AN EMPIRICAL STUDY OF CRIME AGAINST WOMEN: A STUDY OF UNION TERRITORY CHANDIGARH

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ABSTRACT

Substantial evidence exists regarding Women being exploited every now and then on several accounts like dowry, domestic violence, bride-burning etc. Though Constitutional provisions restrain unlawful activities against Women but these laws are overlapping, complex and incomprehensible by this section of the society. Specific laws have been legislated to protect the vulnerable sections of the society. Despite, the laws being in place it is disappointing that still crime against Women is being committed. In this paper, the researcher has focused on the exploitation of Women in society on various fronts.

INTRODUCTION

Public Administration is consistently and constantly involved in providing “social justice” and “social security” to all sections of the society inclusive of Women, as such Women are the most sensitive segment of the society, though there are other susceptible sectors as well.¹ The Vedic period was claimed to be the golden age for Women by the scholars as they enjoyed full freedom and equal rights with men. It is well known that some Women themselves in the Rig Veda were Brahmavadinis, they were seers with whom several hymns were associated, notable among them were Ghosa, Apala, Visvavara. Thus, they were on the same footing with male seers. Considerable liberty was enjoyed by Women in this Age.²

The high status enjoyed by Women in the age of the Upanishads, can be traced from the story of Yajnavalkya and Maitreyi in the Brhadaranyaka Upanisad. She was allowed to participate in the intellectual activities. The opportunities to get education were open to Women and they were looked upon with great regard.³

During the period of Mahabharata the Women were again placed on equal pedestal with men as far as their status was concerned.⁴

In the age of Jainism and Buddhism Women were treated with far greater respect than they were during the later Vedic period. Both these religions gave opportunities for Women to participate in religious activities. Women could come out of their homes to seek religious knowledge.⁵
Another class of Sanskrit literature that accorded very high position to Women was the Tantra. According to it, the Women was an indispensable means for Tantric sadhana, she was Sakti or Energy. Even a Woman of low class, who has reached a certain level in sadhana, deserves to be saluted by a member of the highest caste. Women were regarded as gods incarnate and the very life-breath and ornament of the world, they should not be blamed or angered. One should not beat a Woman even with a flower even if she is found guilty of hundred a misdeeds. One should not mind her faults and should speak only of her good traits. vi

In the later Vedic epoch a gradual decline took place in the status of Women. This was primarily due to the increasing importance given to sons as the carriers of family lineage and inheritors of the family property. Women began to be confined to the domestic sphere. Manu Smriti and Yagnavalkya Smriti, the two most well-known Dharamshastras laid down codes of conduct, which placed heavy restrictions on woman’s mobility and freedom. Evil practices such as early marriage, denial of education, ban on widow marriage and Sati relegated Women to a position of total subordination.

The Medieval age saw the rise of Islam in India. Owing to the practice of purdah Women remained in a state of physical and social isolation. Since Muslim Personal Law governed rights of divorce, inheritance or maintenance, Muslim Women too suffered heavily. Many Hindu Women also adopted purdah system. Further, Jauhar or mass Sati was also widely practiced by Rajput Women.

In the Modern period that is in the British era, a complete ban was imposed on the inhuman practice of Sati (the practice of self or forced immolation of widow on the funeral pyre of her husband) in the year 1829. Due to the efforts of Indian social reformers like Raja Rammohan Roy, Sati Prohibition Act was enacted and Ishwar Chandra Vidyasagar enacted Widow Remarriage Act 1856. Another prominent Act passed was the Child Marriage Restraint Act of 1929. The Act fixed the minimum age of marriage for girls as 14 years and for boys 18 years. It was Habildas Sarda, another social reformer who took the initiative in leading the campaign for increasing the age of marriage and in recognition of his role the Act also came to be known as the Sarda Act. Today the minimum age of marriage for Women is 18 and for men, 21 years. These changes were brought about by the Child Marriage Restraint (Amendment) Act, which was passed in 1976. vii

Therefore, the British age saw the rise of social reform movements which took up the issue of gender inequality, primarily by passing laws that removed barriers to Women’s emancipation. Though wide spread changes did not take place, the stage was definitely set for launching a struggle for creation of a gender just society (a society in, which laws give equal treatment to men and Women. In cases relating to Women courts must give judgments in such a way that the interests of Women are protected).

Women’s upliftment is thus a major function of administration in India. The Constitution of India conferred equal rights on Women and men with a view to abolish gender discrimination. A number of laws were also implemented for exhilarating the status of Women and liberating them from oppressive social customs while protecting their rights. Prominent of these laws are, the Hindu Marriage Act, 1955, the Hindu Succession Act, 1956, the Dowry Prohibition Act,

Despite these social and legal measures Women are still subjected to severe hardships of numerous forms viz., physical assault, criminal assault, rape, domestic violence, prostitution, economic deprivation, and mental subjugation. In the contemporary set up where Women must be given respectable place in the society, the age old practices like Sati, lifelong widowhood and child marriage are still practiced and cause unwanted discord in the path of social progress. Although the ideologies and institutional practices and norms existing in society contributes much to the humiliation, harassment and exploitation of Women, the basic reason of there being exploited is that Women themselves accept the situation and tolerate all tortures against them. The heavy dependence of Women on men makes them helpless which further their exploitation in every walk of life.

Keeping in view the deplorable conditions of the Women in the society the researcher has taken a humble step towards assessing the conditions of this deprived section of the society in the most modern city of Independent India i.e. Chandigarh (U.T).

OBJECTIVE OF THE STUDY

To study Crime against Women in Chandigarh (U.T.)

The paper highlights eight cases of crime committed against Women in different Police Stations of Chandigarh. All the cases were registered in 2008 and their decisions were taken by 2009. The eight cases cover Sections 34, 325, 363, 366, 368, 376, 498A and 506 of the IPC.
TABLE BELOW REPRESENTS THE CRIME COMMITTED AGAINST WOMEN IN CHANDIGARH U.T.

<table>
<thead>
<tr>
<th>S.No</th>
<th>FIR No.</th>
<th>Date</th>
<th>Under Section</th>
<th>Police Station</th>
<th>Conviction/Acquisition</th>
<th>Decision taken/Fine</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>FIR No. 30</td>
<td>14/02/2008</td>
<td>376*, 506* IPC</td>
<td>Sector-19, Chandigarh</td>
<td>Accused convicted on 10 September 2009 by the Additional Sessions Judge (ASJ)</td>
<td>Imprisoned for 7 years and fined penalty of `5000</td>
</tr>
<tr>
<td>2</td>
<td>FIR No. 196</td>
<td>26/03/2008</td>
<td>376* of IPC</td>
<td>Sector-39, Chandigarh</td>
<td>convicted on 11 July 2009 by the Additional Sessions Judge (ASJ)</td>
<td>Imprisoned for 7 years and fined penalty of `10,000</td>
</tr>
<tr>
<td>3</td>
<td>FIR No. 24</td>
<td>11/01/2008</td>
<td>363*, 366* of IPC, Mani Majra, Chandigarh</td>
<td>convicted on 16 May 2009 by the Additional Sessions Judge (ASJ)</td>
<td>Imprisoned for 5 years and also fined penalty of `10,000</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>FIR No. 125</td>
<td>20/06/2008</td>
<td>363*, 366* of IPC,</td>
<td>Sector-31, Chandigarh</td>
<td>Accused was convicted on May 2009 by the Additional Sessions Judge (ASJ)</td>
<td>Imprisoned for 3 years and fined penalty of `3500</td>
</tr>
<tr>
<td>5</td>
<td>FIR No. 14</td>
<td>19/01/2008</td>
<td>363*, 366* of IPC,</td>
<td>Sector-3, Chandigarh</td>
<td>The accused was acquitted on 13/01/2009 by the Additional Sessions Judge (ASJ)</td>
<td>Offence could not be proved</td>
</tr>
<tr>
<td>6</td>
<td>FIR No. 354</td>
<td>20/06/2008</td>
<td>498A* of IPC,</td>
<td>Sector-17, Chandigarh</td>
<td>The accused was acquitted on 11/06/2010 by CJM</td>
<td>Crime could not be proved</td>
</tr>
<tr>
<td>7</td>
<td>FIR No. 29</td>
<td>31/01/2011</td>
<td>363*, 366*, 376*, 368*</td>
<td>Sector-11, Chandigarh</td>
<td>The accused was acquitted by the Additional Sessions Judge (ASJ)</td>
<td>Crime could not be proved</td>
</tr>
</tbody>
</table>
INDIAN PENAL CODE (IPC)

SECTION 34. ACTS DONE BY SEVERAL PERSONS IN FURTHERANCE OF COMMON INTENTION

Acts done by several persons in furtherance of common intention - When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

SECTION 325. PUNISHMENT FOR VOLUNTARILY CAUSING GRIEVOUS HURT

Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

SECTION 363. PUNISHMENT FOR KIDNAPPING

Whoever kidnaps any person from [India] or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

SECTION 366. KIDNAPPING, ABDUCTING OR INDUCING WOMAN TO COMPEL HER MARRIAGE, ETC.

Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; (and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely she will be, forced or seduced to illicit intercourse with another person shall be punished as aforesaid).

SECTION 368. WRONGFULLY CONCEALING OR KEEPING IN CONFINEMENT, KIDNAPPED OR ABDUCTED PERSON

Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, shall be punished in the same manner as if he had kidnapped or
abducted such person with the same intention or knowledge, or for the same purpose as that with
or for which he conceals or detains such person in confinement.

Whoever commits, the offence of criminal intimidation shall be punished with imprison-
ment of either description for a term which may extend to two years, or with fine, or with both;

If threat be to cause death or grievous hurt, etc.—And if the threat be to cause death or grievous
hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with
death or [imprisonment for life], or with imprisonment for a term which may extend to seven
years, or to impute, unchastity to a woman, shall be punished with imprisonment of either
description for a term which may extend to seven years, or with fine, or with both.

SECTION 376. PUNISHMENT FOR RAPE

Punishment for rape.—(1) Whoever, except in the cases provided for by sub-section (2),
commits rape shall be punished with imprisonment of either description for a term which shall
not be less than seven years but which may be for life or for a term which may extend to ten
years and shall also be liable to fine unless the woman raped is his own wife and is not under
twelve years of age, in which cases, he shall be punished with imprisonment of either description
for a term which may extend to two years or with fine or with both:

Provided that the court may, for adequate and special reasons to be mentioned in the
judgment, impose a sentence of imprisonment for a term of less than seven years.

(2) Whoever:

(a) Being a police officer commits rape-

i. Within the limits of the police station to which he is appointed; or

ii. In the premises of any station house whether or not situated in the police station to
which he is appointed; or

iii. On a woman is his custody or in the custody of a police officer subordinate to
him; or

(b) Being a public servant, takes advantage of his official position and commits rape on a
woman in his custody as such public servant or in the custody of a public servant
subordinate to him; or

(c) Being on the management or on the staff of a jail, remand home or other place of custody
established by or under any law for the time being in force or of a woman’s or children’s
institution takes advantage of his official position and commits rape on any inmate of
such jail, remand home, place or institution; or

(d) Being on the management or on the staff of a hospital, takes advantage of his official
position and commits rape on a woman in that hospital; or
(e) Commits rape on a woman knowing her to be pregnant; or

(f) Commits rape when she is under twelve years of age; or

(g) Commits gang rape,

Shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may be for life and shall also be liable to fine:

Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment of either description for a term of less than ten years.

EXPLANATION 1

Where a woman is raped by one or more in a group of persons acting in furtherance of their common intention, each of the persons shall be deemed to have committed gang rape within the meaning of this sub-section.

EXPLANATION 2

“Women’s or children’s institution “means an institution, whether called an orphanage or home for neglected Women or children or a widows’ home or by any other name, which is established and maintained for the reception and care of Women or children.

EXPLANATION 3

“Hospital” means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation.

SECTION 498A. HUSBAND OR RELATIVE OF HUSBAND OF A WOMAN SUBJECTING HER TO CRUELTY

498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

EXPLANATION

For the purpose of this section, “cruelty” means—

(a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

SECTION 506. PUNISHMENT FOR CRIMINAL INTIMIDATION

Whoever commits, the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

If threat be to cause death or grievous hurt, etc.—And if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or (imprisonment for life), or with imprisonment for a term which may extend to seven years, or to impute, unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

BRIEF SUMMARY OF EACH CASE

CASE I

The present case was registered on 14th Feb 2008 vide the FIR No.30 in Police Station of Sector -19, Chandigarh under Section 376 (refer page no.06), 506 (refer page no.08) of IPC. The accused was convicted on 10th Sept 2009 by the Additional Sessions Judge (ASJ) and was imprisoned for 7 years along with a penalty of ` 5000/-.

CASE II

The present case was registered on 26th March 2008 vide the FIR No.196 in Police Station of Sector -39, Chandigarh under Section 376 (refer page no. 06) of IPC. The accused was convicted on 11th July 2009 by the Additional Sessions Judge (ASJ) and was imprisoned for 7 years along with a penalty of ` 10,000/-.

CASE III

The present case was registered on 11th Jan 2008 vide the FIR No.24 in Police Station of Mani Majra, Chandigarh under Section 363(refer page no.05), 366 (refer page no. 05) of IPC. The accused was convicted on 16th May 2009 by the Additional Sessions Judge (ASJ) and was imprisoned for 5 years along with a penalty of ` 10,000/-.

CASE IV

The present case was registered on 20th June 2008 vide the FIR No.125 in Police Station of Sector -31, Chandigarh under Section 363 (refer page no. 05), 366 (refer page no. 05) of IPC. The accused was convicted on 16th Sept 2009 by the Additional Sessions Judge (ASJ) and was imprisoned for 7 years along with a penalty of ` 5000/-.
CASE V

The present case was registered on 19th Jan 2008 vide the FIR No.14 in Police Station of Sector -3, Chandigarh under Section 363 (refer page no. 05), 366 (refer page no. 05) of IPC. The accused was convicted on 13th Jan 2009 by the Additional Sessions Judge (ASJ) but the offence could not be proved because of lack of evidence.

CASE VI

The present case was registered on 20th June 2008 vide the FIR No.354 in Police Station of Sector -17, Chandigarh under Section 498A (refer page no. 07) of IPC. The accused was convicted on 11th June 2010 by Chief Judicial Magistrate (CJM) but the offence could not be proved because of lack of evidence.

CASE VII

The present case was registered on 31st Jan 2011 vide the FIR No.29 in Police Station of Sector-11, Chandigarh under Section 363 (refer page no. 05), 366 (refer page no. 05), 376 (refer page no. 06), 368 (refer page no.05) of IPC. The accused was acquitted by the Additional Sessions Judge (ASJ) but the offence could not be proved because of lack of evidence.

CASE VIII

The present case was registered on 05th March 2008 vide the FIR No.115 in Mani Majra Police Station, Chandigarh under Section 325 (refer page no.05), 34 (refer page no.05), 506 (refer page no. 08) of IPC. The accused was acquitted on 1st Sept 2009 by the Additional sessions Judge (ASJ) but the offence could not be proved because of lack of evidence.

CONCLUSION

Thus, out of the total 08 cases registered as crime against Women in Chandigarh in the year 2008, only in the 04 cases the accused were convicted and they were not only fined but also sentenced to imprisonment varying from 05 to 07 years whereas in remaining 04 cases, due to the lack of evidence the charged parties were acquitted. In nutshell, we can say that out of total eight cases (100 per cent) of crime against Women, 50 per cent of the cases were the ones where the charged accused were convicted and in the other 50 per cent of the cases the parties were acquitted due to lack of evidence. Therefore, it needs to be looked into that why due to lack of evidence on the part of complainant parties the accused were acquitted. These acquittals established that the cases were registered with a motive of framing individual/parties falsely otherwise how a complainant can file a case without sufficient evidence. Hence, the provisions of various Acts protecting Women against crime need to be used by the effected parties to get the relief and should not to be used for harassing or framing the individual/families falsely. Avoidance of misuse of the provisions of protecting Acts may strengthen the law and the system of justice in the long run.
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