



BLIND FOLD LEGAL JOURNAL

VOLUME-1 ISSUE-4

{March 2022-May 2022}

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Website: - www.blindfoldjournal.com

SEXUAL HARASSMENT OF MEN IN INDIA

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Abstract:

In India, there is no special provision for sexual harassment of men. The IPC talks about rape which is only in favour of female. This paper deals with how men have been sexually harassed. There are many provisions for females for sexual harassment and sexual harassment at workplace such as S 364, S 376 and S 509 of IPC. The only law that favoured for men is Section 377 of Indian Penal Code which talks about "sodomy". This section has also been decriminalised in India by Supreme Court of India in the case of Navtej Singh Johar V. Union of India¹. All other provisions that deal with sexual harassment are in favour of females. This paper deals with the reason why there is no law incorporated for sexual harassment of men. The main question which is being dealt with in this research paper is should there be a law incorporated for sexual harassment of men? This paper gives a clear description on the difficulties faced by the judges while dealing with the sexual harassment of men. It describes about the problems faced by the victims. It states on how does this defect in law violate the fundamental right i.e., right to equality. Article 14 describes about right to equality and if this right existing to all people in India, then all the men in India are violated on this fundamental right. This paper suggests what punishments can be given to accused and what solution or treatment can be given to the victims. It makes people understand the necessity of a separate statute to be passed in the parliament of the India and the steps taken till date to pass a bill and the action taken against the accused till date and few people's experience of their harassment.

Introduction:

Sexual violence is a force manipulated on someone which results into unwanted sexual assault without their consent. This act includes rape, sexual assault, sexual harassment, sexual abuse, genital mutilation etc. It is always a sensitive and a prevalent issue today, on crimes related to women. The permanent image that has been fixed in the mind of people when it comes to sexual offence is that

¹ (2018) 10 SCC 1

it only happens to women and the people who commit this crime is a man always. Many people believe that sexual violence is limited to females². When we find out the information found in the internet, we will be able to find that men's sexual assault is always been a dark secret. The internet does not have more data on men sexual harassment. The reason why the availability of data on men sexual harassment is less because, it is very difficult to collect information from sexually harassed men. They feel shy and uncomfortable to share their experience. The definition for rape in all resources found only talks about women. A data says that rape is the 4th most crime done against women in India. Mostly everyone agrees that men are been raped in prison. The decriminalisation of section 377 of IPC has not been agreed by many people in India because they look at it against their culture and tradition. It is unfair and unjust that the belief of men sexual harassment is false and it cannot happen. This paper strives to prove that men are also suffering from sexual harassment.

Sexual Violence on Men

Sexual assault may happen to any soul irrespective of gender. The IPC so biased when it comes to the matter of rape. According to Section 375 of the Indian Penal Code, defines rape as “sexual intercourse with a woman against her will, without her consent, by coercion, misrepresentation or fraud or at a time when she has been intoxicated or duped, or is of unsound mental health and in any case if she is under 18 years of age.” The penile penetration condition is justified on the basis that, it is physically impossible for a woman to rape a man, it is more serious offence to forcefully penetrate someone that force someone to penetrate you, rape is a gendered crime. In India article 14 of the Indian constitution guarantees right to equality. This right is clearly violated when it comes to sexual harassment of men. When it comes to children, there is a special act for children named “Protection of Children from Sexual Offence”³ which protects children of all genders. The Indian judiciary guarantees right to equality but these dismissals in the judiciary can prove that right to equality has been violated to men in this issue. As to same subject of rape of men and male youngsters, a survey was ready and circled to various individuals, having a place with age bunches

² According to Roberta ChinskyMatuson

³ POCSO Act, 2012

from 16 to 60. The greater part of individuals that addressed the survey were 20-year-old understudies while some of them were Bankers, Homemakers, Teachers, Architects, Engineers etc. Anyway, as of late, Indian Courts have begun to perceive wrongdoings against men and are additionally rebuffing ladies who are making bogus claims against men and subsequently, stigmatizing and sexually harassing them. The Indian Government has likewise presented a Criminal Law Amendment Bill, 2019 which, proposes to make assault laws impartial.

It is time that society begins focussing on balance in sex fairness. By having sex one-sided laws that favour ladies in the instances of sexual brutality, the greater part of the situations where men face sexual savagery stay unreported and equity isn't served to them. The Indian Judiciary should zero in on making new sexually unbiased laws or correct the current laws to make them impartial so that there is fairness among people in the country.

What can be said as Sexual Assault on Men?

“According to the definition given by World Health Organization, child sexual abuse is the involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or that violates the laws or social taboos of society. There is an unending silence around this subject and a very large percentage of people feel that child sexual abuse happens only to girls.”⁴ A data collected states that these factors could be counted as sexual harassment of men:

1. Women stripes before a man and makes him feel uncomfortable.
2. Women touching men’s genital organ.
3. Forcing a man for sex without his interest.
4. Commenting on a man’s genital organ

“Many parliamentarians and some activists argue that only members of one sex can rape and only the other can be raped, for rape is only ever patriarchal.”⁵ “Child sexual abuse is gender-neutral, Maneka Gandhi said. Boys who are sexually abused as children spend a lifetime in silence because

⁴<https://www.urbandictionary.com/define.php?term=Toxic%20Masculinity>

⁵<https://ccsindia.org/indias-law-should-recognise-men-can-be-raped-too>

of the stigma and shame attached to male survivors speaking out. It is a serious problem and need to be addressed.”⁶ A news article of 23 May, 2018 says, ““Akram”, who was raped by a preacher at the age of 14, has revealed horrific details of the crime. In India, a culture of silence surrounds cases of sexual assault on boys.”⁷ At the point when Public Interest Litigations (PILs) were recorded to make assault a sexually impartial wrongdoing, it was gone against by different ladies’ gatherings. Worldwide basic freedoms attorney and dissident Vrinda Grover said in a meeting with India Times, there are no cases of ladies assaulting men. I don't think men are confronting genuine sexual brutality issues as ladies Conversely, around two out of five casualties of abusive behaviour at home are men, thus going against the far-reaching impression that just ladies are the ones who face savagery on the hands of their spouses or their families.

Many individuals don't know about Reynhard Sinaga or 'England's most productive attacker'. Recently, he was condemned to at least 30 years in jail. The fascinating thing about this case is, Reynhard assaulted men, especially in Manchester, England. The Indonesian understudy would hang tight external dance club and bars for inebriated men and afterward attracted them back to his condo frequently with the proposal of calling a taxi or heading off to some place for a beverage. He would then medication his casualties prior to attacking them while they were oblivious. Police say they have proof that Sinaga designated somewhere around 190 casualties. According to the reports, Sinaga has a count of 159 sexual offenses under his name on 48 men and still, 70 casualties stay unidentified. An instance of homosexuality, which is the main demonstration under Section 377 which shields men from male-on-male assault, occurred in Muzaffarnagar, A 10-year-old kid was sodomized by a young in his Muzaffarnagar locale. As per the protest stopped, the blamed took the minor to an isolated spot and physically attacked him. The kid figured out how to return home and communicated this experience to his folks. The charged is slipping away, while the minor casualty is going through medicines at the clinic. No endeavours have been made by the police to carry equity to the kid who was sodomized, and the charged is as yet strolling free.

⁶<https://www.google.com/amp/s/amp.theguardian.com/global-development/2018/may/23/indian-study-male-sexual-abuse-film-maker-insia-dariwala>

⁷<https://www.bbc.com/news/av/stories-44203667/breaking-silence-an-indian-man-shares-his-rape-ordeal>

Technology and Sexual Assault:

Men who have been a subject of sexual viciousness might have comparable feelings as different overcomers of sexual savagery yet their feelings are regularly discredited because of generalizations pervasive on manliness and are frightened of social derision. The dread of getting provoked, ridiculed or offended by individuals around them keeps men from revolting against the treacheries looked by them.

In any case, with developing innovation and training, and worldwide admittance to data, individuals are emerging from their shells and going to an arrangement that discussing their encounters isn't simply going to reveal the misfortune, but at the same time will set them free inwardly, genuinely and intellectually. For instance, numerous developments like the #MeeToo and #Timesup development, which initially began as a method for empowering ladies to come out and share their encounters of homegrown and sexual savagery, have additionally urged men to confront their culprits. Albeit, these developments have prompted a 18% expansion in documenting reports of sexual brutality against men, in any case, men actually face public scorn while sharing their experiences of homegrown or sexual savagery and are regularly dismissed or they are viewed as frail and told to man up. Innovation has brought about an expansion in mindfulness among individuals on such issues, all things considered, there is an adverse consequence by it on the instances of inappropriate behaviour. With the improvement of innovation and web, lewd behaviour against every one of the sexes has definitely expanded. As per PEW insights 2014, 25% of ladies and 13% of men between the ages of 18-24 have encountered lewd behaviour at online stages.

Society needs to relinquish the way that assault is a men's issue or sexual brutality has created because of the man centric underlying foundations of the country in the perspective on the way that colloquialism this, cripples' male casualties.

Sexual Harassment of Men at Work Place:

At the point when we hear the term sexual harassment, our brains straightforwardly accept that the

casualty is a woman and the culprit is a man. One of the key where sexual savagery happens is at the work environment. Throughout the long term, many laws and enactments, for example, The Sexual Harassment Act for Workplace, or The Vishakha Guidelines are set down to forestall sexual viciousness against ladies in the work environment. In any case, there has been no cure set down for men in case they are sexually pestered in the working environment.

This doesn't imply that men are not exposed to sexual harassment in the working environment. Laws have been carried out to secure ladies against the underhanded that is sexual harassment, yet we continue failing to remember that men get badgering at the work environment as well.

For the most part sexual brutality against men in the work environment is finished by male partners or female managers. Men might be approached to lift their shirts, or a specific compensation might exist like the one that ladies in the working environment face. The main contrast is, ladies have cures against these harassments, while men need to quietly endure.

The time has come to bring uniformity and destroy these sexual orientation one-sided laws with the execution of unbiased laws. Equivalent significance ought to be given to the insurance of men's right at the working environment as female's freedoms and men ought to be overwhelmed in the Sexual Harassment at Workplace Act 2012 straightaway.

Laws Related to Sexual Harassment in India:

Section 375 of The Indian Penal Code, 1860

A man is said to submit assault who, besides for the situation hereinafter excepted, has sex with a lady under conditions falling under any of the six after depictions: Without wanting to. Without her assent. With her assent, when her assent has been acquired by placing her or any individual in whom she is keen on dread of death or of hurt. With her assent, when the man realizes that he isn't her better half, and that her assent is given since she accepts that he is one more man to whom she is or trusts herself to be legally hitched. With her assent, when, at the hour of giving such assent, by reason of instability of brain or inebriation or the organization by him by and by or through one more of any stunning or unwholesome substance, she can't comprehend the nature and outcomes of that to which she gives assent. With or without her assent, when she is under sixteen years old. This section begins with the words, 'a man is said to carry out assault' subsequently clarifying that

assault isn't a sexually impartial wrongdoing and just a lady can be a casualty of it and a man can be a culprit.

Section 354(A) of The Indian Penal Code, 1860

A man submitting any of the accompanying demonstrations will be at fault for the offense of inappropriate behavior: actual contact and advances including unwanted and express sexual suggestions an interest or solicitation for sexual blessings showing sexual entertainment against the desire of a lady offering physically hued comments.

This section once more beginnings with 'a man is at real fault for submitting the offense of lewd behavior' and accordingly even this section isn't impartial since it neglects to think about the lewd behavior of guys.

Section 354(B) of The Indian Penal Code, 1860

Any man who attacks or uses criminal power to any lady or abets such demonstration determined to strip down or convincing her to be bare, will be rebuffed with detainment of one or the other portrayal for a term which will not be under three years however which might reach out to seven years, and will likewise be obligated to fine.

This section begins with 'a man is said to carry out an attack or uses criminal power' accordingly even this section isn't unbiased since it thinks about the attack or applying of criminal power on a female by a male on perpetrating specific exercises.

Section 354(C) of The Indian Penal Code, 1860

Any man who watches, or catches the picture of a lady taking part in a private demonstration in conditions where she would as a rule have the assumption for not being noticed either by the culprit or by some other individual at the command of the culprit or spreads such picture will be rebuffed on first conviction with detainment of one or the other depiction for a term which will not be short of what one year, yet which might reach out to three years, and will likewise be responsible to fine, and be rebuffed on a second or ensuing conviction, with detainment of one or the other portrayal for a term which will not be under three years, however which might stretch out to seven years, and will likewise be obligated to fine.

This section begins with a man is said to submit voyeurism subsequently even this section isn't sexually impartial since it thinks about the voyeurism on a female by a male on submitting specific exercises.

Section 354(D) of The Indian Penal Code, 1860

A man is said to submit following if he follows a lady and contacts, or endeavors to contact such lady to cultivate individual collaboration more than once notwithstanding an obvious sign of lack of engagement by such lady screens the utilization by a lady of the web, email or some other type of electronic correspondence.

This section begins with a man is said to submit following accordingly even this section isn't impartial since it doesn't think about the following of a male by a female on submitting specific exercises.

Every one of the sections of The Indian Penal Code talked about above are not impartial and just a lady can look for under these sections.

Conclusion and Suggestions:

Exploration on sexual violence against men is being done broadly across the world, and a few nations have made arrangements in the law. It is time that our Indian Courts additionally begin approaching sexual violence against men in a serious way and acquaint enactments with shield men from these violations. The researcher recommends following suggestions through this research:-

1. Sexually impartial laws ought to be implemented with the annihilation of sex one-sided laws
2. Men ought to be included the Sexual Harassment in the Workplace 2012.
3. Mindfulness ought to be spread in regards to sexual violence against men as missions, reports, articles and so forth.
4. Very much like there is a different court for women, MahilaAdalat, a different court ought to be made for men as well.

5. Separate commissions ought to be made which manages research against violations against men explicitly and the equivalent should be ruined women as well.

6. Male and female culprits of sexual violence ought to be rebuffed similarly with next to no segregation.

Individuals speak loudly when injustice is finished with women, yet for what reason don't they do a similar when a man is the victim? Everybody ought to be dealt with similarly according to the law and there ought to be no biasness for the sake of sexual orientation balance.

As per Justice Krishna Iyer, A killer kills the body, however an attacker kills the spirit. Men in India are assaulted each day, it is time the residents recognize this reality and backing the male victims of sexual violence when they report the cases and all kinds of people culprits of sexual violence ought to be rebuffed similarly under law for this severe wrongdoing.

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