ *Even a woman of easy virtue is entitled to privacy and no one can invade her privacy as and when he likes... it is not open to any and every person to violate her person as and when he wishes... She is equally entitled to protection of law*”

Genuinely speaking, there are many issues relating to rape which make the rape victim's access to justice extremely difficult. Patriarchal biases are inherent, right from the very conceptualization of rape to the trial in rape cases. Rape is viewed as an act of sexual intercourse and is considered a sexual offence. The rape victims who do not conform to the sex roles assigned to women in a patriarchal society, encounter a harsher treatment by the legal system. The over emphasis on chastity and purity of women is reflected in the legal provisions and their interpretations which manifests itself in issues like consent, and past sexual history of the victim and the requirement for corroboration of her testimony. Thus, the concept of rape, rape laws and their implementation remain surrounded by many problematic issues which negate the probability of imparting justice to the victim of rape.

The court, observed that there was considerable public and parliamentary attention to the violent frequency of rape cases and it was time that the court reminded the nation that deterrence came more effectively from quick investigations, prompt prosecution and urgent finality, including special rules of evidence and specialised agency for trial. Mere mechanical increase of punitive severity might yield poor dividends for women victims.

The strategy for a crime free society was not the draconian severity, processual celebrity and prompt publicity among the concerned community. Lawlessness was abetted by a laggard, long-lived, lacunose and legalistic litigative syndrome rather than by less harsh provisions in the Penal Code. The focus must be on evil. Rape for a woman was deathless shame, and must be dealt with as the gravest crime against human dignity.

In 1983, the Supreme Court (SC) delivered what it considered a progressive, gender-sensitive judgment in *Bharwada Bhoginbhai Hirjibhai v. State of Gujarat* [17]. The case involved the sexual abuse of two 10-year-old girls — one of whom had been raped — by their friend's father in Gandhinagar. It became a landmark judgment when the SC declared (much to everyone's surprise after its horrifying acquittal of the accused in the Mathura rape case) that the survivor's sole testimony was enough to convict the accused [18].

In *Bharwada Bhoginbhai Hirjibhai v. State of Gujarat* [19], the Supreme Court has observed: "To say at the beginning what we cannot help saying at the end: human goodness has limits- human depravity has none. The need of the hour however, was not exasperation."

Evidently feeling the need to justify its decision, it went on to explain why it believed that an Indian woman (as opposed to women from the "western world") wouldn't falsely accuse someone of rape. Predictably, and among other things, the court said that Indian women would not want to admit "any incident which is likely to affect her chastity had ever occurred". It said this would mean risking the loss of "love and respect of her own husband and near relatives", that she would be ostracised, and that "she would have to brave the whole world". Perhaps it was unintentional, but with this, the SC successfully constructed the stereotype of the rape survivor.

3. Conclusion

Societal stigmatization of rape is only partly responsible for under-reporting and is not the overriding barrier to rape reporting. Nonetheless, patriarchal notions of honor, shame and morality associated with female sexuality are well entrenched in the state's institutions. Such notions operate and manifest at every stage of the victim-state interface starting at the police station right up to the courtroom. These notions lead to prejudiced stereotyping of rape and consent, and condemnation of exercising female sexual freedom, by the state's implementing agencies at all levels, resulting in refusals to file proper FIRs that can hold up to scrutiny in court, failures to conduct rigorous investigations and medical examinations, encouragement of compromise and

settlement. This in turn causes systematic serial victimization of the rape victim and creates conditions under which dropping the case or resorting to compromises and settlements are more attractive to a victim than pursuing the legal course to obtain a conviction and sentence. It will not be an exaggeration to say that reporting of rape happens despite the state, rather than because of it.

A critical factor in a victim's decision to report rape is the nature of her interaction with the system. This system is comprised of the police, medical experts and the public prosecutor and society. The first point of the victim's interface is with the police. The receptivity and sensitivity of the police therefore are determinative in rape reporting.

In addition to directly influencing the outcome variable, women's organizations provide great support systems through psychological counselling to and rehabilitation for the victims of rape. Larger studies are needed to assess the impact of women's organisations on rape reporting, victim rehabilitation and conviction rates.

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