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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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# A STUDY ON RAPE

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## **ABSTRACT:**

The context of rape is form of sexual offence, the term defines without the persons consent involving sexual intercourse with each other and it's convicted under Sec. 375 IPC. The paper makes an attempt to recognize and deal in purview of what constituted sexual offences and it is considered as social and public issues which has an adverse impact on the society. There are many national commission and non-government organizations who raises the voice over issues, the crime against women and children but still it's indispensable evil still in persistence and it should be concluded. The paper finally implements the suggestions and conclude improving it. This paper gives a theoretical understanding of anti-rape laws and its evolution, from being a property crime to crime against the bodily integrity of a woman.

**Keywords:** Rape, Anti-rape laws, Criminal law amendment act, Justice Verma committee.

## **INTRODUCTION:**

The word 'rape', which is derived from the Latin term rapio, means 'to seize'. 'Rape' literally means a forcible seizure. 'Rape' or raptus, in its simplest form, signifies 'the ravishment of a women against her will or without her consent or with her consent obtained by force, fear or fraud' or the carnal knowledge of a women by force against her will. Section 375 of the IPC defines rape. It is an unlawful sexual intercourse between a man and a women without the women's consent or against her will

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under any of the seven circumstances enumerated in Section 375 of the IPC. Rape in India is one of the most common crimes against women and a serious national problem. While per-capita reported incidents are quite low compared with other countries, a new case is reported every 20 minutes. According to the National Crime Records Bureau, 24,206 rape cases were registered in India in 2011, although experts believe that the number of unreported cases is much higher. Children are more vulnerable to this crime and more than 7200 children are raped each year in India. A survey reveals that the vast majority of children in India are physically abused and such occurrences are disturbingly common.

Rape is one of the most heinous and barbarous crimes of all time but still it has been a long struggle for it to be defined as a crime against the bodily integrity and sexual autonomy of women. Throughout most of the history women had no rights and were treated as mere property, therefore, rape was viewed as crime only in terms of property violation of another man.

With the evolving time, there was shift in the cultural beliefs and norms which lead to the significant change in the definition of rape as a crime. The Indian rape laws trace its origin from the English common law and it was in 1860 when the anti-rape laws were first mentioned in IPC. But the seventeenth-century jurist Sir Matthew Hale's comment on rape as "an accusation easily to be made and hard to be proved, and harder to be defended by the party accused, though never so innocent", shows the prejudiced attitude of colonial courts towards the victims. The assumption that the women may be lying became the reason because of which the trial courts were directed more towards proving the credit of the victim rather than proving the guilt of the accused. It was focus on her past sexual relations or her virginity which determined the outcome of the case.

Eventually, the anti-rape laws strengthened over the decades because of some brutal cases that led to several major amendments in laws. The need for change in laws gathered momentum with the growth of the Women's Movement which brought about awareness and change in attitude of the society.

### **HYPOTHESIS:**

The hypothesis on the subject of rape were addressed empirically. The first concerns the effects of exposure to sexual violence on reactions to rape. Males and females were first exposed to either a



sadomasochistic or a nonviolent version of the same sexual passage and then to a portrayal of rape.

## **REVIEW OF LITERATURE:**

R.C.Jiloha, (2013), *Legal issues in Mental Health Perspective*, broadly explains the rape of women by men has occurred throughout recorded history and across cultures and religions. It is a crime against women in India. The childhood and adulthood victims of rape are more likely to attempt or commit suicide.

V.K.Madan, R.K. Sinha,(2013), *The Dynamics of Rape in Modern Indian Society*, broadly explains that the paper examines the recently introduced Indian law to reduce rape incidents. There are various areas which need attention to have insight into the phenomenon of rape and measures to control the incidents. This includes understanding the effect of socioeconomic-demographic predictor variables in reduction of the incidents.



## **HISTORICAL PERSPECTIVE:**

Historically, “Raptus,” the generic term of rape was to imply violent theft, applied to both property and person in the Roman culture. It was synonymous with abduction and a woman's abduction or sexual assault, was merely the theft of a woman against the consent of her guardian or those with legal power over her. The harm, ironically, was treated as a wrong against her father or husband, women being wholly owned subsidiaries. Although Roman law in the historical period recognized rape as a crime, the rape of women is a pervasive theme in the myths and legends of early Rome. Rape in the English sense of “forced sex” was more often expressed as stuprum, a sex crime committed through violence or coercion (cum vi or per vim).

Rape as an adjunct to warfare, dates back to antiquity when mass rape of women as a punitive measure committed by the armies after forcibly entering a town was taken by Greek, Persian, or Roman troops. Rape, as an adjunct to warfare, was prohibited by the military codices of subsequent rulers and this prohibition formed the basis for convicting and executing rapists during the Hundred Years' War (1337-1453).



Peter Paul Rubens, *Rape of the Sabine Women*, 1635-37. War on a foreign enemy voids the social contract between men that protects not women, but men's claim on women and paternity. The art of war supplies the evidence that rape is at base a theater enacted with other men's esteem and recognition in mind, with the legislation of rape a condition of the homosocial code of men either in accord or, in the case of this painting, in collapse.

In some cultures, rape was seen less as a crime against a particular woman than as a crime against the head of the household or against chastity. As a consequence, the rape of a virgin was often a more serious crime than of a nonvirgin, even a wife or widow, and the rape of a prostitute or other unchaste woman was, in some laws, not a crime because her chastity was not harmed. Furthermore, the woman's consent was under many legal systems not a defence. In 17th-century France, even marriage without parental consent was classified as rape. The penalty for rape was often a fine, payable to the father or the husband whose "goods" were "damaged."

In Islamic criminal jurisprudence, the majority of Muslim scholars believe that there is no punishment for a woman forced to have sex. According to a Sunnahadith, the punishment for committing rape is death, there is no sin on the victim, nor is there any worldly punishment ascribed to her.

In some laws the woman might marry the rapist instead of his receiving the legal penalty. This was especially prevalent in laws where the crime of rape did not include, as a necessary part, that it be against the woman's will, thus dividing the crime in the current meaning of rape, and a means for a couple to force their families to permit marriage.

## **COMPARATIVE STUDY:**

### **FRANCE:**

The rape laws and punishments are more defined and extensive in France. An individual, if found guilty of aggravating a rape incident, is liable to 10 years of imprisonment. If the rape victim dies, the term is increased to 30 years. A rapist is given a life imprisonment if the victim undergoes any kind of torture and is subjected to acts of barbarism even after the rape.

### **USA**

In USA, punishments are enacted depending on the different types of sexual assault, which also include rape. Punishments is categorised as 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> degree rape punishments. The maximum sentence for rape is life imprisonment, which could be 30 years in jail.

## **THE NIRBHAYA RAPE CASE**

### **Mukesh &anr v. State for NCT of Delhi & Ors<sup>2</sup>:**

In 2012, the gruesome Delhi rape case shook the whole country with the brutal gang rape of a young woman who was named Nirbhaya by media for not revealing her identity as per section Section 228A (2) of IPC. She was brutally gang raped by six men on a bus in Delhi, and her internal organs were pulled and her private parts were mutilated in a very inhuman manner that caused grave injuries which ultimately annihilated her life. She was treated as an object, an article for experimentation and prey to the pervert proclivity of the six. "The attitude, perception, the bestial proclivity, inconceivable self-obsession and individual centralism of the six made the young lady to suffer immense trauma and, in the ultimate eventuate, the life-spark that moves the bodily frame got extinguished in spite of availing of all the possible treatment that the medical world could provide." On 29 December 2012, she succumbed to her injuries and died at a Singapore hospital. The four defendants were convicted of

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<sup>2</sup> Criminal Appeal No. 607-608 of 2017

rape, kidnapping, murder and destruction of evidence in September 2013 and were sentenced to death penalty which was upheld by the Supreme Court in 2017 by stating that the case clearly came within the category of 'rarest of rare case'. One of the accused Ram Singh, allegedly committed suicide in Tihar Jail and the juvenile perpetrator was sentenced to three years of punishment in a reform home, as per the provisions of the Juvenile Justice Act.

### **JUSTICE VERMA COMMITTEE REPORT**

The national level demonstration and massive public outrage after the Nirbhaya case led the government to act quickly and as a result Justice J.S. Verma committee was set-up to suggest amendments to criminal laws. The committee made recommendations on a wide range of issues dealing with all kinds of sexual crimes.

The Committee recommended that the exception for marital rape should be removed and stated, "the relationship between the accused and the complainant is not relevant to the inquiry into whether the complainant consented to the sexual activity". It made recommendations to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Bill, 2012 and criticized the existing mechanism of Internal Complaints Committees stating that it defeated the purpose of the Bill and recommended setting up of an employment tribunal.

With respect to the punishments for rape, the committee was of the view that such offences need to be graded. The committee stated that "There are instances where the victim/survivor is still in a position from which she can, with some support from society, overcome the trauma and lead a normal life. In other words, we do not say that such a situation is less morally depraved, but the degree of injury to the person may be much less and does not warrant punishment with death." It took into consideration the view of the Working Group on Human Rights which suggested that "the murder rate has declined consistently in India over the last 20 years despite the slowdown in the execution of death sentences since 1980." Hence, the committee was of the opinion that the introduction of death penalty for rape may not have a deterrent effect. The committee also took into account the views of majority of scholars, leaders of women's organizations, and other stakeholders who strongly submitted that "the seeking of death penalty would be a regressive step in the field of sentencing and reformation" However, they enhanced the punishment to mean the remainder of life.



The Committee further recommended the insertion of certain offences such as Voyeurism, Stalking and Intentional Touching in the Penal code. It also reviewed the practice of the "two-finger test" during the medical examination of the victim and suggested the scrapping of the test by stating that "the size of the vaginal introitus has no bearing on a case of sexual assault, and therefore a test to ascertain the laxity of the vaginal muscles which is commonly referred to as the two-finger test must not be conducted. On the basis of this test observations/ conclusions such as 'habituated to sexual intercourse' should not be made and this is forbidden by law".

The committee emphasized on the importance of gender equality and also drafted a separate Bill of Rights for women stating "Every woman shall be entitled to respect for her life and the integrity and security of her person. All forms of violence, exploitation, cruel, inhuman or degrading punishment and treatment targeting women are prohibited".

### **THE CRIMINAL LAW AMENDMENT ACT 2013**

In consonance with the report given by the Justice Verma Committee the Criminal Law Amendment Act 2013 came into force on the 3rd of February, 2013, which introduced comprehensive changes in the Indian Penal Code, 1860, Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872.

Under the act, the most important changes were made in the definition of rape laws. Earlier, the law was restricted to only penile-vaginal intercourse but the new amendment substituted the section 375 of IPC and widened its ambit by including any bodily penetration as rape.

The amended section 375 of IPC thus stated that a man is said to commit rape if "there is penetration of his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or making her to do so with him or any other person; or insertion, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or making her to do so with him or any other person; or manipulating any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or making her to do so with him or any other person; or applying his mouth to the vagina, anus, urethra of a woman or making her to do so with him or any other person."

Further an explanation was added in the section which defined consent as "an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act" Also, the age of consent was raised from 16 to 18 years.

The scope of section 376(2) was expanded to include rape committed by a member of armed forces deployed in an area by the Central or a State Government in such area.

- The **Section 376 A** was inserted according to which if rape caused death or persistent vegetative state of the victim then he shall be punished with rigorous punishment for not less than twenty years, but which may extend to imprisonment for life, which shall mean the remainder of that person's natural life, or with death.
- The **section 376 B** was inserted which made sexual intercourse by husband upon his wife during separation punishable by the term of 2 years which may extend to 7 years and shall also be liable to fine.
- **Section 376 C** dealt with sexual intercourse by a person in authority like ones in fiduciary relationship or public servant or manager of a jail or hospital and made it punishable by term of 10 years which may extend to life imprisonment and shall also be liable to fine.
- A separate **section 376 D** was introduced which dealt with the offence of gang rape and made it punishable with the rigorous imprisonment for a term of 20 years which may extend to life imprisonment and also fine.
- Punishment for repeat offences was made under **section 376 E** which made repeated offenders punished with life imprisonment or death.

The amendment was a historical step taken by the government in order to curb violence against women. Despite the advantages of the amendment, the act was also criticized for not incorporating certain provisions recommended by the Justice Verma Committee such as making rape and sexual assault laws gender-neutral, restriction of politicians facing sexual offence charges from contesting elections and the introduction of marital rape as an offence. The Government passed the act overlooking these much-needed reforms.

## **NEED FOR THE CRIMINAL AMENDMENT ACT, 2018**

Despite the progressive reforms in the anti-rape laws, the ground reality of rape cases stayed the same. Almost six years after the Delhi rape case, the mind-numbing Unnao and Kathua rape cases shook the entire nation.

In 2017, a 17-year-old girl, minor girl, was kidnapped and raped by a former BJP LA Kuldeep Singh Sengar, his brother Jaideep alias Atul Singh, and others. The girl's father, was arrested in an arms case. He was allegedly beaten up in the custody and later died. Later, the victim was severely injured in a car accident and two of her aunts died in the accident. Owing to the seriousness of the case, the Apex court transferred the all cases registered in connection with the Unnao rape incident from Lucknow court to the Delhi court. Kuldeep Singh Sengar was convicted for kidnapping and raping by the Delhi High Court. The court asked him to pay Rs 25 lakh to the victim apart from the life sentence.

In 2018, the Unnao rape incident coincided with the infamous Kathua rape case. An 8-year-old girl in Kathua, J&K, was raped by six men for a week after which she was killed. Since the deceased was a Muslim girl and the accused were Hindus, it thus became an issue of communal politics because of which the accused garnered support in the name of religion. The apex court had to transfer the case from J&K to Punjab in order to ensure fair trial and the six of the seven accused were convicted.

It was the result of these brutal cases that led to widespread protests that pressured the government to bring about stricter laws against such heinous crimes. Owing to this, the Government passed the Criminal Amendment Act, 2018.

## **THE CRIMINAL AMENDMENT ACT, 2018**

The Criminal Amendment Act, 2018 brought about changes in the Indian Penal Code, Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012.

- Under IPC, section 166A<sup>3</sup>, 228A<sup>4</sup>, 376 were amended and three new sections 376AB<sup>5</sup>, 376DA<sup>6</sup>, 376DB<sup>7</sup> were inserted. The sub-section 1 of section 376 has been amended to increase the term for punishment of rape not less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine.
- Further, sub-section 3 has been inserted which prescribes punishment for rape of a woman under sixteen years of age stating rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, and shall also be liable to fine.
- Section 376AB has been inserted after section 376A which provides for rigorous imprisonment for a term not less than twenty years, but which may extend to imprisonment for life, and with fine or with death, in cases where a woman who is raped is under 12 years of age.
- Section 376DA has been inserted after section 376D which deals with the punishment for gang rape and states that a woman under sixteen years of age is raped by one or more persons constituting a group or have acted in furtherance of a common intention, each of those persons shall be punished with imprisonment for life, and with fine.
- Section 376 DB prescribes punishment for gang rape on woman under twelve years of age stating that each of those persons shall be punished with imprisonment for life, and with fine, or with death.

### **PROCEDURE:**

To invoke section 375 of the Indian Penal Code, there are certain essentials which need to be satisfied:

- Using unlawful force against the other person.
- Using force causing or likely to cause death or grievous hurt.
- Without her consent.
- With her consent when, at the time of giving such consent, by reason of unsoundness of mind

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<sup>3</sup> Punishment to a public servant for failure to record FIR.

<sup>4</sup> Whoever prints or publishes the name or any matter which may make known the identity of any person against whom an offence under § 376

<sup>5</sup> Punishment for rape on women under twelve years of age.

<sup>6</sup> Gang rape on a imprisonment cognizable non-bailable court of woman under sixteen for life which shall session.

<sup>7</sup> Gang rape on imprisonment for cognizable non-bailable court of women under life which shall session.



or intoxication or other similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct.

- with or without consent, when she is under 18 years of age.
- When she is unable to communicate her consent.
- Threatening or placing that other person in fear that any person will be subjected to death, grievous hurt or kidnapping.

### **EVIDENCES:**

The court recognizes these types of evidences,

- Fingerprints.
- Impression Evidence (Shoeprints).
- Trace Evidence (Hair/ Fibers)
- Information of investigating officers, eyewitnesses, alibi witnesses etc.
- Any statement provided by the witnesses.
- Any recorded statements given verbally or in writing by the victim.
- Any evidence gathered by electronically surveillance, including wiretapping.

### **CASE LAWS:**

#### **Tukaram v. state of Maharashtra<sup>8</sup> :**

Mathura, an Adivasi girl, who was aged between 14 to 16 years old lived with his brother Gama as her parents had died. She used to work at Nunshi's house. There she met Nunshi's nephew, Ashok, and both developed an intimate relationship and decided to marry each other. Gama lodged a report on 26<sup>th</sup> March 1972 at police station Desai Gunj allegation that Mathura had been kidnapped by Ashok's family. Head Constable Baburao called Mathura, Gama, Ashok and Nunshi for giving their statement at 09:00 PM. By the time statements were taken it was 10:30 PM and Baburao left for his house and asked the four of them to leave too. While Mathura, Gama, Ashok and Nunshi were leaving Constable Ganpat asked Mathura to come inside with him. He sexually assaulted her in the bathroom by looking at her private parts with a torch. Then he took her at the back of the police station and raped her. Head constable Tukaram also sexually assaulted her by fondling her private parts but

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<sup>8</sup> AIR 1979 SC 185.

wasn't able to rape her as he was in a highly intoxicated condition. Mathura filed an FIR against the two police constables on advice by Dr. Khume who initially examined her. On 27<sup>th</sup> March at 08:00 PM she was examined by Dr. Kamal Shastrakar who found no injuries on her body and no signs of intercourse either. Though semen was present on the clothes of both Mathura and the Constable Ganpat.

In the conclusion, the appeal succeeds and is accepted. The judgement of the High Court is reversed and the conviction recorded against as well as, the sentences imposed upon the appellants by it are set aside. The appellants are thus acquitted. No. 904- M of 1989

**Mrs. Rupan Deol Bajaj v. Kanwar Pal Singh Gill<sup>9</sup>:**

A senior IAS officer, Rupan Bajaj was slapped on the posterior by the then Chief of Police, Punjab – Mr. K P S. Gill at a dinner party in July 1988. Rupan Bajaj filed a suit against him, despite the public opinion that she was blowing it out of proportion, along with the attempts by all the senior officials of the state to suppress the matter.

The Supreme Court in January, 1998 fined Mr. K P S. Gill Rs. 2.5 lacs in lieu of three months Rigorous Imprisonment under Sections. 294 and 509 of the Indian Penal Code, 1860.

**Chairman, Railway Board Vs. Chandrima Das<sup>10</sup>:**

A practicing Advocate of the Calcutta High Court filed a petition under Article.226 of the Constitution of India against the various railway authorities of the eastern railway claiming compensation for the victim (Smt. Hanufa Khatoon)- a Bangladesh national – who was raped at the Howrah Station, by the railway security men. The High Court awarded Rs.10 lacs as a compensation.

**Harpal Singh & others v. State of Himachal Pradesh<sup>11</sup>:**

In this case, the prosecutrix who was a girl under 16 years was sent by her mother to visit her ailing aunt in the village. While she was going the accused came to her and told her that her brother was lying sick in the dispensary. She rushed with him, there he along with two others locked her in a

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<sup>9</sup> No. 9041- M of 1989.

<sup>10</sup> 28 January, 2000- 2 SCC 465.

<sup>11</sup> Criminal Appeal No. 273 of 1975.

room. After that, they committed sexual intercourses with her against her will. She was later rescued by her family who decided to keep quiet. The matter was later on published in a newspaper and the police started the enquiry. The accused held that the girl was used to sexual intercourse and gave consent for the same.

**Independent Thought v. Union of India<sup>12</sup>:**

In this case, the petitioner was Independent Thought, a national human rights organisation registered in 2009. In the public interest, the petitioner filed a writ petition under Article 32 claiming that the Exception 2 to Section 375 of IPC is both arbitrary and discriminatory towards a girl child. The Criminal (Amendment) Act, 2013, increased the age of consent for sexual intercourse from 16 to 18 years. But the Exception 2 mentions non-consensual sex of a husband with his wife and for that, the age is above 15 years. The POCSO Act, 2012 set the age of consensual sex as 18 years.

Exception 2 is contradictory to Section 3 of the POCSO Act which has criminalised penetrative sexual assault.

The Division Bench gave the following judgement while discussing all the relevant issues related to the case:

- The exception 2 discriminates between a married girl child and an unmarried girl child without any reasonable nexus. It violates the bodily integrity, dignity and reproductive choice of a girl child.
- The parliament has increased the age for giving consent, the age from marriage to 18 years. So the age of 15 years in exception 2 is unreasonable, unjust, unfair and violates the right of the girl child.
- The exception 2 states that sexual intercourse or sexual act by a man with his wife is not rape if she is above 18 years.

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<sup>12</sup> W.P.(C) 382/2013.

**Tulsidas Kanolkar v. The State of Goa<sup>13</sup>:**

In this case, the victim was mentally impaired. The accused took advantage of her mental situation and had sexual intercourse with her. No one was aware of it until the family of the victim found out that she was pregnant. When asked who took advantage of her she pointed fingers towards the accused. The case was filed against him where he took the plea of consent in the form of submission to the act.

It was held that the accused took advantage of the mental retardation and helplessness of the patient. In such a scenario no question of consent arises because a mentally challenged girl cannot give consent. And submission does not imply consent which can also be due to fear or vitiated by duress or impaired due to mental retardation. The accused was asked to pay a fine of Rs. 10,000 and punishment with 10 years of imprisonment.

**Bhupinder Singh v. Union Territory of Chandigarh<sup>14</sup>:**

In this case, the accused and the victim worked in the same bank. After some time they married and started cohabiting in 1990. The victim was pregnant in 1991 and was asked to abort her child. She again became pregnant and during that time she learned from one of her husband's friends that he was already married before marrying her. She tried to contact the accused after this but he was nowhere to be found. She filed a complaint against him.

The Punjab & Haryana High Court held the accused liable under various sections of IPC including Section 376 for rape. The women had sexual intercourse with him only due to the reason that she considered him as her husband but in reality, he was not her legal husband.

**Dileep Singh v. State of Bihar<sup>15</sup>:**

In this case, the accused and the victim were neighbours. They fell in love and the accused forced the girl for sexual intercourse. He promised her that he would be marrying her and continued to have sexual relations with her. The girl's parents came to know when she became pregnant so they reported against him. He said that he never forced the girl and she was the one who consented.

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<sup>13</sup> Criminal Appeal No. 298 of 2003.

<sup>14</sup> (2008) 8 SCC 531.

<sup>15</sup> Criminal appeal (SJ) No. 300 of 1997.



The man was held liable under Section 375 of IPC for rape. The judges said that the consent of the girl for sexual intercourse was obtained by fraud as he promised to marry her. The consent which is obtained by fraud committed with the victim is no consent.

**State of Punjab v. Gurmit Singh<sup>16</sup>:**

In this case, the girl was in class 10<sup>th</sup> and her final exams were going on. She was returning back home after her exam when she was abducted in a van by the accusers. They took her to a tubewell kothi which belonged to one of them and all three of them committed rape on her. She was asked to remain silent and if she resisted or raised an alarm she would be killed.

The court held the three of them liable for rape under Section 376 of IPC as at no point of time she willingly consented to the act. Also, the Apex Court laid down certain guidelines for trials in such cases:

- The delay in lodging an FIR is immaterial if it is properly explained.
- The testimony of the victim is vital in case of sexual assault and if there is no special reason to look for corroboration of her statement, the accused can be convicted on prosecutrix's statement alone.
- The trial of sexual offence cases should be held in camera and by a lady judge.
- The Court should not make any observation that probably the prosecutrix is of loose character.
- The Court also has to see the victim is not getting harassed and humiliated in cross-examination during the trial.

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<sup>16</sup> Criminal appeal no. 1731 of 2010.

## **NCRB RAPE REPORT 2018-2020:**



One out of every three crimes against women in the nation is a case of domestic violence, according to NCRB data. In 2021, cruelty by husband or his family members and dowry killing together made up 33.4% of all crimes against women. Even in rape cases, around 8% of offenders were family members. This Article was published by Times of India on 8<sup>th</sup> September 2022.

### **TESTING OF HYPOTHESIS:**

The hypothesis has been put to test using secondary data and the hypothesis is true and stringent punishment should be awarded in cases of rape. This will create fear among the people and it will lessen the offences in the society. We can also amend more stringent laws to control rate of the victims exposed to rape.

### **SUGGESTIONS:**

The Laws alone won't have a sufficient impact until the awareness is made to the public and the public should be more cautions and able to safeguard themselves not only from the preparator's but also from the apps we use in our daily basis like don't reveal too much on social media as some social media platforms such as Google maps, Waze, foursquare and others, use GPS locating service to tell friends where to find you. But think about it, would-be sexual predators can use these tools to find you as well. Turn off the location feature of these mobile apps on your mobile phones before going

out. Use a special code word with a close friend or family member that you can say if talking on the phone to them to indicate that you are in a dangerous situation and need help.

## **CONCLUSION:**

Over the years the offence of rape has been a trouble that is dealt by government only as a result of public outrage after new and more barbarous incidents take place. Because of this our system still fails to provide the victims a safe and protective environment. Even though there have been progressive reforms in the laws, there are some debated issues such as marital rape, gender neutrality in rape laws etc., as reported by the Justice Verma Committee, which need to be taken into account with immediate effect. Several cases have brought to attention the ambiguity and inconsistency in the judgments given by the courts. The judgments such as the Farooqui case destroy the efforts of years of reforms and takes us thirty-eight years back to the Mathura case. This reflects the deep-embedded patriarchy that exists in our society. The effects of the colonial mindset can still be seen in today's judgments and the status of the women in the society remains the same. Despite being such laws and punishments, rapists don't shy to commit such crimes with women. They don't care whether the girl is 5 years old, 25 years old or 70 years old, they just commit the offence and completely destroy the life of women. More severe punishments should be made for such offences and the rape cases should be taken very seriously. Also, women need to be strong as well to fight such animals. And the laws should focus more on the roots of this crime rather than just punishing the rapists.

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