



Violation of Basic Human Right of a women – Offence of Rape

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ABSTRACT-

Every day, one or the other we hear of atrocities, rape and exploitation, which fills the heart with pain and makes one think a lot. Any incident that happened in any one part of the country creates concern for all the women. Sexual assault on women is a common phenomena in our country. Rape is most violated crime against helpless women. According to Section 375 of Indian Penal Code, Rape means an unlawful intercourse done by a man with women without her valid consent. There is need for some strong law to bell the cat of martial rape in India. Constitution of India provides special protection to women. In this paper, the sensitive issue of Rape is been highlighted.

Keywords: Rape , Indian legislation , Indian judiciary , Marital rape, Constitution of India.

INTRODUCTION-

In ancient time to modern period status of women has changed. Women as mother, daughters, wife, sister and so on. In ancient period women status was equal to men. But some evil practice in India like sati system, devdasi system, child marriage, force marriage has changed this scenario. Ancient time to modern time, women have various rights like, she can participation in war , participation in decision making etc. Rig veda , athravaveda , samveda, provide protection of women rights, dignity, respect of women. But rate of crime against women increased day by day, its nature of crime is serious like sexual harassment , rape etc. A rape destroys the physical body of its victim , thus a rapist degrades the very soul of the helpless women.

India is developing country but still crime rate increased day by day. Offence of Rape is a major problem at present. Rape is a mark of disgrace that existed for long time.. The violence is at various levels. It is at physical , mental , emotional, domestic, and public.

Rightly did Swami Vivekanand say,“Just as a bird can not fly with one wing only, A Nation cannot march forward if the women are left behind. Men and Woman are two holes of perfect whole strength is born of their union their separation.” There is a saying that women are not born, they are made and many fanatics consider women to be the cultivation of men. That is why today's woman does not want a margin, but a whole page. Full page, as many men have. But the irony is that in the name of religiosity, the pages of 'Dharma Granth' and 'Khap Panchayats' in the name of sociality are surrounded.

OBJECTIVES –

- To study the relevant constitutional provision , IPC ,evidence Act, criminal procedural Act, Human rights and its impact on matter of rape cases.
- To suggest the mechanism to control the rape cases.
- To provide protection of women and their rights.
- A safeguards and safety measurements for protection of women rights in India.
- To suggest for making a sound rule on regulating rape cases .

Methodology –

- The method of study is doctrinal research. A doctrinal research is carried out of legal proposition by way of analyzing the existing statutory provisions and cases.

The relevants material come from statutes which form the primary sources and secondary sources includes information vertical and horizontal sources both legal and non legal sources like law books , journal ,original judgements of supreme courts and high courts ,planning commission, international conferences etc. in the legal research the most suitable method is doctrinal method. Researcher has drawn help from article , books , newspapers, reports, convention commission and judicial decisions, studies of relevant law and cases.

CONCEPT OF OFFENCE OF RAPE -

Definition of rape- section 375 of IPC defines rape as a criminal offence and states that a man is said to commit rape when he has sexual intercourse with a woman against her or without her consent or if she is a minor. Under section 375 of IPC just penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape. A man is said to commit rape when he has sexual intercourse with a women under any of the following situations:

- against her will.
- without her consent.
- rape is a stigma which exists in the society from a long time.
- constitution provide a equal status with men.
- no discrimination between women and men .

It is crime against basic human rights and also violates most cherish fundamental rights guaranteed under article 21 of the constitution of India.

Some recent rape cases in India.

- ▶ Aruna Shanbaug
- ▶ Delhi case gang Rape.
- ▶ Delhi gang rape
- ▶ A K Chopras case
- ▶ Appared Export promation council v A K Chopras
- ▶ Mathura rape case
- ▶ Mohd Habib v state
- ▶ State of Maharashtra v Madhukar N Mardikar
- ▶ Chairman Railway Board v Chandrim Das

There are some reasons for rape –

1. Low status of women in India.
2. Inappropriate guidance in sex education .
3. Lot of law in India but delay in justice.
4. Lack of public safety.
5. Not proper clothing of college students.
6. Female police force is very less.
- 7 . No Legal awareness in society.

Conclusion

It is relatively easy for the government and moreover political fulfilment to just compensate by enacting a retaliatory law. But neither justice is done to the victim nor death penalty is an effective solution with the society.

Suggestions-

- Deterrent punishment can be award in crime of rape case
- Deeper analysis of the women rights in rape cases in India
- Execution to implement the law more in its sprit.

References-

- Ratanlal and Dhirajlal THE INDIAN PENAL CODE .34 th Edition
- M P Jain INDIAN CONSTITUTIONAL LAW . Sixth edition . Reprint 2011.
- Dr. J N Pandey , Constitutional Law of India ,Central Law Agency , Allahabad , 52 nd Edition (2015).
- Legal online web sites
www.Legalservicesindia.in
- Google scholar

