

A STUDY OF IMPACT OF DIFFERENT FACTORS ON RAPE VICTIMS: A CRITICAL REVIEW

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DOI No. – 08.2020-25662434

Abstract

Presently sexual violations against women are very common phenomena and it is increasing day by day particularly rape. Since the time of Adam-Eve it is quite natural that men are always attracted towards women and trying to please them. Violators or rapists are certainly of different mental makeup than the normal men, they are behaving to certain extent abnormal way. It is an established fact that physical as well as economic strength of men has kept women under their control and confined the women to mere procreation and household chores. This is accepted throughout generation by women itself. Apart from that several factors e.g. commercialization of women without any justification, defects in the legal proceeding of the offence of rape for example, poor and unscientific investigation of crimes by the police and impossible standard of proof demanded by law courts, thereby resulting in poor conviction rate, delay in court proceeding where judges trying rape cases are insensitive and freely permit cross examination of prosecutrix in a manner as to not only harass her but also outrage her modesty, are all responsible for increasing rate of crimes against women particularly rape. Therefore it can be said that when a crime particularly rape is committed against a woman, it is not only confined to the victim, rather it is a crime against entire society. It destroys the entire psychology of a woman and pushes her into deep crisis.

Keywords: Procreation, sexual violations, rapists, commercialization of women, patriarchal society, unscientific investigation.

INTRODUCTION

In the present day society the sexual exploitation against women are increasing day by day in its various forms. According to Sigmund Freud, a famous criminologist sexual satisfaction is analogous to satisfaction of hunger. This hunger for sex is a very natural phenomenon since the time of creation of earth. With the passage of civilization, chastity or virginity becomes very important as well as essential part Indian women.

The term 'rape' came from the Latin word 'rapere' which means to steal, seize or carry away, in common sense physical attack of women for satisfaction of sexual desire. Recently rape is a common phenomenon, almost every day it is the reported news. It has a very humiliating effect on the victim's life and makes the women powerless physically as well as mentally and sometimes effects are very long lasting which often may lead to death or suicide. Sometimes there is impairment in personal relationship which leads to endless fear.¹ In spite of various attempts made by different women's organization throughout the world for the protection of women against

¹ Aggarwal, 1995; Pratidhi, 1996

atrocities, these are increasing every day. Sexual crimes against women in India are very common², though most of these remain undetected and unreported; the actual incidence is on the rise.³ The reported crimes in the daily newspaper only show the tip of iceberg. This low reporting in India is due to a number of reasons, firstly family pressure particularly when any member of the family or any close relative is involved, secondly social pressure when important member of the society is involved, then personal reasons⁴ due to lack of awareness or being not able to report due to psychosis or due to fear of being further ridiculed and unaccepted, again cultural factors, legal factors and judicial factors are also responsible for low reporting particularly when judiciary takes a very long time to decide the case and prolonged interrogation especially in rape victims resulting in relieving of rape-trauma syndrome⁵. Apart from that when crimes are being done in institutions for example Mental Hospitals Home for socially destitute women, Police Stations or prisons and also due to non -availability of documentation centres.

Inspite of various efforts towards elimination of violence against women, women in India continue to suffer not only violence but also any inequality. Crimes like rape, dowry deaths, kidnapping and sexual harassment continue to increase substantially. There are many who feel that recorded crimes against women do not indicate the correct picture as large number of such crimes go unreported. Whatever be the truth, it is clear that women are not safe in the state and the state has to travel a long way in promoting and protecting basic human rights of women. The state has to accept that India has ratified the convention on the elimination of all forms of discrimination against women, 1979 and thus a party to the declaration on the elimination of violence against women and that they owe the obligation to eliminate violence against women in the state.⁶

The object of present study is to find out the reasons for increasing rate of crimes against women. As already mentioned that amongst all these crimes against women, rape is the most heinous and inhuman act of sexual aggression and violence against a hapless woman.

A natural phenomenon is that men are always attracted towards women and it is equally natural that male species always like to care and please a female species. Sexual urge or passion for sexual intercourse is a natural human instinct of both the sex after a certain variable age which continues for a long period in human life. Restraint and control of passion is a part of civilization. Where restraint falls short and passion becomes uncontrollable, this beastly quality is revealed. Rapists are certainly of different mental makeup than the normal male species or men, they are to certain extent physically as well as mentally abnormal.⁷ Rapists are basically pathological people who grow in a broken homes sale disturb families, excessive drinkers, drug addicts, moneyed class men who make riches through illegal means and the like.⁸

There are several factors, responsible for increasing rate for rape. First of all we have to analyse it in the context of sociological aspect.

² Aggarwal, 1997

³ IMA, 1996

⁴ IMA, 1996

⁵ MAKKAR, 1996

⁶ Central India Law Quarterly Volume XIII Jan-Mar 2000 Part I ,p-20

⁷ Law relating to offences against women Dewan V.K. 2nd Edn 2000 p-167

⁸ National Capital Law Journal p-116

DIFFERENT FACTORS RESPONSIBLE FOR INCREASING RAPE

SOCIAL FACTORS

There is a traditional concept in our society regarding man – woman’s relationship. The physical strength and alleged dominance of men have been an important instrument of controlling women’s freedom of action. The traditional image of the male as a protector owes a great deal to the notion that women cannot defend themselves and men, therefore, must take charge of their lives physically. The same notion of male strength has historically been responsible for restricting jobs involving heavy labour to men. This is the main reason why women historically have accepted dominance of men in their lives.⁹

Another reason is the economic control that has kept women in their place. The root of women’s subjection has been their economic dependence on men. As long as women were denied the opportunity to earn their own living there could not be equality between sexes. Since money signifies subservience and an inferior status.¹⁰

Then, the psychological message given to women is that they should be happy with their place has proved most effective instrument of social control. The qualities that receive the most praise were these those traditionally associated with being a ‘lady’, not an assertive individual ready to face the world.¹¹

Another unique reason has been the internal pressure of women's group itself. From generation to generation mothers teach daughter to please men, providing instructions which prepare the new generation to assume the roles of housewives. Over the centuries women themselves have been the most ardent traditionalist. It is they who mastermind all rituals and they are mainly responsible for showing favour to boy children in preference to girls. No one can deny this.¹²

Thus to resume these reasons, it may be observed that subordination of women husband caused by physical, economic, psychological and internal pressure reasons.

From what has been discussed above, it is clear that in the patriarchal societies the women has become a weaker section of human population. Her functions have been relegated to mere procreation on and attending to household chores. The whole of her life has been so structured that she has become subservient to the need of man and has become a victim of social and personal aggression.¹³

Therefore it can be said that the entire society was to be blamed for these crimes against women. The family ties which provided the value based living, were weakening with the result that women were considered sex objects only. Female sexuality, in the present social context, is in the main responsible for kindling sexual desire in men. Such men often use violence as an instrument of controlling female sexual behavior. This is more so at the present when young men cannot marry for economic reasons but are unable to control their natural sex desire, such persons also blame

⁹ ‘Socio-legal status of women in India’, Mehta, Rama

¹⁰ Ibid.,

¹¹ Ibid.,

¹² Ibid.,

¹³ ‘Women and legal protection’, Diwan. Paras P-XV

young girls who, in the name of modernity, expose themselves little more than ordinary and fire imagination of young males in the society.¹⁴ So in the name of liberation of women, it is suggested that women's behaviour should be restrained so as to inflame sexuality among men. Increasing rate of sexual harassment of women at workplace or in educational institutions or in the market can be controlled by this strategy. Lack of moral education in the system is also responsible for these crimes to some extent.¹⁵

Women social reformers pleaded for immediate abolition of existing 'son preference' rule of the Hindu society which not only discriminates against women but is promoting foetal infanticide and otherwise affecting the nutrition, basic health care and education of female children.¹⁶

COMMERCIALIZATION OF WOMEN

Another important reason for increasing violence against women is a commercialization of women without any justification. It is a recent practice to use body and looks of a female for publicity and also for selling products. In this connection Print Media and TV are earning money and thereby promoting immorality in the society. Similarly movies are also responsible for increasing sex crime which project half naked females for no justification. They are indeed promoting valueless society and creating many social problems.¹⁷

The above discussion leads us to state that lack of moral education is the main cause of increasing crimes against women with the disintegration of joint family system even the little chance of developing a moral code of conduct has disappeared thereby resulting in crimes like rape. It should be mentioned here that as regards rape among tribals, they attribute its increase to faulty policy of the state government whereby every tribal victim of rape is paid Rs.25,000 as compensation. Lure of money prompts them to lodge false complaints. State Government should modify this policy¹⁸. Some believed that secularism is a constitutional creed is the biggest obstacle in giving moral education to children with the result that they, with their growing age, come to believe that women are only a sex object. This belief, according to them, breeds sexual delinquency which causes crimes against women. That moral education is basic to a virtuous life, cannot be disputed. If morality, as enshrined in the constitution and several laws is forced upon people together with the moral education to school going children, the future may be much more happier than the present. However morality divorced from religion and may not be acceptable to Indians.¹⁹

LEGAL FACTORS

Defects in legal proceeding

There are several defects in the legal proceeding of the offence of rape which to some extent are responsible for this increasing trend. First of all poor and unscientific investigation of crimes by the police and impossible standard of proof demanded by law courts, thereby resulting in poor conviction rate in such cases. Thus criminals are no longer afraid of prosecution. It is the common

¹⁴ Central India law quarterly Jan-March 2000, Vol XIII part-1 P-23

¹⁵ Ibid., P-23

¹⁶ Ibid., P-24

¹⁷ Ibid., P-24-25

¹⁸ Ibid., P-25

¹⁹ Ibid., P-27

view that not only offenders can purchase loyalty of the investigating officers but also of the witnesses and hence possibility of their being punished is minimal. Even the false or incomplete medical reports or postmortem reports can be purchased and thereby benefiting the offenders. This is more so in rape cases where statement of prosecutrix is required, by law, to be corroborated by medical evidence. Therefore, unless scientific methods of crime Investigation are adopted, it would be difficult to arrest this trend.

Delay in court proceeding

Moreover, delay in court proceeding can also be blamed for this trend judges trying rape cases are insensitive and freely permit cross examination of prosecutrix in a manner as to not only harass her but also outrage her modesty. Judges should be, in particular made little more sensitive to the cause and little more respectful to women. It may be pointed out that much of the delay is due to non - availability of witnesses including the investigation official. Though the judges try to expedite trials they would do better if police authorities and public prosecutors produce witnesses without delay.²⁰

ECONOMIC FACTOR

Last but not the least, economic exploitation is an important factor for commission of rape due to poverty. Females from weaker section of society are being exploited by the person having economic support.

From the above discussion it can be concluded that increasing rate of rape is a curse for all including the society, cannot be denied. In this regard, morality which is the basic requirement of a civilized living is also beyond controversy. It is however not easy to accept that secularism as a constitutional greed is responsible for this moral degradation. Article 25 of the Constitutional creed is the bedrock of secularism and is based on the belief that all religions are equally good and efficacious pathways to perfection of God - realization. In its positive sense, it is the coverstone of an egalitarian and forward-looking Society, which the constitution seeks to establish. Though secularism is not denied in the constitution, the Supreme Court has from time to time explained it in several context. In S.R Bommai case AIR1994 SC 1918 Justice Jeevan Reddy held it to be "more than a positive attitude to religious tolerance." It is, according to him, a positive concept of equal treatment of all religious... The secularism, as contained in the constitution, does not prevent moral education to children in schools.²¹

Since whole purpose of moral education is to develop cultural attitude in men and women and train them in healthy personal and social relationship with one another, it may be in wider national interest to affect cultural revival in the country. Cultural resurrection, according to the sociologists, would strengthen emotional bonds between members of the society and forge healthy personal and social relationship between them. Emotional attachment with one another is a necessary part of our culture and hence personal and social relationship would automatically grow with cultural reselection. A healthy personal relationship between opposite sexes would result in peace and prosperity and reduce crimes in general and against women in particular. Since mothers have, in

²⁰ Ibid., P-28-29

²¹ Ibid., P 29-30

the past, been in the centre of family life and living and have made their own contribution to cultured and value based living, it may be necessary to revive their, this particular role by conferring upon them the necessary social status and providing them the opportunity to do the needful. Establishment of Mother's Club in schools and colleges is, therefore suggested to provide mothers the opportunity to interact with parents to be and thereby educate them in the art of maintaining healthy cultural personal and social relationship at a particular level of excellence.²² International law teachers emphasize the importance of international human rights law more particularly the UN Convention on the Elimination of all forms of Discrimination against Women and plead for action as recommended by the 4th World Conference on Women, held at Beijing (China) on 4-5 September 1995. They drew attention to the admitted fact that in the US, a women is physically assaulted every 8 seconds and one is raped every 6 minutes which sufficiently proves that violence against women is international and not limited to India or any particular state alone. As they are not happy with the attitude of the Govt. in not effectively implementing the convention, they recommended that International community should bring pressure on the Government to adopt and implement the Action Plan recommended by the Beijing Conference without any further delay.²³

From the above discussion it is clear that unfortunately in our country respect for women is on the decline and cases of molestation and rape are steadily growing. An Indian woman is now put to suffer indignities in different forms, from lewd remarks to eve-teasing, from molestation to rape. Decency and morality in public life are thus greatly hampered.

SOCIO-LEGAL ATTITUDE TOWARDS RAPE VICTIMS

Social attitude

A women, in our country, belongs to a class or group of society who are in a disadvantaged position on account of several social barriers and impediments and have, therefore, been the victim of the tyranny at the hands of men with whom they, under the constitution, enjoy equal status. Like men, they also have the right to life and liberty and should have the right to be respected and treated as equal as men. Woman as a mother or as a sister or as a daughter or as a wife should have the right to lead a respectful and peaceful life and their right should not in any way be violated and not playing for centre spreads in various magazines, periodicals or newspapers nor can they be exploited for absent purposes. They must have the liberty, the freedom and, of course, independence to live the roles assigned to them by nature so that the society may flourish as they alone have the talents and capacity to shape the destiny and character of men everywhere and in every part of the world.²⁴

Therefore it can be said that when a crime particularly rape is committed against a woman, it is not only confined to the victim, rather it is a crime against entire society. It destroys the entire psychology of a woman and pushes her into deep crisis. It is only by her sheer will-power that she rehabilitates herself in the life meaningful, complete and worth living.²⁵

²² Ibid.,P-30-31

²³ Ibid.,P-28

²⁴ Bodhisattwa Gaoutam Vs. Subhra Chakraborty, 1996 SCC(CR.), 133 P-135

²⁵ Ibid., P-135

The effects and consequences of rape are so deplorable that it shatters the foundations of the lives of the rape victim as a whole.²⁶ Generally in the tradition-bound non-permissive Indian society, women try to hide the occurrence of any incident reflecting their chastity,²⁷ in spite of suffering a lot of psychological injury, because of a tremendous sense of shame for no fault of theirs and the fear of being shunned by society,²⁸ which may even include their own family members, relatives, friends and neighbors. If she is unmarried, she would apprehend that it would be difficult to secure an alliance with a suitable match from a respectable or an acceptable family. It would almost inevitably and invariably result in mental torture and suffering and the fear of being taunted by others would forever haunt her.²⁹ Instead of treating her with compassion and understanding she is shunned.³⁰

Generally a woman will not play with her reputation by making any false charge regarding her chastity as held in the case of Sattu alias Satya Narayan versus State of Rajasthan, 1989(2) Crimes 583 (Rajasthan). It is very rarely observed that a girl or women in our society or their family members want to publicize any sexual harassment case which lost their virtue, chastity or honour at the hands of a stranger. Rather, the tendency on the contrary, it to suppress such incident in most of the cases.³¹ It would be adding more to mental injury to tell a woman that her story of woe will not be believed unless it is corroborated in material particulars as in the case of an accomplice to a crime. As observed in the case of State of Maharashtra Vs. Chandra Prakash Kewalchand Jain 1990 SC 658, that while it is a concern of sexual relationship we, the Indians, prefer to maintain our silence, hence, when it comes to discuss the experience of rape in the court a woman suffers doubly. First, having been raped; and secondly not being believed by the court.³²

They are reluctant to face the court for cross examination by counsel of the culprit and the risk of being disbelieved, acts as a deterrent for the rape victims so falsely accuse anyone. Moreover such deterrents act against woman to report her case to the police even if she has, in reality been raped.³³

In view of the above discussed factors the victims and their relatives are trying to hide the case and do not bring the culprit to book except in genuine case. As such the case of sexual offence are getting more weightage even in spite of the absence of corroboration. In the case of a grown-up and married woman, it is always safe to insist on such corroboration.³⁴

Whenever corroboration is necessary, it should be from an independent source but it is not necessary that every part of the evidence of the victim should be confirmed in every detail by independent evidence. Such corroboration can be sought from either direct evidence or circumstantial evidence or from both.³⁵

²⁶ National Capital Law Journal, P-117-118

²⁷ Indian Penal Code, Gour, K.D, P-532

²⁸ 'Law relating to offences against woman' Dewan, V.K, Second Edn. P-167

²⁹ Indian Penal Code, Gour, K.D., P-532-533

³⁰ 'Law relating to offences against woman', Dewan.,V.K., 2nd Edn. P-167

³¹ Ibid., P-167-168

³² Ibid., P- 167

³³ Ibid., P-168-169

³⁴ 'indian Penal Code', Gour.,K.D., P-533

³⁵ Ibid., P-533

LEGAL ATTITUDE TOWARDS RAPE VICTIMS

Corroboration

The rule regarding refusal to act on the testimony of a victim of sexual assault in the absence of corroboration under Indian law, added another insult. The question still arises why the victims of sexual violence who complains of rape or sexual molestation be looked with suspicion or doubts? Is it so that we are still living in a male dominated society? We should support of the need for corroboration and subject it to relentless and remorseless cross examination. This is to be viewed in the light of Indian context not in the light of western approach. We should not compare two countries, as social ecology of the two countries is different. Whereas in the western countries to establish sexual offence corroboration is considered necessary but it should not be transplanted in the Indian legal context without considering the atmosphere, attitudes, moods and reactions of the Indian society.

Consent

Another important element of the offence of rape is the lack of consent of the victim. The prosecution beyond reasonable doubt as per the canons of criminal law must prove this. It is common knowledge that a large number of prosecutions for the offence of rape fail for want of such proof. The Mathura case is on one such example.³⁶

The change effects a marked departure from the classic principle of criminal jurisprudence that a person is deemed innocent until the contrary is proved by the prosecution. As a result of the change, the charge that the alleged act of sexual intercourse was without or against the consent of the prosecutrix will be presumed ipso facto, unless the contrary is proved. That is to say section III-A of the Evidence Act shifts the burden of proof on the accused to prove her Innocence (84th Report of the law commission of India (1980) p- 35).³⁷

In England and countries is influenced by the common law, such as the United States of America, India (until the amendment) ,Australia, Canada, Malaysia, Singapore, Sri Lanka etc. the element of want of consent in the crime of rape has to be proved by the prosecution. The change affected by the criminal law Amendment Act 1983 goes against time-won and well tested principles of criminal law.³⁸ Whether or not there is justification for encrypting the mandatory presumption in the above act there is little warrant for it in a rape case. It is remarked that such a presumption would place a heavy burden on the alleged offender of rape while providing a weapon to the prosecution for black mailing.³⁹

There is a gulf of difference between consent and submission. While the consent involves submission, the contrary is not always there and the mere act of submission does not involve consent. As held in the case of Vijayan Pillai vs State of Kerala, 1991(1) crimes 261 (Kerala) that the consent of the victim must be free from all sorts of physical as well as mental stress. Similar view was held in the case of State of Orissa versus Khudiram Sahu, 1986 (2) crimes 639 (Orissa) that consent of the victim must be voluntary not a mere act of victim's helplessness in the

³⁶ Ibid., P-531-532

³⁷ Ibid., P532

³⁸ Ibid., P-532

³⁹ Ibid., P-532

circumstances. But in Tukaram's case which is commonly known as Mathura rape's case where a constable was accused of raping a girl at the police station, the Supreme Court negated a plea of passive submission in view of the facts and circumstances of the case and acquitted the accused. It must, however, be said that now in custodial rape of this kind if the girl says that she had no consent the court shall presume that she did not consent.⁴⁰ Where a person raped a girl of unsound mind and he had knowledge of that unsoundness and found that it was without her consent, she being incapable of giving consent from defect of understanding, it was held that this amounted to rape. Where the accused made a woman quite drunk, and raped her, it was held that this offence was committed.⁴¹

Corroboration of testimony

Again it was held that a woman who has been raped is not an accomplice. If she was ravished she is the victim of an outrage and if she consented there is no rape. In the case of a girl below the age of consent her consent will not matter so far as the offence of rape is concerned, but if she consented her evidence will be suspect as that of an accomplice. The true rule of prudence requires that in every case of this type the advisability of corroboration should be present in the mind of the Judge and that must be indicated in the judgement. But corroboration can be dispensed with by the judge if in the particular circumstances of the case before him he himself is satisfied that it is safe to do so. Where rape has been committed on a child of tender years there is no rule of law requiring corroboration from an independent source of the evidence of the child as to the identity of the accused.⁴²

It was held that in a case where a young girl of immature years and tender age had been raped, and she had made a disclosure of it at the earliest possible opportunity to her mother and another person, there was no need for corroboration by independent testimony connecting the accused with the crime. Indeed no rule of thumb can be laid down in this matter for every case must depend a good deal on its own particular facts and circumstances [Rafique's case (1980 CrLJ 1344 SC)] And even if corroboration is insisted upon in a particular case, in view of its peculiar facts and circumstances, such corroboration can come from the previous statement of the prosecutrix soon after the occurrence and her subsequent conduct showing protest within the meaning of section 157 and 8 of the Evidence Act as also from medical evidence showing injury to the private parts of the victim, injury to other parts of our body, seminal stains on her clothes or the clothes of the accused or marks of struggle at the place of occurrence etc. Similar observations have been repeated by the Supreme Court in the state of Maharashtra vs. C.K. Jain. Here a police officer successfully isolated a married girl from her husband by locking him on cooked-up-charges, lodged the girl in a hotel room and visiting the girl in that room twice during the night and raped her on both the occasions. Next day her husband coming out on bail rushed to the room to find a crying girl narrating the sordid story. Though there was nothing to corroborate her version the circumstances supported the tale of her unfortunate victimization. The Supreme Court resorted the sentence of 5 years of rigorous imprisonment and a fine of Rs.1000 and described the acquittal granted by the High Court as being on a wrong appreciation of evidence. It is not necessary that every part of the evidence of the victim should be confirmed in every detail by independent

⁴⁰ 'Indian Penal Code', Ratanlal & Dhirajlal, 27th Edn. P-421.

⁴¹ Ibid., P-424

⁴² Ibid., P-427

evidence. There can be circumstantial corroboration. In the case in which the above observation occurs, Supreme Court found that the victim was not even medically examined. The only source of corroboration was her own husband and some other whom she had posted with the happening. But corroboration has sometimes a very important role to play. A prosecutrix who lived by the side of police station and whose husband was out on a night duty, alleged that a constable forcibly entered and forced her to sex and since this could as well have happened under arrangement, the court give the accused the benefit of doubt. Any other evidence might have corroborated her allegation. Testimony of parents are positive medical report were considered sufficient corroboration of the rape of a girl of 8 years. Refusal by the accused person to subject himself to blood test for the purpose of determining his fatherhood of the child was born as a result of the alleged rape was considered to be an evidence of corroboration.⁴³ So far unchastity of women is concerned the Supreme Court observed that unchastity does not mean the women of easy virtue and open to any and every person to violate her chastity. Even if there is any attempt to violate it against her wish, she is entitled to the protection of law. Therefore, merely because she is a woman of easy virtue, her evidence cannot be thrown overboard. At the most the officer called upon to evaluate her evidence would be required to administer caution unto himself before accepting her evidence. In the circumstances of the case, however there was sufficient corroboration of the fact of a police inspector's attempt to bend her by force to submission which evidence was generated by the inspector's unsuccessful bid to camouflage the incident into a prohibition raid.⁴⁴

Mitigating circumstances

It was held by the Apex Court that the character of the reputation of the victim of the rape is not relevant for conviction under section 376 and therefore cannot be taken into account as mitigating or extenuating circumstance for the purpose of imposing a sub -minimum sentence. The Supreme Court has reiterated that the testimony of a rape victim cannot be rejected merely on the ground that she was a woman of easy virtues. There is only the need for caution in appreciating such testimony.⁴⁵

Delay in filing FIR

Where the rape of a girl below 16 years was otherwise established and the girl had disclose the fact to her parents without delay after having been rescued, the question was whether the delay of 10 days thereafter in filing the FIR was sufficiently accounted for? The Supreme Court accepted the explanation submitted by the family members that they had taken the step after due deliberation about the honour of the family which is essentially involved in a miss ortune of this kind.⁴⁶

CONCLUSION

From the above discussion it be concluded that rape is a trauma that poses series of problems for criminal justice. The voice for harsh penalty often eclipses the real plight of the victim. Punishment for the offence is another angle of thinking for the thinker that cannot be soothe the wounds of the victim. What is lost to the victim cannot be gained back. Rape is an experience which quakes the

⁴³ Ibid.,P-428-429

⁴⁴ Ibid.,-0-429

⁴⁵ 'Indian Penal Code', Ratanlal & Dhirajlal 27th Edition, P-430

⁴⁶ Ibid., P-430

very foundation of life. The effect is long term. Damages done are not repairable. It generates endless fear within the victim. The capacity of personal relationship is impaired. The traumatic experience of the victim cannot be told in words not even by the victim herself. The sense of shame engulfs the victim herself. The trial of rape is another experience not better than the earlier one. The society looks on her as the guilty one. She is humiliated again. Rape again and again. The offender may be punished but what justice is done to the victim. If unmarried, someone needs to have a lion's heart to hold her hand. If already married, the monsoon rain is not likely to discontinue. It is unfortunate that a rapist has a better place in the societies and the victim, very often the victim and not the rapist is shunned by the society, instead of being treated with compassion and understanding. Her prospect of settling down to a serene family life becomes remote, rather she loses even the existing umbrella. The role of judiciary, society or the government machinery is not over by simply awarding some punishment to the culprit. Nor do I favour award of some monetary compensation to the victim. If otherwise not unjustified, at the given opportunity attempts be made to tie both the accused and the victim to the matrimonial lock, although true enough it is rarely possible as there remains no stigma or deflection in the life of either the gruesome experience. Next alternative is rehabilitation of the victim which should be insisted upon by the Judiciary to be carried out by the government social organisation or the like, as the time bound. Such directions may be given even during the pendency of the preceding. The nature of rehabilitation will depend upon factors including status, qualification, age, requirements of the victim to make her self-sufficient and imbibe in her the lost confidence to face the situations of life. She can be provided with permanent service or any training for competitive jobs or self-employment, which is not difficult for the government. Once, the victim gains the status and confidence it will not also be difficult for her to enter into wedlock. The rehabilitation part needs to be done under the supervision of the court for which the required funds had to be provided out of assets of the accused or to his share or by the government both. In no case the victim be left out at the lurch. Otherwise there would be only few options left to the victim. Either to accept the way of life as may be dictated to her or embrace death. The way of life dictated to her would rarely do good to her and so it becomes a duty of the court also while punishing the rapist to do social Justice favouring the victim so that her life is put to same order.⁴⁷

Courts need not be persuaded to think that conviction is an apilogue to ravished innocence or an odd to girlhood defiled. Doors of the court are knocked for redressal. But when a ravished girl or woman seeks justice she gets more of the bitterness. The victim of rape has all the more reasons to have the insurance from the society, judiciary and the state machinery for her future, so that she can face the world with the required confidence. The rehabilitation part as suggested above, with modifications if any should imbibe same confidence on the victim and once the future is insured the victims will have more courage to raise their heads against such heinous crime against womanhood.⁴⁸

Therefore it can be said that when a crime particularly rape is committed against a woman, it is not only confined to the victim, rather it is a crime against entire society. It destroys the entire psychology of a woman and pushes her into deep crisis. It is only by her sheer will-power that she rehabilitates herself in the life meaningful, complete and worth living.

⁴⁷ 'Law relating to offences against women', Dewan.,V.K., Edn. P-724

⁴⁸ Ibid., P72-73