



IMPACT OF CHANGES IN GENDER LAWS

PILOT STUDY IN DELHI



POPULAR EDUCATION & ACTION CENTRE

IMPACT OF CHANGES IN GENDER LAWS

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REPORT ON PILOT STUDY IN DELHI ON CHANGES IN GENDER LAWS BASED ON JUSTICE VERMA COMMITTEE REPORT

The pilot is an attempt to gather preliminary information within a stipulated time period in order to propel an in-depth analysis of the implementation and impact of the Criminal Law Amendment Act 2013. It is directed towards opening a window into the larger picture of the criminal justice system specifically in Delhi, including a review of the provisions of the act, its impact on the reporting and prosecution of sexual offenses, and its effectiveness in addressing the systemic issues related to sexual violence. We would like to study the intent behind these provisions, the mandate assigned for their implementation and assessing the judicial impact reflecting through use of these sections.

RATIONALE

Over the years, certain landmark cases have resulted in significant legal modifications that have enhanced the anti-rape statutes. With the expansion of the women's movement, which raised awareness and changed society's attitudes, the necessity for legal change also gained pace, hence stringent punishments for rape.

The rationale behind this study is to understand the newly added provisions of sexual harassment in the Indian Penal Code, 1860, by way of Criminal Law (Amendment) Act, 2013. It looks closely into the several changes made in the definition and punishments of sexual harassment laws. While there have been studies on the amendments in anti-rape legislations, testing their efficacy and shortcomings, other provisions relating to sexual violence also need thorough examination.

With Justice Verma Committee being the crux, context and vantage point of this study, the aim is to understand the evolving jurisprudence of sexual harassment legislations. It is pertinent to mention that the Verma 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".¹

¹ Justice J.S. Verma Committee, Report of the Committee on Amendments to Criminal Law, 115 (January 23, 2013) at p. 249.

BROADER OBJECTIVES/SCOPE OF THE STUDY

1. Understanding the scope of the new provisions - The study aims to understand the extent and scope of the newly added provisions related to sexual harassment in the Indian Penal Code. This would involve analyzing the language, structure, and key provisions of the law as it stands today.
2. Examining the impact of the new provisions - The study aims to examine the impact of these provisions. This would involve analyzing data on the number of cases reported, the conviction rate, and the impact of the law on changing social attitudes towards sexual harassment.
3. Evaluating the effectiveness of the law - The study aims to evaluate the effectiveness of these provisions in achieving their intended goals. This would involve analyzing the implementation of the law, the response of law enforcement agencies, and the impact of the law on reducing incidents of sexual harassment.
4. Recommending improvements - Based on the findings of the study, the aim is to make recommendations for improving the provisions under study. This would involve identifying areas where the law can be strengthened, including providing better support to victims, increasing awareness of the law, and improving the legal response to incidents of sexual harassment.

METHODOLOGY

In this pilot study, we analyze the orders and judgments pronounced by trial courts across eight districts of Delhi, from 2018 to 2022. We have chosen Delhi because it has been the centrepiece of the journey of this Amendment Act. Free accessibility of court orders through the e-courts website has also been one of the reasons for conducting the pilot in Delhi. Through an analysis of judicial decisions of District courts across Delhi, we propose to study the perception, execution and lacunas in the amended and newly added provision of Sexual harassment under IPC.

SAMPLE SIZE

E-courts- Our data set includes cases collated each from the Court of Sessions Judge and the Chief Metropolitan Magistrate (CMM) across eight districts of Delhi, from the e-courts website. The cases fall under two heads - Disposed cases and Bail matters, the primary provision of study being Section 354A IPC.

RTI - A total of 6 RTIs have been filed to the Home Department Delhi, seeking information under various provisions, both old and new, under the IPC, 1860 and selected provisions under the SC/ST Atrocities Act, 1989.

For the pilot, we have started with the responses received from the Home department pertaining to the South and South-east district. As per the order received, permission has been granted to inspect permissible records of police stations falling under the specific district. Until now one police station each from the South and South-east district have been visited. The data has been made available in the form of FIR no, year and the charge head/offences.

Following is the list of police stations under the aforementioned districts

South	South-East
Hauz Khas	Sarita Vihar
Saket	Jaitpur
Malviya Nagar	Badarpur
Mehrauli	Pul Prahlad Pur
Fatehpur Beri	Jamia Nagar
Neb Sarai	New Friends Colony
Safdargunj Enclave	Amar Colony
Sarojini Nagar	Lajpat Nagar

Lodhi Colony	Sunlight Colony
Defence Colony	Hazrat Nizamuddin
Kotla Mubarakpur	Kalkaji
Greater Kailash	Govindpuri
Ambedkar Nagar	Okhla
Sangam Vihar	
Chittaranjan Park	

PROBE QUESTIONS

The following questions were looked at while analysing the orders and judgements passed by the Court of Sessions Judge and the Chief Metropolitan Magistrate (CMM):

1. Whether circumstances include fights between family of the victim and accused/people in the neighbourhood etc
2. When victim turns hostile, what measures does the Judge take to ensure Victim/Witness is not being threatened or induced? (SC judgment in Zahira Sheikh)
3. Look at in how many cases they have relied on medical evidence
4. In how many judgments of conviction has Court relied on Victim's testimony alone
5. How many judgments of conviction has the Court used corroborative evidence in order to verify the victims evidence
6. What role does consent play in these cases- unlike rape, these offences do not hinge on consent but rather on the act being established and it being established that it was "unwanted" and there was "sexual intent" - what is the jurisprudence on determining

whether the act falls within the scope of these offences, once the act itself has been established

7. In cases where victims testimony was found to be unreliable, what are the trends.
8. What role does prior enmity/other motive have to play in these cases. Are there many acquittals on this ground. (Gurmit Singh, Kharilanjji- prior motive is a double edged sword, this may be the motive for perpetrator to sexually assault as well)
9. Cases in which the victim is a woman, there is altercation/harassment but it is not sexual in nature
10. Typically, who are the witnesses on behalf of prosecution, apart from the victim. Is it only family members? When these incidents take place in public, is there an effort to get public witnesses or independent evidence
11. What role does electronic evidence play in believing or disbelieving the victim- CDR, transcripts of whatsapp etc, cctv footage. Is electronic evidence also being used to undermine testimony of the victim?
12. Identify a few cases where there have been convictions, even though the evidence doesn't add up- does the judgment give indication of the social/class profile of the accused- is there anything to show that judges are more likely to convict accused of certain social classes.
13. In convictions- try to study what is it about the accused in these cases that may make the Judge feel they are guilty
14. Identify Accused relationship with Victim- family, neighbor, stranger
15. Identify all cases/allegations or convictions where victim has ALSO sustained physical injury
16. Cases in which accused has not been identified/untrace
17. Should we have category of S.376 IPC r/w these sections?

STATISTICS PERTAINING TO THE STUDY - DATA COLLECTED FROM NCRB REPORTS AND RTIS

The CLA 2013, incorporated several recommendations of the Verma Committee, introduced some long-standing demands of the feminist groups related to sexual violence laws, including recognizing and penalizing a wide range of non-penetrative sexual offences against women.²

According to the NCRB report, the number of crimes against women grew from 56.5% in 2020 to 64.5% in 2021, (incidents per 1 lakh population). One of the primary heads being “Assault on women with an aim to outrage her modesty” at 20.8% of the total cases.

A total of 4,28,278 cases of crime against women were registered during 2021, showing an increase of 15.3% over 2020 (3,71,503 cases).

Among the Union Territories, Delhi has the highest rate of crime against women in 2021, with an increase over the past three years.

Delhi has recorded 14277 cases of crimes against women in 2021, a significant surge of more than 41 percent compared to 2020 when the figure was 10093.

CRIMEWISE (ALL INDIA)

	Crime	2016	2017	2018	2019	2020	2021
	Acid Attack	204	148	131	150	105	
2	Attempt to Acid Attack	-	35	37	42	33	
3	Assault (Outrage modesty)	84746	86001	89097	88367	85392	

² The Criminal Law Amendment Act, s.8. Earlier, the only provision covering non-rape sexual offences was 'Outraging the modesty of a woman' punishable for a maximum of two years under The Indian Penal Code, 1860, s.354.

4	Insult to Modesty	7305	7451	6992	6939	7065	
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CRIME AGAINST WOMEN (SLL+IPC - DELHI)

Year	Number
2015	17104
2016	15310
2017	13076
2018	13640
2019	13395
2020	10093
2021	14277

CRIMEWISE (DELHI)

	Crime	2016	2017	2018	2019	2020	2021
1	Acid Attack	19	8	5	8	2	8
2	Attempt to Acid Attack	-	10	10	10	3	2
3	Assault (Outrage modesty)	4165	2874	2705	2355	1840	2068

4	Insult to Modesty	918	619	552	456	416	417
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CRIMEWISE – DELHI - 2021

District/Crime	Acid Attack S. 326 A	Attempt to throw Acid S. 326 B	S. 354	S. 509
Central	1	0	180	43
Crime Branch	0	0	1	1
East	1	0	136	20
EOW	0	0	0	0
IGI Airport	0	0	6	3
Metro	0	0	9	0
New Delhi	0	0	27	11
North	0	0	115	19
North-east	1	0	111	6
North-west	0	0	124	14
Outer	0	0	115	30
Railway	0	0	1	1
South	2	0	125	31

South-east	0	0	233	61
South-west	0	0	122	25
Spl Cell	0	0	8	0
SPUWAC	0	0	0	0
Vigilance	0	0	0	0
West	0	0	144	33
Rohini	1	0	128	24
Shahdara	1	2	115	20
Dwarka	0	0	280	58
Outer North	1	0	88	17

ANALYSIS OF ORDERS AND FINDINGS OF THE STUDY

1. In **Akash Jain v. The State** (CrI.A.No.144/17) Order dated 19.09.2017, Shahdara District, the ASJ, revision petition was withdrawn
2. In **State v. Aakash and Ors** (S.C. No.79/18, F.I.R No.528/15, P.S.Jahangirpuri under Sections 308, 354, 354A, 34 IPC, judgement dated 17.01.2019, ASJ Rohini)

Facts: Complainant was walking back home with his sister, the three accused were standing by on the street, Akash whistled with bad intention and asked where they were going, he objected, they abused him, he sent sister home, the three accused took him to Ram lila ground and assaulted him, he raised noise, they fled, he went back home and family members took him to the hospital.

Charge u/s.354 framed against Aakash and under S.308 r/w34 against all the accused.

PW-1 sister of Complainant supported the prosecution case, but she could not identify any of the accused, she stated that she could not see faces of the boys. PW-2 mother of victim supported prosecution case (hearsay)

PW-3 victim/complainant did not identify the accused, and stated that he was hit by unknown dark boy

PE was closed after these three witnesses since no incriminatory material was brought on record.

All accused acquitted due to lack of evidence

3. In **State v. Dharam Thakur** (F.I.R No.39/17 P.S. IGI Airport, Case No. 1648/17 under S.376 IPC) through Order dated 18.07.2017 the case was committed to the Sessions Court.
4. In **State v. Firoj** (SC No.570/17, F.I.R. No.568/17, P.S. Narela, u/s. 354A, 354B, 376 IPC and 12 POCSO, judgement dated 18.01.2018, ASJ Rohini)

Facts: Firoz accused of making physical contact and advances including unwelcome and explicit sexual overtures towards victim R and sexually assaulting SP, daughter of victim R, aged 8 months by removing her panty and rubbing his hand all over her body.

Firoz is the brother of the husband of victim R

R stated that Firoz sexually assaulted her on several occasions over the past one year, when she once saw Firoz rubbing his hand on her daughter, she called 100 and complained to police.

In her evidence R stated that 6-7 months prior to her evidence, she had a quarrel with Firoz, so she went to P.S with her jethani and in anger filed the present complaint. Cross-examined by the PP and denied all allegations in her complaint, she stated that she called 100 but that she lodged a complaint only regarding the quarrel.

In her S.164 statement too she stated that she had a quarrel with Firoz over food, no mentioned about any sexual assault on her or her daughter.

See para 15 and 16 on medical examination- Court is looking for medical proof- sign of physical assault on R and redness/swelling on SP when there is no allegation of the same. Note is made of refusal of internal examination of R, when she is married, note is made of internal examination of SP when no allegation of penetration. Court holds, *Thus, there is no medical or forensic evidence on record, to corroborate and establish that the alleged sexual assault, if any, has been committed upon the victims. (Para 17)*” There is no allegation of any act which could have produced medical evidence corroborating rape.

Husband of the victim has not been cited as a witness by the prosecution “for reasons best known to it”- this can be good and bad.

Only material witness R does not support the prosecution's case, hence Firoz is acquitted.

5. State v. Joginder and Ors (SC No.241/18, F.I.R No.588/17, P.S.Badli, u/s.376, 366, 323, 506, 354, 354-A, 509, 34 IPC, judgement dated 30.09.2019, ASJ Rohini)

Facts: Accused was neighbour of victim, he ...seems like consensual affair

Prosecutrix resiled from her statement re abduction etc, and deposed that Joginder established physical contact with her but with her full consent.

Acquitted since consent

6. **State v. Mohar Singh** (S.C. No.09/2019, F.I.R No.370/18, P.S. Mahendra Park, u/s.307, 354A, 354 IPC, and S.25, 27, 54, 59 Arms Act, judgement dated 6th April 2022, ASJ, Rohini) -imp- sexual assault and physical assault with medical, forensic evidence. Victim turned hostile, forensic evidence did not support the prosecution case.

Victim was sleeping on her terrace, mother went down, Accused(son of their landlord) came downstairs and tried to touch victim inappropriately, she slapped him, asked him to leave, Accused used a knife in his hand to attack her multiple times, threatened to kill her, left the spot. Victim went down and told her mother.

Victim in her evidence supported the version of the incident, denied signing on S.164 statement and denied that the Accused was the same person who stabbed her or misbehaved with her.

Mother of victim, supported version of incident, denied that the Accused was the person who assaulted her daughter.

Evidence lifted from crime scene- blood, hair, blood-stained bedsheet, blood earth,

Knife and blood stained clothes recovered from the accused.

Para 12- As the material witnesses i.e the victim (PW5) herself as well as her mother Gyanti Devi (PW6) having turned hostile, the prosecution evidence was closed as the remaining witnesses cited by the prosecution were police or medical witness The brother of the victim whose testimony was also hearsay in nature.

Forensic evidence: Para 20

As far as the clothes of the accused Ex.7A and Ex.7B are concerned, it has been concluded that the mixed DNA profile has been generated from the said exhibits. It is not the case of the prosecution that the accused too suffered any injury in the said assault. The said blood, if at all was present, should have been of the victim only and therefore, the presence of mixed DNA goes against them .

7. **State v. Pawan** (F.I.R No.98/18, P.S.Shahbad Dairy, S.C. No.170/18, Sections 354, 506(II) IPC and S.8 POCSO and others? Order dated 30th May 2028, ASJ Rohini)

Charges framed against the Accused. Court rejected Accused contention that there were material contradictions between statement of Victim given to police and S.164 CrPC statement.

8. **State v. Pawandeep Singh** (F.I.R No.76/19, P.S. Anand Vihar, ACMM Shahdara, Order dated 09.092019)

Chargesheet under S.376 IPC amongst others filed, case committed to sessions court. Accused out on bail, allowed to remain on bail.

9. **State v. Rajendra Kumar Aneja** (Cr.Case 1782/2020, F.I.R No.429/2017, P.S. Prashant Vihar)

Order dated 12.07.2022, MM, Rohini Courts took note of the fact that this F.I.R had been quashed vide Order dated 13.10.2022 of the Delhi High Court.

Note- can trace this HC Order

10. **State v. Shivam and Ors** (F.I.R No.202/19, P.S. Model Town, Case No. 585/2020, Order dated 31.03.2021, MM North, Rohini)

Accused Shivam was granted anticipatory bail by ASJ Order.

This court granted bail to other accused Laturi Singh, Meenu Yadav, Bunty.

Matter committed to sessions court since it included S.376IPC.

11. **State v. Subhash** (F.I.R No.727/16, P.S.GTB Enclave, SC No.1123/16, AJ, Special Judge, POCSO, Shahdara)

Order dated 28.08.2017.

Closure Report had been filed in the case, however, the predecessor Judge took cognizance of the case despite this on 21.12.2016.

Listed for framing of charges.

Child victim was resident of Sanskar Ashram. She complained that on 24.06.2015 when her birthday was being celebrated, ashram worker Subhash misbehaved with her, hit her hand on her breast, winked her and touched her breast in three separate instances, and in October 2015 he hit her chest. In her S.164 statement she said that Subhash only hit her elbow and said sorry, then she was produced before CWC and her mother came to take her, her mother left her half way, she returned to the Ashram, she made a plan with her friend that if she makes false allegations, they may release her from the Ashram.

Statement of other girls recorded, said that no male staff involved in dance, no one goes to water cooler, no such incident took place.

Court held that no prima facie case made out, based on S.164 statement and S.161 of witnesses. Accused Subhash is discharged.

- Victims release theory doesnt make sense, why did she return to the ashram if she wanted to leave?
- Witnesses give statements to disprove the victim, how do they know details of the allegations.
- Court did not bother to summon and examine

12. **State v. Untrace** (F.I.R No. 236/2018, P.S. Special Cell, CC No.2806/2020, CMM, New Delhi, Patiala House Courts, Order dated 02.03.2022)

Complainant did not respond to summons. Untrace reported accepted with direction to IO to continue investigation.

13. **State v. Ashwani** (F.I.R No.455/17, P.S. Vasant Kunj (South), C.C. No.10236/17)

Chargesheet filed under S.354A, 384, 506, 376 IPC, case committed to Sessions Court. Listed before District and Sessions Judge, Patiala House Court on 05.01.2018.

14. **State v. Rakesh Meena** (F.I.R.No.145/17, P.S. Vasant Kunj (N),

Order dated 21.12.2017, ASJ, Special Court, POCSO, PHC, taking on record phone being seized and sent to FSL, no other details including sections.

15. Varun Gupta@ Sonu v. State etc (New CR No.265/2018, Old CR No.78/18; F.I.R No.73/17, P.S Prashant Vihar)

Order dated 15.04.2019 of ASJ, North, Rohini Courts

Revision against Order of MM framing charges under S.354A(i), 323/451/354/509 and 506 IPC.

Facts: Victim Ms. K was returning from purchasing milk on 17.02.2017 at 7:15 P.M, her neighbour Sonu caught hold of her hand, started altercation with her, she told her husband, he called 100, she runs a parlour, Sonu would enter her parlour...

She was medically examined- told doctor that her neighbour Varun Gupta entered her house on 08.03.2017 at 1:15 P.M and squeezed her right side breast tightly and ran away.

S.164 statement recorded on 10.03.2017... after this S.354 and 323 were added..

Chargesheet filed under S.354A, 354, 323 IPC

Defence- MM failed to appreciate ongoing dispute between families due to which frivolous and bogus case registered..Complainant illegally constructed a wall against house of Accused, Accused filed multiple complaints regarding illegal construction...MCD took action by demolishing Material improvements in S.164 statement recorded after 23 days after incident...Complainant filed complaint to save her husband from MCD...MM order non-speaking and failed to take into account concocted story..

ASJ Court held- material on record in the chargesheet prima facie makes out the offences.

16. Shivam Chaudhary v. State and Anr (CR No.202/2022, Order dated 31.10.2022, Principal Judge, South East District, Saket Courts)

-nothing to show the F.I.R is of sexual offence- to discuss

17. State v. Abhishek Misra (F.I.R No.973/2019, P.S.Bindapur, u/s.323, 354, 354A, 506, 509, 34 IPC, ASJ Dwarka Courts, Vishal Gogne, Order dated 19.03.2021)

Applicant (?) Accused sought reduction of bail amount, from 25k to 10 k, sole bread earner, wife not able to collect more money. Allowed.

18. State v. Ajay Kumar (S.C No.441250/16, F.I.R No.35/16, Section 341, 354A IPC, and 12 POCSO,
Process not served, orders given for fresh process.
19. State v. Karishma (F.I.R No.351/2022, P.S. Janakpuri, Bail Matter 2022/2022)
Anticipatory bail granted in a case of ...? Sections not mentioned...dowry harassment, matrimonial cruelty? N/A
20. State v. Rakesh Tehlan (F.I.R No.309/2022, P.S.Najafgarh, under S.392, 354, 354(A), 323, 506, 34 IPC. Bail application reg no.1974/2022, ASJ, Dwarka Courts, Order dated 18.07.2022)
Accused applied for anticipatory bail. Allegations against him is that Accused and co-accused went to shop of complainant and gave beatings to her, outraged her modesty and snatched her gold chain and amount of Rs.11,000 from her pocket. S.164 statement supports her complaint.
Court rejected anticipatory bail- accused not cooperating with investigation, gold chain not recovered,
21. State v. Santosh Rathore@ Satya Ram (F.I.R No.1056/18, P..S Uttam Nagar, Order dated 15.01.2019, ACMM, South West, Dwarka)
Sections not clear,only S.506 IPC mentioned.
All accused granted bail since offence is bailable in nature.
22. State v. Vikas @Uttkarsh (F.I.R. No.535/2018, P.S.Bindapur, MM, South West Delhi, Order dated 06.04.2019)
Chargesheet under S. 354, 354A, 506, 509 IPC filed, sent to CMM to be assigned to Mahila Court.
23. State v. Shahid Ameen (F.I.R. No.66/20, P.S. V.K.North, U/S.354, 354A, 387, 452, 506, 323 IPC, 67 IT Act, Order dated 27.04.2021)

Facts not clear, involves the Accused making demands for payment/extortion unless the victim paid him money. Court has asked IO whether there is any written proof of such demand.

24. State v. Cancellation (Case No.15167/2018, F.I.R No.103/2017, P.S. Chandni Mahal)

Order of MM dated 18.12.2018 took on record the HC Order vide which this F.I.R had been quashed

25. State v. Khempal (Case No.42/2018, F.I.R No.493/2017, Section 354, 354A, 354B, 354C, 354D, 376, 457, 506, 509, 201 IPC, P.S. Kashmiri Gate, Judgement dated 30.01.2019)

Facts:

26. State v. Nishwat Ulla Khan and Ors (Case No. 876/2017, F.I.R no. 178/2017, Section 376, 354, 506, and 34 IPC, P.S. Timarpur, Judgment dated 09.04.2018, ASJ, FTC, Tis Hazari Courts)

Accused became the boyfriend of the Complainant through a girl she knew. One day he followed her to her room, convinced her he would marry her. Under the promise of marriage established a sexual relationship with the Complainant, thereafter he started harassing, abusing and beating her. Accused abused and beat Prosecutrix in front of co-accused Nishat Ulla Khan and Rafat Ulla Khan. Accused's mother Ashma and sister Sahar also abused, insulted and threatened Prosecutrix.

Mother and sister discharged vide Order dated 04.04.2018.

Charges framed against Accused Nishwat u/s. 376, 354, 506, 509 IPC and under S.354, 506, 509, 34 IPC against co-accused Nishat and Rafat.

Prosecutrix in her testimony stated that she and accused developed physical relations. To a specific question she said "due to inducement of her family members she got registered the present case against accused Nishwat". (Para 9)

"She further deposed that they promised to marry each other. She disclosed her family regarding her willingness to marry accused Nishwat but her family was not ready and due to religion issue, dispute arose and they separated each other and that they could not contact

each other for about 3-4 months...due to family pressure she got registered the present case against the accused Nishwat..." (Para 10) and that she named co-accused at the instance of her family members and police officials.

"This witness had denied to suggestion that accused Nishwat had forced upon her to have sexual relationship with him promising that he would marry her or that she had of her free will stated in her complaint to police that for about one year accused Nishwat had tortured her and given her sleeping pills or that he had threatened her not to disclose his relationship with her to her family members or that he had induced her that he would marry her or that in this way he had made sexual relationship with her." (Para 11)

Prosecutrix denies all allegations- see para 10 to 17 for list of allegations, indicative of this category of cases?

Imp- Prosecutrix admits she married Nishwat in a Nikah. (Para 19)

Prosecutrix denied being pressured/induced to compromise

Prosecutrix turned hostile. All accused were acquitted.

"Since prosecutrix was consenting with the accused and has misused the due process of law, hence, no compensation is awarded to her."

> No allegations apart from rape detailed. S.354 allegations not specified.

27. State v. Sanjeev (Case No.881/2017, F.I.R. No.331/2017, P.S. Kashmere Gate, u/s. 354, 354B, 376, 506 IPC, date of judgement 14.03.2018, ASJ FTC, Tis Hazari)

Prosecutrix alleged that she was walking home with her elder sister Barkha on 31.08.2017 at 10:30 P.M, near Rehen basera, her sister was ahead, accused Sanjeev came from behind and that he pulled her and threatened her, took her to railway line, tore her clothes, touched her inappropriately and pressed her breast. Prosecutrix raised alarm, her family members came, chased accused, he ran away, they dialled 100 and filed police complaint.

In her S.164 statement Prosecutrix stated that accused forcibly put his penis in her mouth, and S.376 IPC was added.

Charges framed under S.354, 354B, 376, 506 IPC.

Prosecutrix testimony: “Prosecutrix has testified that she is illiterate and she lives with her family members in Jamuna Bazar Area, Delhi and that she do household work in her house. She further deposed that she does not remember the date. She also cannot say if the incident is one year or two year old. She deposed that no incident had happened with her and that accused had not done anything wrong with her. This witness has correctly identified the accused. She further deposed that accused had not even touched her at any point of time. He resides in her neighborhood. His name is Sanjeev. She call him as Bhaiyya.” (Para 9)

On Court question as to why she filed complaint she answered that she is illiterate, she does not know what papers she signed. She was read over her entire complaint, denied making it.

Prosecutrix volunteered that there was a quarrel between her family and accused and complaint was made due to this. (Para 17)

Court held that since Prosecutrix turned hostile, no further witnesses need to be examined (only one lady constable examined so far), no incriminating evidence come on record, accused acquitted.

“Since prosecutrix has misused the due process of law hence, she is not entitled for any compensation” (Para 24)

28. State v. Aakash @ Aaku (Sessions Case No.79/18, F.I.R No.528/15, P.S. Jahangirpuri, U/S.308, 354, 354A, 34 IPC, judgement dated 17.01.2019, ASJ (North), Rohini)
29. **State v. Raju** (S.C.No.183/2016, F.I.R No.613/2016, P.S. Khajuri Khas, U/s. 354, 354A, 354B, IPC and S.8 POCSO, judgement dated 21.08.2017, ASJ (North-East), Karkardooma Courts)

Victim, aged 14 years, alleged that on 18.08.2016, at about 2-3 P.M, after having bath came out of the bathroom, a boy named Raju, residing in her neighbourhood came, “He caught hold of her in his arms and tried to kiss her. He pressed the breasts of the victim. In self defence, the victim slapped and kicked Raju whereafter he fell on the ground. She further alleged that while pressing her breasts, he had also torn her *kurta*.” (Para 1)

Prosecutrix and aunt of Prosecutrix were witnesses.

In Court, Prosecutrix deposed that accused Raju was her uncle, he would consume liquor and quarrel with them, she filed complaint to teach him a lesson. On being cross-examined by PP she said Raju came to her house, denied that he touched her breasts, she said she slapped Raju because he was beating her, admitted that Raju tore her clothes.

PW-2 Geeta- aunt of victim, on date of incident it was Rakshabandhan, she went to her brother Raju's house, there victim told her that Raju consumed liquor and beat her, and then victim filed a false case.

Court - did not examine any more witnesses. Only two material witnesses turned hostile.

Did not proceed with trial for beating, tearing of clothes?

Victim has said Raju consumed liquor and beat her, PW-2 corroborates that victim told her this?

Acquitted on the ground that there is no incriminating evidence on record.

“After these two witnesses, even if the entire remaining evidence, which the prosecution seeks to bring, is taken to be true, there is no chance of the offences, for which the accused is charged, being proved. In these circumstances, it will be a futile exercise to examine the remaining witnesses. The prosecution evidence has accordingly been closed by the order of the court.” (Para 11)

31. Sunny Goyal v. NCT, SHO and Proposed Respondent No. 3 Madan Lal (Crl Revision No.94/2019, CNR No. DLWT01-002080-2019, judgement dated 10.04.2019, ASJ, Tis Hazari, Delhi)

Petitioner has filed Revision against dismissal of his application under S.156(3) CrPC and complaint under S.200 CrPC.

Petitioner is complainant male

Complaint Case under S.200 CrPC against R3 Madan Lal, for using abusive, offence language through whatsapp messages, but police failed to register F.I.R.

Police filed a status report in MM Court stating that F.I.R. No. 268/18 dated 08.09.2018 under S.323, 354, 354B, 509, 506, 34 IPC P.S Khyala registered on the previous complaint

of Sunny Goel against Madan Lal, who was arrested on 09.09.2018. Status report said - no obscene photo sent, and the vulgar language is by one man to another and hence S.504 was added.

MM Court held- S.66A IT Act has been declared unconstitutional, S.67 not attracted since no lascivious content, no IPC offences made out.

Petitioner argued that F.I.R should be registered as per Lalita Kumari. That the contents of the whatsapp fell within scope of S.67 IT Act

Court held- (partially incomprehensible; no reasons specified) dismissal of complaint case by MM appears to be without any basis, hence the dismissal order set aside, matter remanded back to MM court.

CONCLUSION

As discussed above in detail, the primary finding of the pilot study on gender laws that were incorporated in IPC as per the recommendations of the Justice Verma Committee Report is that most of the cases that are registered are ending up in a compromise. In most of these cases, the Courts do not look into or inquire into the incident when the complainant/victim turns hostile in Court. It is a duty of the Court to actually ask the complainant and to ensure that she is not turning hostile due to any coercion or pressure from the accused persons. This is specially important as the accused persons in this case are mostly people belonging to the same locality/area as the complainant and hence are able to pressurize the complainant into a compromise.

The other major finding is that in some instances the lower courts are entering a plea of compromise from both parties and closing the case. This is troubling as this procedure is not anticipated under law. The new gender laws are not compoundable and in fact this was a particular demand from the women's movement before the Justice Verma Committee which had specifically made a recommendation to this end. It is also surprising to see the Delhi High Court also passing such orders and condoning and adopting this illegitimate process under law.

ANNEXURE 1

TABULATION OF PROVISIONS FOR THE PROPOSED STUDY

New Provision	Definition	Pre 2013	J. Verma recommendations	CLA Act, 2013 Changes introduced
<p>Section 166A IPC: Public Servant disobeying direction under Law</p> <p>Punishment- 6 months to 2 years + Fine</p>	<p>Whoever, being a public servant,</p> <p>(a) knowingly disobeys any direction of the law which prohibits him from requiring the attendance at any place of any person for the purpose of investigation into an offence or any other matter, or</p> <p>(b) knowingly disobeys, to the prejudice of any person, any other direction of the law regulating the manner in which he shall conduct such investigation, or</p>	<p>No specific provision in IPC 1860.</p> <p>S.154 (...)--non registration of F.I.R</p>	<p>Failure of a public servant to record information in relation to sexual offences should be specifically penalized under the Bill.</p>	<p>Extends to manner of investigation. Not just non registration of F.I.R, makes it a punishable offence.</p>

	(c) fails to record any information given to him under subsection (1) of section 154 of the Code of Criminal Procedure, 1973 (2 of 1974), in relation to cognizable offence punishable under section 326A, section 326B, section 354, section 354B, section 370, section 370A, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509,			
Responsibility of Hospital	Failure of hospitals and doctors to provide medical treatment to victims of sexual offences.	No specific provision, IPC, 1860 and CCP, 1973.	The victim must be taken to the nearest hospital. Medical examination report must be prepared, preferably immediately after the examination, but most certainly on the same date as the examination and must be forwarded to the investigating agency forth with	Punishable with 1 year and/or fine. In cases of acid attacks or rape, all hospitals (public and private) are required to provide free medical treatment to the victim and immediately inform the police.

			<p>immediately.</p> <p>All hospitals should cooperate with the police</p> <p>and preserve the samples likely to putrefy in their pathological facility till such time the police are able</p> <p>to complete their paperwork for despatch to forensic lab test including DNA.</p>	
<p>Acid Attacks-</p> <p>S.326A - Voluntarily causing grievous hurt by use of acid, etc.-- Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of</p>	<p>Throwing of acid on women for a multitude of reasons, including alleged adultery, turning down</p> <p>advances from men, and also as a form of domestic violence.</p> <p>Causing permanent or partial deformity or burns on any person by throwing or administering acid.</p>	<p>No specific provision.</p> <p>Covered under grievous hurt.</p> <p>Punishment: up to 7 years imprisonment, IPC, 1860.</p>	<p>Whoever attempts to throw acid or corrosive or any burning substances on any person, or attempts to administer</p> <p>acid to any person, or attempts to use any other means to achieve the purpose of causing permanent or partial damage to any part or parts of the body of a person, shall be punished with rigorous imprisonment for a term which shall not be less than five years</p> <p>but which may extend to seven years, and shall also be liable to pay</p>	<p>Standalone provision introduced</p> <p>Punishment increased?</p>

<p>causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine:</p> <p>Provided that such fine shall be just and reasonable to meet the medical expenses of the treatment of the victim:</p> <p>Provided further that any fine imposed under this section shall be paid to the victim.</p> <p>S. 326 B</p> <p>Voluntarily throwing or attempting to throw acid. Previous Next</p> <p>Whoever throws or attempts to</p>			<p>compensation to the victim adequate to meet at least the medical expenses incurred by the victim.</p>	
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<p>throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage or deformity or burns or maiming or disfigurement or disability or grievous hurt to that person, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.</p>				
<p>Stalking S. 354 D</p>	<p>Following a woman, attempting to foster personal interaction despite indication of victim's disinterest, spying, monitoring electronic communications</p>	<p>No specific provision.</p>	<p>Whoever commits the offence shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to three years, and shall also be liable to fine.</p>	<p>Specific offence. 1st offence punishable with 1 to 3 years imprisonment (Bailable). 2nd offence punishable with up to 5 years imprisonment (Non-bailable).</p>

<p>Sexually coloured remarks/Use of words or gestures to insult a woman's modesty</p> <p>S. 354A (iv)</p>	<p>Making of sexually coloured remarks by a man.</p>	<p>No specific provision for this offence. Verbally assaulting a woman's modesty is punishable with one year imprisonment and/or fine, IPC, 1860.</p>	<p>Use of words or gestures towards a person, or in his presence, which create an unwelcome threat of a sexual nature, should be punishable with imprisonment for one year and/or fine.</p>	<p>Specific offence. Punishable with imprisonment for up to one year and/or fine. Non Bailable.</p>
<p>Demand for Sexual Favour</p> <p>S.354A(ii)</p>	<p>Demand or request by a man for sexual favours.</p>	<p>No specific provision for this offence. Verbally assaulting a woman's modesty is punishable with one year imprisonment and/or fine, IPC, 1860.</p>	<p>Those who demand or request for sexual favour should be punishable with imprisonment for one year and/or fine.</p>	<p>Specific offence. Punishable with up to 3 years' rigorous imprisonment and/or fine.</p>
<p>Assault to disrobe a woman</p>	<p>Forcing a woman to undress and lie in naked condition.</p>	<p>No specific offence. Outraging a woman's modesty is punishable with imprisonment for maximum 2 years and fine, IPC,1860.</p>	<p>Whoever assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked in any public place, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years and shall be liable to fine.</p>	<p>Specific offence. Punishable with 3 to 7 years imprisonment and fine.</p>

<p>Voyeurism S. 354 C</p>	<p>Watching a woman when she is engaging in a private act including sexual acts, use of lavatory, or when private parts are exposed.</p>	<p>No specific offence, IPC, 1860. The Information Technology Act, 2000 protects both men and women. Punishment: up to 3 years and/or fine up to Rs. 2 lakh.</p>	<p>Penalise the act of capturing images of, or watching, a woman engaging in sexual acts or when her genitals are exposed with imprisonment for 1 to 3 years and fine.</p>	<p>Specific offence. Only protects women. 1st offence punishable with 1 to 3 years imprisonment and fine. 2nd offence punishable with 3 to 7 years.</p>
<p>Forcibly showing pornography S. 354A (iii)</p>	<p>Forcibly showing pornography by a man to a woman.</p>	<p>No specific provision, IPC, 1860.</p>		<p>Punishable with rigorous imprisonment for up to 3 years imprisonment and/or fine.</p>
<p>Touching</p>	<p>Physical contact involving unwelcome and explicit sexual overtures.</p>	<p>Outraging a woman's modesty. Punishment: imprisonment for maximum 2 years and fine, IPC, 1860</p>	<p>Existing provisions of the IPC should be deleted. Intentional touching of a sexual nature, without the person's consent should be penalised with 5 years rigorous imprisonment.</p>	<p>Outraging a woman's modesty: 1 to 5 years imprisonment and fine. Physical contact involving unwelcome and explicit sexual overtures: up to 3 years imprisonment and/or fine.</p>

Popular Education and Action Centre (PEACE) is an organization represented by committed and experienced people which is endeavoring to make the process of social change stronger at local and larger levels.

In this context, the prime concern of PEACE is to enhance the awareness and knowledge of the people's groups wrestling to save their identity and democratic values, and of individuals and communities struggling for their livelihood.

For last few years, by initiating a process of dialogue between groups and peoples' organizations with a common understanding, PEACE has been trying to strengthen the process of widespread people's movements and alliances.

Other than this booklet, we had also created and published educational learning materials on the issues that have impacts on the common man's life. Given below is a short list of some important material available with us:

- ज्ञान की पूंजी पर पूंजी का शिकंजा
- पूंजी के निशाने पर पानी
- बाजारीकरण के दस साल
- नकेल कसती जा रही है
- कहीं पर निगाहें, कहीं पर निशाना : वन अधिकार अधिनियम 2006
- परमाणु ऊर्जा : सस्ती साफ बिजली या महाविनाश को बुलावा
- जिंदगी पर मंडराते परमाणु के बादल
- आर्थिक उछाल की असलियत
- भारत राष्ट्र राज्य एवं सांस्कृतिक विविधता
- पंचायती राज और जन सहभागिता : कार्यकर्ता प्रशिक्षण (मैनुअल)
- स्थानीय कार्यकर्ताओं के लिए अपील हैंडबुक
- पूर्वाग्रह मुक्त शिक्षा और अल्पसंख्यक : शिक्षकों के लिए हैंडबुक
- पेसा कानून और जन सहभागिता : गांव विकास नियोजन पर कार्यकर्ता मैनुअल
- डूंगरपुर, राजस्थान में आयोजित गांव विकास नियोजन कार्यशालाओं की रिपोर्ट
- राजस्थान के सन्दर्भ में : पेसा कानून और गांव सभा की भूमिका



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