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Nautiyal



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E.MBA, LL.M, Ph.D, PGDSAPM

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Subhrajit Chanda



BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

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HARASSMENT OF MEN VIS-À-VIS PROTECTIVE LAWS FOR WOMEN IN INDIA: AN ANALYSIS.

AUTHORED BY- APURVA

(BBA- LL.B) Semester-3

Amity University, Patna

Abstract

We live in a male dominant society as often said. However when it comes in India do we really have laws favouring the men at all? We talk about gender equality, it does not only mean equality for women, it mean equality for all which include men also.

Domestic violence or harassment have been always discussed in relation to women. Due to socioeconomic changes affecting the family structure in recent times, harassment is not only limited to women. Men are also harassed verbally, physically, sexually and through many other ways, but they do not report these abusive behaviours and they all suffer silently.

The laws in or society supports women as victims of harassment, men do not get justice for their condition in the society

Introduction

At his best, man is the noblest of all animals, separated from law and justice, he is the worst. –

ARISTOTLE Pran-nath, patipermeshwar- these were the terms used for the husbands by their wives. At that time husbands were god for their wives. Wives use to keep fasts for their husband for healthy and long life. Even wives sati themselves in the funeral of their husbands. At that time wives were so dedicated to husbands that we can conclude that women had an existence no better than a slave in early civilization.

Wives regularly participated in religious events with her husband and enjoyed full rights. The status of women was not low in vedic period. They enjoyed their social ad religious life. Given in Ramayana that the faces of women are like flowers, words are like drop of honey and their hearts are like sharp razors, no one can know their innerself. It is also said in Mahabharta that women are the root of all evils.

Women, generally, misusing laws for taking revenge against their husbands or any other men. Being a man is very typical, it is predecided that men are strong and a wrong doer is always a man. society and courts have already set their minds that women cannot do any wrong and all women are weakest on this planet. when a women files a case against a men for harassment they are guilty until proved innocent. When the things are right, all is good, but but when the situation get worst, women turn all happy moments into the incidents of her harassment by men. Women manipulates the situation as they want. This is all because they are pre defined victims.

Media plays a vital role in violating the rights of men. It shows man as accused and women as the serious victim Although, this may be true in some cases but most of the cases are opposite to this. Before the actual trial of the man before the court, the media set the mind of the public that men are always be an accused. Government clearly ignores the aspect of men. It is true that there may be some men, who are accused, but there are lot of other men, who are innocent, who have their own rights. so, why should they be victimized and harassed, by attending the courts or any other institutions in fake cases by women? The criminal law bill, 2013 which got presidential assent on 2nd april 2013 and is in effect as the criminal law act, 2013 is less in favour of women and more targeted against men.

The basic rights of men are more restricted by the new amendments. The are very strict. Men cannot move here and there. They cannot see where there is lady sitting or standing, otherwise they will be charged for Voyeurism under sec 354-c of ipc

They cannot go on the way a women is going, else they will be charged for stalking under sec 354-d of ipc.

OBJECTIVES

1. To examine the laws for protection of women.
2. To look into the existing laws with respect to the laws for protection of men against fake cases filed against them by women.
3. To make suggestions for an appropriate legal framework for awareness of laws for men against their mental as well as physical harassment.

Methodology

The methodology adopted for preparing this article is based on the qualitative explanation. Use of secondary resources like books, research papers, various sites, etc. for information and data collection.

Protective laws for the benefits of women special rights or for women,violating the fundamental rights of Men:

The gender equality principle is mentioned in the constitution of india. Constitution provides equality to women along with the powers to the state to use modes of positive discrimination in favour of women. We have rule of democracy in our country. The constitution of india provides equality to women. It provide powers to state to use the modes of positive discrimination in favour of women. Fundamental rights ensures that all are equal before the law and have equal protection of law.no citizens will be discriminated on ground of religion, race, caste ,sex or place of birth all citizens will have equal opportunity in matters relating to employment.

Constitutional Privileges:

- i. Article 14: Women are equal before law.
- ii. Article 15 (i): The State will not to discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.
- iii. Article 15 (3): The State will have to make any special provision in favour of women and children.
- iv. Article 16: All citizens will have equality of opportunity in matters relating to employment or appointment to any office under the State.
- v. Article 39 (a) and (d): The State to direct its policy towards securing the right to an

adequate means of livelihood

equally for men and women; and both men and women will have equal pay for equal work.

- vi. Article 39 A: The State to promote justice, on a basis of equal opportunity and to provide free legal aid by proper legislation or any scheme or in any other way to ensure that no citizen by reason of economic or other disabilities will be denied of the opportunities for securing justice.
- vii. Article 42: The State to make law for securing just and humane conditions of work and for maternity relief.
- viii. Article 46: The State to promote the educational and economic interests of the weaker sections of the people with special care and also to protect them from exploitation and all forms of social injustice.
- ix. Article 51 (A) (e): To promote the spirit of common brotherhood and harmony amongst all the people of India and to left the practices not beneficial to the dignity of women.
- x. Article 243 D (3): According to this Article, "One-third (including the number of seats reserved for the Scheduled Castes and the Scheduled Tribes women) of the total number of seats, to be filled by direct election in every Panchayat, shall be reserved for women and such seats shall be allotted by rotation to different constituencies in a Panchayat."
- xi. The Hindu Adoption and Maintenance Act, 1956
- xii. The Protection of Women from Domestic Violence Act, 2005
- xiii. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
- xiv. The Hindu Adoption and Maintenance Act, 1956 (xviii) The Immoral Traffic (Prevention) Act, 1986
- xv. The Maternity Benefit Act, 1961 (Amended in 1995)
- xvi. The Dowry Prohibition Act, 1961
- xvii. The Medical Termination of Pregnancy Act, 1971 (The Contract Labour (Regulation and Abolition) Act, 1976

According to the data of national crime bureau 1,50,000 men had committed suicides in the year 2005 and 2006. And in those years only 50000 women had committed suicide. all this data shows pitiable condition of Indian men.

The men have the lack of protection and proper voice. Men are aggrieved of the domestic violence and also the victims of the misuse of these laws. 1% cases of domestic violence and dowry harassment, filed against men and their families, are true and rest of the cases is false and fake. These fake cases are filed with the intention to extort money. It is all done in the premises of court itself. At last women wins the case which was fake all happen due to presumption of court.

In Sandeep Kaur v. State of Punjab and another, the wife had made a complaint under the Protection of Women from Domestic Violence Act, 2005 against her husband, by which she got an order in her favour of getting two rooms in the house of her husband, for living separately. On Sep. 24, 2013, she lodged a fake F.I.R. against her husband under S. 376-B and S. 506, I.P.C. at Police Station Division No.8, Jalandhar (Punjab).

The trial court struck off the charges of the respondent husband under S. 376-B and S. 506, I.P.C. and acquit him by giving benefit of doubt. In an appeal, the Double bench, of Justice T. P. S. Mann and Justice Ramendra Jain, of High Court of Punjab and Haryana, on Jan. 11, 2016 observed that:

There is difference between the initial version of the appellant wife regarding the date of offence and her statement in her cross examination. She did not tell about the incident for around 8 days to any person. The above conduct of the appellant wife is highly improbable and unnatural because huge litigation i.e. divorce petition, proceedings under Section 125 Cr.P.C. as well as the complaint under the Act was going on between the appellant wife and respondent husband. If respondent husband had got opened the door of her room on the pretext of illness of their baby, in such an eventuality, it cannot be expected from a man of prudence that she will not raise any grouse or disclose her forcible rape by respondent husband to anyone.

It is unexplained on record that she was forcibly raped by him and why the appellant wife kept on opening the door for respondent husband on the subsequent dates i.e. from 15.09.2013 to 20.09.2013, more particularly when relations were strained in between them and their children were also not staying with her and she kept on allowing respondent husband to commit rape with her against her wishes.

Admittedly, on earlier occasion also the appellant wife got registered false FIR No. 300 dated

27.10.2009 under Sections 376/498A/120B, I.P.C. against respondent husband and his parents in which they were acquitted Hence, the above conduct of appellant wife also puts a dent in the prosecution story. Even otherwise, F.I.R., in the present case, was lodged belatedly by the complainant wife, because as per her complaint, respondent husband had committed rape with her on 14.07.2013, but F.I.R. in the instant case was lodged on 24.09.2013.

Even if, it is presumed that the dates of occurrences i.e. 14.07.2013 to 24.07.2013 were mentioned wrongly, in that eventuality, there is no explanation on the file why the prosecutrix kept mum for four days and got lodged the F.I.R. on 24.09.2013. Admittedly, the respondent is the husband of appellant wife and their relations were not healthy. Thus, it can safely be presumed that the appellant wife for taking revenge got lodged the present false FIR against respondent husband. The appellant in her cross examination also admitted that tenants were also residing on the upper floor of the same house in which she was residing.

Her above deposition clearly proves beyond doubt that respondent husband was usually visiting the appellant wife even after the occurrence, but she did not take any action against him, which means that with her consent, alleged intercourse was committed by respondent husband with her. Hence, the order of the trial court was upheld by the double bench also, and the respondent husband was rightly acquitted from the charges under s. 376-B and s. 506, I.P.C."

Misuse of protective laws by women in india

Women misuse their protective laws. some of the biased laws are ther of which women take advantage of.

Some of the gender biased Indian laws have amounted to lot of controversies.

Here are those laws:

A. Dowry death laws:

If a woman dies of an unnatural death within 7 years of marriage, a criminal case is to be filed against the husband under s. 304-B, I.P.C.

B. for sexual harassment and rape:Laws

A woman can just go to the police station and file a first information report, accusing the man for rape. The man will be arrested immediately without any proof or investigation

C. Domestic Violence Act and other laws:

This is the most draconian law ever and was referred to as "legal terrorism" by the Hon'ble Supreme Court of India. Under this law, if a woman goes to the police station and files first information report against her husband and his family, accusing them of domestic violence under the Domestic Violence Act and s. 498A, I.P.C., they are automatically considered guilty.

D. Adultery:

Now, consider this scenario. Ravi and Rekha are married to each other. Amit is another person. Rekha and Amit decide to have intercourse. This is not rape nor done forcefully, but purely consensual. What Rekha did was adultery s. 497, I.P.C. - had physical relation outside marriage. Though this is not a crime, but is morally not acceptable and has legal consequences.

Conclusion

The present scenario reveals that India has more number of the harassment of men by women. Men are being charged by women in number of cases by misusing the special laws for women.

Violation of section 498A, IPC, its goals and its aims is on the rise with the woman frivolously making false allegations against their husbands with the purpose of getting rid of them or simply hurting the family. The abuse of this section is rapidly increasing and the women often well- educated know that this section is both cognizable and non-bailable and impromptu works on the complaint of the woman and placing the man behind bars.

When women accuse their husbands under s. 304-B and s. 498A, IPC by making the offence non-bailable and cognizable, if the man is innocent, he does not get a chance quickly to get justice and "justice delayed is justice denied".

No support from the society and no protection of laws for men. The society and the government are

not taking care of men, who are victims of domestic violence. It is a serious problem worldwide. Domestic violence over men is not punished or treated as an offence under any of the laws.

Opposite to it, special provisions given to women for their protection are framed in such a way so as to harass men. Organizations, in favour of women, have stressed in a single voice to implement the Domestic Violence Act in India. According to them, victims will be empowered by the said Act, and further they will be protected by the Act. In majority, it is accepted in the society that domestic violence should not be done in the family. It is in exceptional cases that the Act would be used to protect the victims from their spouse. This would further protect the children of the spouse emotionally, morally and mentally.

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