ISSN 2582-0311 (Print)
ISSN 2582-0303 (Online)

Issue I

August 2019

VIPS STUDENT LAW REVIEW

VIVEKANANDA INSTITUE OF PROFESSIONAL STUDIES

ISO 9001:2015 Certified Institution
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TABLE OF CONTENTS

S.No Title of the Paper/Author **Page No.**

Implementation of Mediation in District Courts:
Issues, Challenges and Solutions..... 1
Sudhir Kumar Jain

Prolegomenon to Presumption as a Canon of Justice: The Judicial Perspective..... 8
V. Sree Vidya

Protective Legislation for Men in Matrimonial Violence - Need for Law in India..... 19
Virek Aggarwal

Performer's Right under Copyrights Act, 1957: Critical Analysis..... 25
Saksham Bhardwaj

Right to be Forgotten: Can it be for Real?..... 36
Archana Gadekar

Regulatory Challenges Faced by the Coal Sector in India vis-a vis needs..... 44
for an Independent Regulator : An Insight
Priya Bhatnagar

Crime of Rape and Laws: Need of Gender Neutral Approach..... 59
Ankita Kumar Gupta

Globalisation: An Analysis in The Context of Sustainable Justice..... 72
Kanchan Lavania

STUDENT SECTION

Child Labour in India: Unheard Screams..... 87
Neha Jain

Reservation in Private Sector and Right to Employment: Critical analysis..... 98
Diksha Dubey

The DNA Technology (Use and Application) Regulation Bill, 2019 and
its Effectiveness in Upholding the Principles of Privacy..... 114
Udhaya Karthika and Ms. Tanisha Verma

Case Comments

Dr. Subhas Kashinath Mahajan V. *State of Maharashtra* :
A Critique: AIR 2018 SC 1498 129
Indrajeet Dey

Shayara Bano v. *Union of India*: AIR 2017 SC 4609..... 135
Adarsh Pandey and Mr. Arunaditya Singh Parihar

Crime of Rape and Laws: Need of Gender Neutral Approach

Ankita Kumar Gupta*

Abstract

'Law' is a measure to provide sense of security but seldom has the measure become a weapon to target innocents. It is when the protected section starts misusing the security given to them to fulfill their unjust demands or to satisfy their ego hunger in cases where their only purpose is just to harass the other party. Use and misuse of law are two sides of a coin and can never be ignored. So, it becomes the duty of the constitutional machineries to consider the fact while framing and enforcing laws, that the prospective offenders can be victims too. Hence, equal protection must be provided to tackle misuse of the law against the innocents.

Laws should be futuristic enough to cover all the contingencies. It should not be biased towards one. Gender specific laws would fall flat on the face with the test of time. Women are not the only category which can be regarded as vulnerable section. Any marginalized person can be vulnerable irrespective of which gender they belong to.

The present paper is an attempt to highlight the need for gender neutral law on rape along with effective measurements that should be taken against false allegations of rape.

Introduction: Women and their Vulnerability

Despite the fact that the ancient Indian scripture and commentaries described women as 'Goddess' or 'Shakti' the position of women in India had been considerably unpleasant. For long she has been treated as a 'property' capable of being owned by man. Her very existence was thought to be for 'pleasing' the Mankind. Her personality was to be controlled within limits by one or the other person at different stages of her life like initially by her

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father, after marriage by her husband and then by her son. Her independence was always shadowed by someone.

Uneducated mothers in poor families who lived their own life's struggling and juggling with the household works and child rearing never took stand for their girl child. It was mainly because they never realized the actual importance of education in the directionless life of a girl child. They just saw it as an additional unfruitful expenditure in addition to the inevitable expenditure for her marriage.

On one hand where the beauty of nature 'motherhood' was celebrated with the birth of a son; it was thought to be curse with the birth of a girl child. Birth of a girl child was thought to be a curse because of the social consequences which were inevitably going to follow such as expenditure in her marriage, dowry and lifelong obligations towards her in-laws. Hence, parents preferred to uproot this very reason of unnecessary expenditure in the family. They ended up aborting the fetus if it was diagnosed to be a girl child. Some parents under the trauma of consequences of a girl child even ended up killing the girl child mercilessly.[1]

The vulnerability of the women left them as an easy prey in the male dominated world. It was mainly because of the economic and social dependency of women over men. It was not only the case with uneducated economically backward women but also with educated and economically independent women. As soon as women stepped out of their homes they were exposed to abuse ranging from outraging their modesty to rape, at work they were abused ranging from Sexual Harassment at Workplace to being underpaid for the same job as men. The story did not end there. Females were not completely safe behind the closed doors of their house they were continuously abused in silence ranging from domestic violence to matrimonial offences. Women were harassed irrespective of their age. Girls of tender age were sexually exploited at schools, public places by known or unknown people.

When it comes to inheritance women have been discriminated against men from ages. It was only after the amendment in the Hindu Succession Act 2005 that daughters were given equal rights as sons. This positive step taken by the Indian legislature still is stumbling between the rigid mindsets of the society where the daughter once married doesn't belong to her maternal home or maternal family.

It was not only in India that women are given inferior position as compared to men but rather it is globally that women face in-equalities. Women have always been suppressed

1 Harapriya Mohapatra, 'Status of Women in Indian Society', Quest Journals Journal of Research in Humanities and Social Science, Volume 3, Issue 6 (2015) pp:33-36 ISSN (Online) : 2321-9467, available at http://www.questjournals.org/jrhss/papers/vol3-issue6/F363336.pdf, last visited on 18th Aug 2019.

and have faced many atrocities. Even in Colonial America, women were granted 'chattel status' as she was the legal property of her father or her husband. "A married woman could not own property, for she herself was someone's property. Her personal "belongings," her reproductive rights to decide the number of children she wants to have etc, her sexual rights, even her own body was legal possessions of the man she wed. In the eyes of early post-revolutionary law, a woman, as a freely determined individual, simply did not exist."[2]

On analysis, it can be stated that since ages women, across the globe are considered as vulnerable when compared with men, the main reason behind the compounded position of women in India and abroad is the lack of 'independence' being given to her. This resulted in major gender in-equalities. A need for the upliftment of the weaker section of women was felt immensely. Their uplifment was only possible by means of proper laws for their protection. Other parameters like education and awareness about their own rights was also necessary to bring about change in their self outlook and their outlook by other genders. A collective effort of the society at large could strengthen and change the inferior position of women. However, while uplifting and empowering the then inferior section of the society have we created an imbalance in the equilibrium between both the Genders?

Constitutional and Legal protection for Women in India

After Independence in the year 1947 and with the coming into force of the Indian constitution on 26th Jan 1950 major efforts were made to uplift the position of women.

The Constitution of India not only grants equality to women but also empowers the State to adopt measures of positive discrimination in favour of women for neutralizing the cumulative socio economic, education and political disadvantages faced by them. Fundamental Rights, among others, ensure equality before the law and equal protection of law; prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth, and guarantee equality of opportunity to all citizens in matters relating to employment.

2 Kevin C. Paul, 'Private/Property: A Discourse on Gender Inequality in American Law', Law & Inequality: A Journal of Theory and Practice, Volume 7, Issue 3, Article 3, available at http://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1461&context=lawineq, last visited on 18th Aug 2019.

Articles 14[3], 15(1)[4], 15(3)[5], 16[6], 39(a)[7], 39(d)[8], 39(c) and 42[9] of the Constitution are of specific importance in this regard.

The 'Torch of Hope' for the empowerment of the Women lit by the Constitution of India could only be ensured by the support of proper legislative enactments. Hence the State has enacted various legislative enactments for empowering and protecting women. Along with all other general crimes like 'murder', 'theft', 'robbery' which can be committed against women there are certain specific crimes which are targeted only against women. For such crimes women are given even more protection by enacting even more stringent laws. Such as Dowry death[10], Assault of criminal force to woman with intent to outrage her modesty [11], Sexual harassment and punishment for sexual harassment[12], Assault or use of criminal force to woman with intent to disrobe[13], Voyeurism[14], Stalking [15], Rape[16], Husband or relative of husband of a woman subjecting her to cruelty [17] of Indian Penal Code, 1860.

With this positive picture of having various laws for the protection and empowerment of women it was thought that these laws would be successful in uplifting women in the society. But it wasn't the case as society has many shades to be unfolded every now and then.

December 16, 2012

It was the unfateful night of 16th December 2012, when the tragic incident occurred on the

3 The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

4 The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

5 Nothing in this article shall prevent the State from making any special provision for women and children.

6 There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

7 The State shall, in particular, direct its policy towards securing that the citizens, men and women equally, have the right to an adequate means of livelihood;

8 The State shall, in particular, direct its policy towards securing that there is equal pay for equal work for both men and women.

9 The State shall make provision for securing just and humane conditions of work and for maternity relief.

10 Section 304, IPC 1860

11 Section 354, IPC 1860

12 Section 354A, IPC 1860

13 Section 354B, IPC 1860

14 Section 354C, IPC 1860

15 Section 354D, IPC 1860

16 Section 375, IPC 1860

17 Section 498A, IPC 1860

streets of National Capital of the country that shook the nation and propelled a public outcry for need of stringent actions against such heinous acts[18]. In an attempt to serve justice the Government of India constituted a three-member judicial committee headed by the former Chief Justice of India, Justice J.S. Verma, to submit a report on legal reforms required to tackle violence against women. The key objective of the Commission was to review for possible amendments to the criminal law and suggest measures for faster trials and harsher penalties for vicious offences against women.

The Commission submitted its recommendations by identifying 'lack of good governance' as the central cause of offences against women. The report criticised the government, the abysmal and old-fashioned police system alongside public apathy in tackling offences against women, and thereby, recommended an ardent need for amendments in legislations. The recommendations were based on more than 70,000 suggestions received from stakeholders, social activists and public comprising of eminent jurists, legal professionals, NGOs, women's groups and civil society through varied methods: emails, posts and fax. Based on some of the recommendations of the Commission report, an anti-rape ordinance was drafted. The Criminal Law (Amendment) Bill, 2013, passed by the Parliament of India received the assent from the President and was enacted as the Criminal Law (Amendment) Act in April 2013.

The Criminal law (Amendment) Act 2013 (hereinafter referred to as the Act) amended the Indian Penal Code (IPC), 1860, the Code of Criminal Procedure (CrPC), 1973, the Indian Evidence Act (IEA), 1872 and the Protection of Children from Sexual Offences Act, (POCSO), 2012. The Act provides for penal provisions for those police officers who fail to register First Information Report (FIR) in cases of offences against women. The Act also addresses penalties for other forms of crime like stalking, touching, sexually coloured remarks, voyeurism, human trafficking and acid attacks, awarding a minimum 10-year jail term to the perpetrators and reasonable fine to meet the medical expenses of the victim.

18 On the dark night of 16 Dec 2012 a 23 year old paramedic student along with her male friend boarded a private charted bus to reach their home. Six men travelling in the bus, who were drunk, began molesting her. The male friend was knocked down when he opposed the molesting. The drunken men gang raped the girl, when she tried to oppose, one of the attackers inserted an iron rod in her private parts, puling and ripping her intestines apart. The medical reports later revealed that she had septic injuries on her abdomen and her genital organs also. The attackers then threw the half-naked blood soaked bodies the two on the road and ran away.

Effect of the Criminal Law (Amendment) Act 2013: A Critical Analysis

The enactment of the stringent laws did give some relief to the scared mindsets of the mob but was it the solution of the problem or was it just closing the doors tight enough to believe that the thief won't be able to break the doors now when the fact of the matter was that the thief was hiding inside the house only.

Due to the barbaric India's daughter gang rape case which shook the masses, the laws were made more stringent which was thought to have a deterrent effect on the future crimes of such nature. But a study[19] showed that there has been a sharp increase in sexual violence after the heinous incitement took place in Dec 2012. Though the sex crimes where not completely deterred away but these stringent laws[20] surprisingly gave more scope of misuse.

Another angle to the story is that the misuse of the laws initially made for the protection and empowerment of women is becoming the talk of the town. In the absence of the gender neutral approach, it is observed that there are many reported cases where the innocent men have been harassed by women filling false cases against them.

An evaluation of the Criminal Laws (Amendment) Draft 2013, the Criminal Laws (Amendment) Ordinance 2013 and the final Criminal Laws (Amendment) Act 2013 clarified that at its inception the Justice Verma Committee formulated a gender neutral draft in many aspects such as it contained gender neutral rape laws and gender neutral sexual harassment at workplace laws. However when the final Act came, its gender neutrality was ignored as unimportant and didn't become the part of the final Act. The need of the hour in our dynamic society is to take a broader view on gender neutral laws.

The concept of false allegations of rape charges filled by revengeful women is not new as it runs parallel to the now more stringent rape laws under Sec 375 of the Indian Penal Code 1860. The root cause of putting false allegation against an innocent man might run from seeking revenge, providing alibi or obtaining sympathy and attention. Whatever might be the root cause of false allegations but what grows from it is unredeemable for an innocent man.

According to the National Crime Records Bureau 2015 data, there were 1583 cases of rape which were dismissed due to mistake of fact or mistake of law out of the total 13460 cases.

19 'Sexual violence in Delhi: what the numbers say', Sep 23, 2017, available at http://www.thehindu.com/data/sexual-violence-in-delhi-what-the-numbers-say/article10938327.ece, last visited on 18th Aug 2019.

20 Criminal Laws (Amendment) Act 2013.

Therefore, in total of 11.76 % reported cases of rape were imsy.[21]

The Delhi Commission of Women (DCW) revealed shocking statistics that between April 2013 and July 2014 only 1287 cases were true out of the 2753 and in total of 1464 cases were found to be ill-founded. The data showed 53.2% of the total reported cases were found to be false.[22]

Judiciary on False Allegation of Rape

The Supreme Court recently, on 31st March 2017 in *Vineet Kumar & Ors* v. *State of U.P*, quashed a rape charge and aptly observed that the legal provisions cannot be allowed to become an instrument of harassment at the hands of the mis-user of law. The accused in the case had lent some money to the complainant, her son and her husband which they were not able to return. The cheques they gave for the repayment bounced in September 2010 and the very next month the complainant filed a rape case against the accused.

The Bench comprising of Justice A.K. Sikri and Justice Ashok Bhushan while throwing light on the powers of the High Court under Sec 482 Cr.P.C to make such orders to prevent abuse of the process of any Court held, "*The powers possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a prima facie decision in a case where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material.*"[23]

The court observed that law should not be allowed to be misused as to fulfill the ulterior motives of anyone and held that "*Inherent power given to the High Court under Section 482 Cr.P.C. is with the purpose and object of advancement of justice. In case solemn process of Court is sought to be abused by a person with some oblique motive, the Court*

21 National Crime Records Bureau, Crimes Statistics 2015, available at http://ncrb.gov.in/StatPublications/CII/CII2015/FILES/CrimeInIndia2015.pdf, last visited on 18th Aug 2019.

22 '53.2 per cent rape cases filed between April 2013-July 2014 false, says DCW', Dec 29, 2014, available at http://indiatoday.intoday.in/story/false-rape-cases-in-delhi-delhi-commission-of-women/1/409320.html, last visited on 18th Aug 2019.

23 *Vineet Kumar & Ors* v. *State of U.P. & Anr* Slp(Crl.) No.287 Of 2017, Para 20

has to thwart the attempt at the very threshold."[24]

The Delhi High Court is taking a stand on the misuse of Rape Laws against Men. On 7th July 2017 in *State (Govt Of Nct Of Delhi) Vs Jitender Kumar*, Delhi High Court directed the Trial Court to proceed against the complainant of false allegations of Gang Rape against two Delhi based Doctors. The complainant alleged that she worked with the doctors as an Assistant. Her services were terminated in March 2013. She alleged that she was raped by both the doctors on the pretext of giving her the job back. The Double Bench consisting of Justice G.S Sistani and Justice A.K Chawla aptly highlighted the following that "… *It seems the whole criminal machinery was put in force just to extract revenge from the respondents…*"[25] Highlighting the sensitivity involved in offences of sexual nature it is presumed that a woman would never lie as regards commission of any offence of sexual nature because of the stigma attached to it. The court correctly acknowledged that "… *though ordinarily no woman would falsely implicate someone in a rape case owing to social stigma attached to the offence, at the same time, this Court has come across cases where false charges of rape were leveled when someone tutored a gullible daughter or a disgruntled employee leveled false allegations to seek vengeance…*"[26]

Considering the damage a false allegation would cause for an innocent man the court held that "*…it is clear that the Courts must not be blind to the rights of the accused. A false accusation of rape may be as damning to an accused as to a victim of rape. The accused may be shunned in the society and by his own family, spouse and children for no fault of his own only because one woman has leveled false allegations of rape in pursuance of her evil design…*"[27]

The Constitution of India guarantees fundamental right to dignity, under the ambit of Article 21 to all the citizens of the country without discriminating against anyone on the basis of one's sex. The laws enacted by the legislature should run in conformity to the same but ironically these laws are made instruments giving more weightage to the dignity of a women than to the dignity of men.

The purpose of the law of the land is to protect all the individuals against any kind of frivolous complaint or malice. The damage that results from a false allegation of rape is beyond simple defamation because it effects and distorts different aspects of the accused

24 *Ibid*, Para 39

25 *State (Govt of NCT of Delhi)* v. *Jitender Kumar & Anr* Crl. M. A. 10404/2017, Para 38 of the Judgment

26 *Ibid*, Para 42

27 *Ibid*, Para 46

person's life such as his self respect, his self esteem, his career, his family life, his social standing.

The High Court of Delhi even has acknowledged the fact that *"There is no doubt that rape cause's great distress and humiliation to the victim of rape but at the same time false allegation of committing a rape also causes humiliation and damage to the accused" in Rohit Bansal and Ors. v. State. "An accused has also rights which are to be protected and the possibility of false implication has to be ruled out."*[28]

The subordinate Delhi Courts have also been taking steps for protecting the dignity of a Man. In *State Vs Mr Pherudin khan* a lawyer was acquitted in a rape case by a Delhi court, which said it was time to take a stand to protect men from such false implications. The court, which said the lawyer may file a case for damages against the complainant, made the observation in the rape case lodged by the woman after she retracted from her complaint. The woman had alleged that she was repeatedly raped in the chamber of the accused at a court in New Delhi from 2010-2012. The woman, however, turned hostile before the court saying accused was innocent and she lodged a complaint out of anger.

The Judge Ms. Nivedita Anil Sharma, ASJ, Delhi empathetically observed in favour of the falsely accused person that "His plight may also continue after his acquittal as his implication may have caused an uproar in society but his acquittal may not even be noticed. He would continue to suffer the stigma of being a rape case accused."

Very correctly it was further observed that "It may not be possible to restore the dignity and honour of the accused nor compensate him for the humiliation, misery, distress and monetary loss. However, his acquittal may give him some solace. He may also file any case for damages against the prosecutrix, if advised. No one discusses about the dignity and honour of a man as all are only fighting for the rights, honour and dignity of women. Laws for protection of women are being made which may be misused by a woman but where is the law to protect a man from such a woman where he is being persecuted and implicated in false cases, as in the present case. Perhaps, now it is the time to take a stand for a man." [29]

Another matter where the true face of 'Allegation of Rape' can be seen as being used as a tool is in the case of Yogesh Gupta who is a 44 yesr old Delhi estate agent. He had caught one of his employees embezzling money so wanted to report it to the police. The scared revengeful employee coerced a woman to pose as a potential house buyer who after viewing

28 *Rohit Bansal and Ors.* v. *State* 2015 VI AD (Delhi) 566, Para 47

29 *State* v. *Mr Pherudin Khan*, Feb 12, 2016, Available at https://indiankanoon.org/doc/137982073/?type=print, last visited on 18th Aug 2019.

the property asked for a lift to metro station form Yogesh. Later she accused him for raping her.[30] But when the woman registered her complaint to the police, Gupta found himself caught up in a system that seemed to care little about the evidence and a lot about branding him a criminal. For the next eight months as the police investigation continued, Gupta had to endure the public disgrace of being accused of rape. "I can't even begin to explain the ordeal that my wife, kids, my father and brother had to go through," he said. When the case finally went to court, the woman confessed she had made up the accusation and Gupta was acquitted, but much damage had already been done." The allegation of rape has affected my social status, even if one is acquitted, one cannot regain that status. You can't prove your innocence to each and every person. People are quick to judge in a rape case without even knowing whether the person is guilty or not" he said."[31]

Need of Gender Neutral Rape Laws

The High Court of Delhi recently sought reply from the government on plea for gender-neutral rape law. The Court has sought the government's response on a plea seeking to declare the "gender-specific" sections related to rape and its punishment under Indian Penal Code (IPC) as unconstitutional. A Bench of former Acting Chief Justice Gita Mittal and Justice C. Hari Shankar asked the government to reply promptly.[32]

A social activist and a budding lawyer Mr Sanjiv Kumar has filed a writ petition in the High court of Delhi under Art 226 of the Constitution of India demanding Gender neutral Rape Laws. In his petition he alleges that the Criminal Laws (Amendment) Ordinance 2013 which was published in the official gazette was gender neutral as regards Sec 375 of the Indian Penal Code which talks about Rape and Sec 354A of the Indian Penal Code which talks about Sexual Harassment At workplace but when the Criminal Amendment Act 2013 came, the gender neutrality of these Sections was removed.

He also argued that the nine- Judge bench leading judgment[33] on 'right to privacy' ruled that 'right to privacy' which includes consent and bodily integrity is now a part of the fundamental right available under right to life and liberty under Article 21 of the Constitution of India. This right to privacy not only includes right to privacy of a woman but also includes right

30 'Does India have a problem with false rape claims?',8 February 2017, available at http://www.bbc.com/news/magazine-38796457, last visited on 18th Aug 2019.

31 Ibid

32 'HC seeks govt reply on plea for gender-neutral rape law', The Hindu, Sep 28 2017, available at http://www.thehindu.com/news/cities/Delhi/hc-seeks-govt-reply-on-plea-for-gender-neutral-rape-law/article19765638.ece, last visited on 18th Aug 2019.

33 *Justice K S Puttaswamy (Retd.), And Anr.* v. *Union of India* W.P.(C) No.000372/2017.

to privacy of men.

The petition alleged that "IPC Sections 375 and 376 in the current form, which are gender-specific and not gender-neutral, don't secure males and thus don't stand the constitutional test and fail in right to privacy." The petition further argues that 63 countries have gender neutral rape laws; "if the [rape] victim is male, he has right to equal protection, equal to that of a female in like circumstances. The petition also claimed that the notion of patriarchy was the reason why men refused to come out in the open to report sexual crimes against them. "If a male alleges that a female raped him, he is not seen as a real man because the stereotypical patriarchal assumption of men are superior and stronger than women comes into the picture," the petition said.

Under gender-neutral laws, all genders are equal in the eyes of law, either by explicitly stating every gender in law or by making the language of law gender neutral. For instance, under the POCSO Act, 2012, a child has been defined as "any person below the age of eighteen years," without specifying any gender and using the word 'any' denotes equality to all genders.

The Justice Verma Committee, 2012 underlined the need for India to recognise different sexual orientations and recommended inclusion of the third gender along with other genders, i.e. men and women while drafting gender-neutral laws. "However each of these requires to be codified distinctly and separately as victims and not clubbed together in a gender-neutral term, 'person'," said Vrinda Grover, a lawyer and a human right activist, while speaking to Indian express.[34]

Recently Mr. K T S Tulsi, Senior Advocate while highlighting the need of "Gender Neutral laws" in our country introduced a Bill in Rajya Sabha calling for amendments in Indian Penal Code 1860, Code of Criminal Procedure 1974, and India Evidence Act 1872. According to him it is not only the women class who are vulnerable and needs protection even the men and transgender should be acknowledged as vulnerable and should be provided due protection in law. The bill proposes gender neutrality in all offences which are sexual in nature. As sexual offences are against the social morality they need to be punished respective of the gender of the victim. The lack of acknowledgement of men as a victim of sexual offences we have impacted the ability of this class to recognize their own victimization.

K T S Tulsi further clarifies that the objective behind putting forward this gender neutral approach is nowhere to undermine the women class as rape victims rather its main objective

34 'Is India ready for gender-neutral laws?', Oct 18, 2017, available at http://indianexpress.com/article/india/is-india-ready-for-gender-neutral-laws-4895122/, last visited on 18th Aug 2019.

is to empathies all the classes of victims which can include men and transgender too.

Conclusion

Ever since the inception of the Society there has been inception of certain crimes which can be committed against the prospective victims. Crimes against women are one such category which predominantly are a subject of fierce debate now a days. There are endless crimes which can be committed against a women but a sexual offence is the most heinous one which invades the very soul of the victim. It can be correctly said that the offence of Rape is not only an offence against the body of the victim but it's an offence against the soul of the victim.

Due to the excessive vulnerability of the women towards offences of sexual nature it has been the tendency of the legislature to provide overly adequate protection for them. It is while going through these roads of the providing cathodic protection for women the legislature somewhere made paths for despotism. The excessive protection that has been provided to the women in the name of empowerment can be used by them as 'Hammer of Revenge' against men at large. Several laws have been passed in the last 60 years in the name of protection of women and their empowerment. However, there are no laws to protect men from any form of abuse or harassment within or outside home.

After the enactment of the Protection of Children from Sexual Offences Act 2012 a male child under the age of 18 years is protected from any kind of Sexual Offences. But the irony is that as soon as this male child is going to turn 18 years and one minute old he is going to be thrown out of the protection against any form of sexual offences. It is because suddenly this male child has turned into an 'Adult Man' who according to our Indian society doesn't need any protection.

The vulnerability of the women has now converted into the vulnerability of the men at the hands of overly empowered women misusing the laws to fulfill their vindictive desires. Thousands of men are becoming victims of "legal terrorism" unleashed through laws like Section 498A IPC[35], Domestic Violence Act 2005[36], Adultery laws[37], laws against Rape[38]

35 Sec 498A, Indian Penal Code, 1860.

36 Protection of Women from Domestic Violence Act, 2005.

37 *Ibid*

38 *Ibid*

and Sexual Harassment[39], and even Divorce[40] & Maintenance[41] Laws.

Men are being subjected to severe discrimination under law, and their basic human rights are being violated every day in the name of more and more legal provisions that claim to empower and protect women.

Thus after analyzing the situation the researcher feels that there is a striking need of looking into the matter once again. We will have to keep our pre-biased notions, in favor of women and against men, aside and think indiscriminately.

When countries like United Kingdom can take strict actions against a false accuser of rape where a women is jailed for 10 years for time and again filling false allegations against people.[42] Even in India proper actions should be taken setting an example for women at large that law cannot be used as a tool of harassment.

Laws should be futuristic enough to cover all the contingencies. It should not be biased towards one gender. Gender specific laws would fall flat on the face with the test of time. While countries like United States can have Gender Neutral Rape laws then why not India? As women are not the only category which can be regarded as vulnerable section. Any marginalized person can be vulnerable irrespective of which gender they are. Thus laws should be neutral as laws should be made against a crime and not against the gender. The time has come when legislature should come out from prejudices and should think independently, neutrally and impartially.

A man goes through a traumatic experience when he is falsely implicated in allegations of sexual offences which has no merit. It is because what he loses is what he has spent a lifetime in earning 'respect'. In the true sense it can be called as a 'Social Assassination'. The Constitution of India provides a fundamental right to life & liberty through its Article 21 which also covers under its ambit 'right to dignity'. This Right to Dignity covers both the 'Dignity' of women as well as man. Then why is that some laws[43] suggest that 'Dignity of a Man' is weighed less than the 'Dignity of a Woman'.

39 *Ibid*

40 *Ibid*

41 *Ibid*

42 'Woman jailed for 10 years for making series of false rape claims', Aug 24, 2017, available at https://www.theguardian.com/society/2017/aug/24/woman-jailed-10-years-false-rape-claims-jemma-beale, last visited on 18th Aug 2019.

43 *Supra* note 34 – 40.