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Section 375

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ABSTRACT

Rape! Section 375 of Indian penal code defines a term rape. Rape has now become a culture that we have to live with. Nowadays, the term rape has lost its effects of being seen as a crucial thing and injustice to women. Writing an article named Rape is quite similar and very often that people can ignore, like these articles come when a heinous Rape occurs. Rape is one of India's most common (note very common) crime against women. It is reported that every 20 minutes, a woman is raped in India. Has India become the unsafest place for women? Let's move to the statistics now, by a report only 10% of rape is reported and the conviction rate is only about 24.2% but the occurrence of a rape is about 43% in all over India. 'rape' as a clearly defined offence was first introduced in the Indian penal code in 1860. Prior to this, there were often diverse and conflicting laws prevailing across India. The codification of Indian laws began with the enactment of the Charter Act, 1833 by the British Parliament which led to the establishment of the first law commission under the chairmanship of Lord Macaulay. The commission then decided to put the criminal law of the land in two different codes. The first to be placed on the statute book was the Indian Penal Code formulating the substantive law of crimes. This was enacted in October 1860 but brought into force on January 1, 1862. Rape, the heinous crime which is still occurring in our society even after the many rape cases that shook the country and new laws have been passed but still the situation is not changed a bit. Recently the young women in Hathras, Uttar Pradesh who have been raped brutally and dead are breaking millions of hearts in the country and several protests have been taking place in favor of it. Where is the country going? Can a woman feel safe anymore? Can a rape be stopped? It's raising a ton of questions but no one has an answer to all of it.

I. RAPE MYTHS:

They are defined as the prejudicial, stereotyped, or false beliefs about rape, rape victims and rapists. Specific attitudes and beliefs that may contribute to ongoing sexual violence by shifting blame for sexual assault from the perpetrators to victims are known as rape myths. Studies suggested that the acceptance of rape myths is a crucial factor in the explanatory models of rape behaviour. I have come across several myths while preparing for this article. They are,

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1. Girls clothes were reported to be the one of the factors that provoke rape
2. The belief that the way a women dresses or act's indicates that " she asked for it "
3. Men cannot control their" sexual impulses "
4. She shouldn't worn body - hugging clothes

It surprised me and I have a question: are we really in the 21st century? We have seen many developments in many fields from then to now. But however the perspective of human beings doesn't even change a bit about how a woman should be. And I mean, even some women's perspective towards other women's. Yes, here we come to the myths, women dressing is not a cause of her being raped, who has given the permission through dressing? is that every other human beings gives consent or permission to other things through dressing or it's just for the rape? Even a woman who wears a saree gets raped, who wears salwar gets raped, and who wears jeans gets raped. So, the thing is not about clothing, it's just an excuse to blame a victim or an escape of reality. How does a rape occurs? Is it a way to show men's power (that they are superior) than a women's or it's just a quest of sex? But, the truth is it is the rapist mindset, his sense of entitlement and toxic masculinity that prompt him to commit a rape. The women's dresses have nothing to do with provocation. Asking women not to step out is not a way to curb these crimes. There is no use in perpetuating old fashioned patriarchal society. The second thing, sexual urge is not the reason behind the rape. The reason is hatred for other genders.

II. RAPE CULTURE:

Rape culture is a sociological concept for a setting in which rape is pervasive and normalized due to societal attitudes about gender and sexuality. Rape culture affects every woman. The rape of every women is a degradation, terror, and a limitation to all women. Most women and girls limit their behaviour because of the existence of rape. Men in general do not. That's how rape functions as a powerfull means by which the whole female population is held in a subordinate position to the whole male population. Even though many men's don't rape and many women's are not a victim of rape, the cycle of fear is legacy of rape culture. The fear is indulged in by every parent to protect their daughters from these cultures and which is what is stopping half of the women population to study and work. I have even seen it in reality, that parents restrict their children to step out on odd hours. Can, is it possible to turn the country into the safest place for a woman to pursue their dreams? How does the rape culture develop? There are some examples for rape culture. They are,

1. Blaming the victim

2. Trivialising sexual assault
3. Sexually explicit jokes
4. Tolerance of sexual harassment

And even more.....

How can we blame a victim for a rape? Is it even a humanitarian act? Most importantly" no victim invites assault ". And no woman needs herself to be" harmed". And also I don't get the myth ' boys will be boys' and what was that? Have you ever seen a man get raped? No! Absolutely no. Most of the rapes took place in order to prove their male ego(the male patriarchal power) that's still the same after centuries. Rape culture pressures women to sacrifice their freedoms and opportunities in order to stay safe, because it puts the burden of safety on women's shoulders, and blames them when they don't succeed. As a result, certain opportunities are left unavailable to women, and still others are restricted by expensive safety precautions, such as not traveling for professional networking unless you can afford your own hotel room. First, rape culture treats rape as a problem to be solved through improving the behavior of potential rape victims (who are presumed, in this logic, to be women), rather than improving the behavior of potential rapists (who are presumed to be men).This pattern takes many forms. The classic example is when an observer (or a rapist) blames the rape victim for attracting the rapist's attention by wearing revealing clothing. In 2011, for instance, a Toronto police officer sparked the global "Slutwalk" protest movement when he told female students that "women should avoid dressing like sluts in order not to be victimized."

Another form of this argument is the "personal responsibility" lecture often given to young female college students, advising them to avoid drinking or attending fraternity parties lest they become one of the one-in-five young women who is sexually assaulted by the time she graduates. So, this is how the rape culture grows and till growing.

III. WHAT DOES THE LEGISLATION SAY?

Several rape cases in India received a widespread media attention and triggered protests since 2012. This led the government of India to reform it's penal code for crimes of rape and sexual assault. A rape means, the sexual intercourse which is done by using force or without consent. According to section 375 of Indian penal code, it can be said that a man is committed a rape under certain circumstances when,

1. Without a consent of the concerned women
2. Without the will of the concerned women

3. If the consent is brought by threatening or putting the concerned person in fear
4. When a women gives consent in condition of unsound mind or in a state of intoxication
5. And, when a girl is in under 16 years of age or below (with or without consent) is amount to rape.

Section 375 defines penetration is enough to commit a rape. Full penetration is not required is case of rape.if any part of the organ of male goes within the labium of the pudendum of the woman, no matter how little it amounts to rape”.

“The one and only essential ingredients is to consider whether it is rape or not is whether the male organ entered into the person of the woman”. According to the existing law it is not important that “hymen” should be “ruptured”.

And moving to punishments for rape, section 376 of Indian penal code, The Ordinance amends the IPC, 1860 to increase the minimum punishment for rape of women from seven years to ten years.

Rape and gang rape of girls below the age of 12 years will carry minimum imprisonment of twenty years and is extendable to life imprisonment or death. Rape of girls below the age of 16 years is punishable with imprisonment of twenty years or life imprisonment.

IV. THE IMPORTANT CASE LAWS IN THIS RAPE CULTURE:

In the famous case *R.Vs. Furroll* a six year old child was raped but she was not injured or hurt. Her private part was not injured. But after that incident she was suffering from “gonorrhoea” which the accused also suffered. In this case it was held that the accused is the guilty of committing rape. So to prove that a particular intercourse is raped or not absent of consent is essential. If there is consent then it is not a rape. But it is essential that consent must be free consent. The most important and controversy question comes i.e. if a man rape a prostitute then whether he can immune from getting punishment because of the fact that the woman is a prostitute? Or whether the term of his punishment being reduced because the girl is a prostitute?

In this regard The Supreme Court gave a judgement in the case of *Premchand v. State of Haryana*, which was heavily criticised among the public. In this case the Supreme Court reduced the minimum punishment of 100 years for rape to 5 years considering the conduct of the raped girl. The judgement resulted in various criticism and movement by various women organisations. After that a review petition was filed. But it is failed still the Supreme Court tried to justify their action by saying that-

“we have neither characterised the victim, Suman Rani, as a woman of questionable character and easy virtue nor made any reference to her character or reputation in any part of our judgement but used the expression “conduct” in the lexicographical meaning for the limited purpose of showing as to how Suman Rani had behaved or conducted herself in not telling anyone for 5 days about the sexual assault perpetrated on her.” In the end the Supreme Court observed-

“...we would like to express that this court is second to none in upholding the decency and dignity of womanhood and we have not expressed any view in our judgement that character, reputation or status of raped victim is a relevant factor for consideration by the court while awarding the sentence to the rapist.”

But this situation has been changed in another case i.e. the ***State of Maharashtra vs. Madhuker***. In this case one Madhuker who was a police inspector, had knocked at the hut of one Banubi at night and wanted to be physical with her. But she started shouting, on hearing that her neighbour and husband came in. On the basis of her complaint the inspector got dismissed.

But after the primary inquiry had been done it was found that Banubi was a “*woman of easy virtue*”. On the appeal of the police inspector the High Court took into account the fact that Banubi was a woman of easy virtue and passed an order in favour of the inspector. This case went further to the Supreme Court. According to Supreme Court-

“Even a woman of easy virtue is entitled to privacy and no one can invade her privacy as and when he likes. So also it is not open to any and every person to violate her person as and when he wishes. She is entitled to protect her person if there is an attempt to violate it against her wish. She is equally entitled to protection of law. Therefore merely because she is a woman of easy virtue her evidence cannot be thrown overboard.”

Finally in this case the Judgement of the High Court was reversed. And finally most important case that shook the whole india in a reverse manner is Delhi rape case (Nirbhaya case) was put to an end by hanging them this year 2020.

V. CONCLUSION:

There are several other rape cases that are filed and not yet filed. Victims who do report the assaults are alleged to suffer mistreatment and humiliation from everyone. Most rape go unreported because the rape victims fear retaliation and humiliation. *“Rape occurs because of rapist but nothing else”*. The world is never going to change till the very own people of the country of the rape victim (even 1) supports the rapist or justifies a rapist. Let's make this

country a safest, (not even safest) first of all, a place where women can live their life without a fear of being raped. Let's begin the change with ourselves. **#womensupportwomen #raisevoices #till the rapist gets hanged.**

"You can tell the condition of a nation by seeing the status of it's women"

- **Jawaharlal Nehru.**
