



Offense of outraging the modesty of women in India

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Abstract: Section 354 of the IPC, 1860 deals with associate degree assault or criminal force to lady with associate degree intent to outrage her modesty. Until 2007, there was an excellent deal of ambiguity on what implanted a lady's modesty and diverse speculations regarding the definition of modesty of a girl were gift. Several cases were determined whereas not an exact definition of a woman's modesty. However, the Supreme Court in inside the case of Ramkripal v. State of Madhya Pradesh, printed modesty by giving birth down that the essence of a woman's modesty is her sex'. Therefore, associate degree crime against women that falls wanting penetration would represent an offence beneath section 354 of the IPC, increasing the reach of crimes falling beneath this section. It had been extra command inside the judgement that the word 'modesty' is not to be understood with relation to a particular victim of associate degree act, but as associate degree attribute associated with female person who reflects a particular class. Therefore, modesty is regarding a female individual of any age with differing degrees of what would represent modesty at a given age of a female. These cluster of words can usually be substituted with molestation which suggests to force physical and usually sexual contact on someone and to make unwanted or improper sexual advances towards someone and a female of any age is misunderstood.

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Introduction

In ordinary language "modest" means freedom from conceit or vanity or propriety in dress, speech and conduct. The word "outrage" has affinity with extremely rude, violent, injurious or insulting act on one hand and it is connected with guilt, culpability, criminality and deviation from rectitude on the part of the person committing assault or using criminal force on a woman.

Assault or criminal force to woman with intent to outrage her modesty.- Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, [shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine.] Outraging the modesty of a woman is an offence provided there is use of assault or criminal force with the intention for the purpose or knowing it likely that he will thereby outrage her modesty. The offence under this section is different from rape and is of less seriousness than the one under Section 376. Ingredients The section has two main ingredients: (i) Assault or use of criminal force to a woman. (ii) Intention of the actor or his knowledge that he would thereby commit this offence.

Section 351 of the IPC, 1860 lays down what constitutes associate assault. The section states that:

Whoever makes any gesture, or any preparation intending or knowing it to be attainable that such gesture or preparation will cause someone gift to apprehend that he UN agency makes that gesture or preparation is on the brink of use criminal force to that person, is speculated to commit associate assault.

Whereas section 350 defines criminal force as a result of the intentional use of force to cause injury, concern or annoyance to the person whom such force is used. It's to be noted here that existence of associate intention associated information is that the most ingredient for associate degree offence to be section 354 of the IPC. Therefore, if someone unknowingly or accidentally commits against the law which could be the extent of the section, he cannot be command liable. Moreover, absence of reaction or revenge from the victim is not a determinative to absolve the litigant of his liability. An extra section of the IPC, section 509 deals with words, gestures or acts speculated to insult the modesty of a woman. Offences of a less severe degree as compared with section 354 are often the extent of this section. This section is in addition commonly spoken as a result of the eve-teasing section' and finds its place to a lower place chapter XXII of the IPC that deals with offences of criminal intimidation, insult and annoyance.

The foremost distinction on sections 509 and section 354 of the IPC is that, once associate act goes on the

so much facet inflicting insult to the modesty of a woman, with a clear threat of physical hurt to the lady that in addition shocks the sense of modesty, such associate offence is addressed by section 354 and therefore, offences to a lower place section 354 are extra serious in nature as compared with those falling to a lower place section 509 of the IPC.

History demonstrates that women were revered as both a personification of a deity and a sign of respect. However, this is not supported by the countless recent and even historical examples of crimes against women. In addition, it demonstrates how common women were mistreated and viewed as inferior to men, with the exception of royal family members, who led lives of luxury, comfort, and dignity and held positions of authority. We frequently believe that as time passes, so does the status of women, but this is not the case. It's merely a myth. Instead, during the past few years, crimes against women have significantly grown. Women are simply misunderstood as sex objects, which disrupts the conversation. Several laws have been created to shield women from such heinous crimes and offenses.

Crime against females

In India, women are more likely to commit significant crimes. Another important component in these crimes is the dominance that men have over women. Physically and psychologically, women are typically viewed less favorably. It is extremely heartbreaking to witness how some societies' women are abused physically, sexually, and emotionally by both their husbands and strangers males. Additionally, in certain communities, the women are expected to follow the men's orders and are not even given the option of choosing whether to keep their pregnancy or have it terminated.

Some of the most significant crimes against women in India include the following:

1. Sexual crimes
2. Molestation
3. Rape
4. Both at home and at work, there is harassment
5. Shady trafficking
6. The mistreatment of women
7. Physical harm

Salient features:

Therefore, the salient choices of associate offence falling below Section 354 of the IPC, 1860 are as follows:

An act or omission ought to be committed against a woman.

The litigant ought to have abused or used criminal force against the victim.

There ought to be associate intention on the part of the litigant to outrage the modesty of the woman or

associate degree data that such associate act would outrage her modesty.

Absence of reaction or revenge from the victim is not a determiner to absolve the litigant of his liability.

A female of any age, at the side of associate are going to be slapped and such acts comprise the scope of this section. Although, the degree of modesty related to infant differs from the degree of modesty associate feminine possesses, the severity of the act and intention/knowledge of the litigant ought to lean the utmost thought and not the state of mind of the victim. A person committing associate offence below this section is accountable for associate imprisonment of either description for a quantity of one to five years, and is in addition in danger of pay a fine. The victim is entitled to compensation.

An offence below this section is cognoscible, non-bailable and triable by any court.

The essence of a woman's modesty is her sex.

Landmark Judgements:

State of Punjab v. Major Singh, AIR 1967 SC 63:

In this case, the suspect interfered with the epithelial duct of a seven and half month-old kid and was tried beneath section 354 of the IPC. The Patna and Haryana high courts command that the modesty of the victim couldn't be angry because the victim was of a young age. However, in associate degree attractiveness to the Supreme Court, the apex court command that data or intention on the part of the suspect is that the causal factor associate degreeed not the sentiments of the lady against whom such an act is committed. Moreover, wherever such associate degree intention or data has not been proved, the proof of the actual fact that the lady felt her modesty was angry doesn't represent associate degree offence, as associate degree intention or data on the part of the suspect is that the essential ingredient. Therefore, the attractiveness was allowed and therefore the suspect was guilty by the Supreme Court and was awarded rigorous imprisonment for an amount of 2 years. A fine of rupees 1000/- was to be paid by the suspect. Out of that rupees 500/- was paid as a compensation to the kid.

Ramkripal Singh v. State of Madhya Pradesh, AIR 2007 (crl.) SC 370

In this landmark case, the Supreme Court finally outlined modesty by egg laying down that the essence of a woman's modesty is her sex. The term modesty in respect to a girl was outlined as "Decorous in manner and conduct; not forward or lower; Shame-fast; religiously chaste". The suspect pleaded that he run a lighter penalty which he be lest command liable beneath section 354 for outraging a woman's modesty. However, as penetration had taken place, the Supreme Court command that it brought about rape. Solely acts that stop in need of penetration constitute the scope of

section 354 of the IPC. Therefore, the attractiveness was pink-slipped.

Ram Pratap v. State of Rajasthan

Where the suspect allegedly entered the victim's house once she was alone and made her to lie on a cot and misbehaved along with her, however no preparation to commit rape was done, the suspect was command guilty beneath Section 354 of the IPC, 1860.

Critical analysis:

Section 354 makes Associate in Nursing assault or use of criminal force against a lady with Associate in Nursing intention to outrage her modesty a punishable offence. Moreover, the intention or information of the suspect is that the causal factor and also the state of mind of the victim.

In addition, it's to be noted here that Section 354 is gender-neutral Associate in Nursing even |a lady, a girl will outrage the modesty of another woman because the nomenclature of the section goes "whoever assaults or uses criminal force" the most ingredient of the offence is an intention to outrage a woman's modesty. Therefore, the circumstances of every case are taken into consideration to carry an individual liable beneath this section.

Since, the state of mind of the victim isn't heeded a lot of importance, there are many instances of the section being victimised. Thus, wherever a person accidentally touched a woman's belly during a running bus and there was no such intention on the part of the suspect to outrage the woman's modesty, he was control not guilty'.

GENDER BIASED LAW

The law-makers have severely failed to interpret the word 'Victim'. The victim can nowhere in a law dictionary be only construed to gender-specific. Victims of any crime can be a male can be a female or any third gender likewise perpetrator as well can be a male, female, or any third gender. In Sakshi vs Union Of India (UOI) and Ors considering the issue of biasness of this law, the apex court directed the whole issue to the law commission and in the turn, 172nd Law Commission made a report for unbiased rape laws which in turn gave birth to Criminal Law Amendment Bill, 2012 but in the meantime, the world witnessed Nirbahaya Rape Case which delayed this bill. Justice Verma Committee was then formed to redefine section 375 and increase the ambit of this definition not to keep it construed to Penial-Veginal intercourse. Verma Committee put forth many interesting recommendations and also very interestingly it too gave recommendations for neutralizing the rape laws. These recommendations were promulgated in the Criminal Law Amendment Bill 2013. Unfortunately, this was opposed to a very large scale by numerous women groups. The outrage

was because it was believed that it would intensify women's vulnerability. As a result, to date, there has been no development in this bill that talks about gender neutrality.

SEXUAL HARASSMENT AT WORKPLACE

Molestation of females at places where the work daily which is said to be done 'sexually' has been a very major problem not only in our country but is a global problem. There has been an innumerable number of cases where the harassment of women by their colleagues or other higher-ranked officers has come to light. The recent MeToo campaign has been raging. Physical violence of female workers was regarded as a type of rape culture targeting women in 1993 at the ILO Workshop in Manila. In Apparel export promotion council v. A.K. Chopra, SC defined it as – —Sexual harassment is a type of racial violence generated by inappropriate touching, the demand for special gratification as well as other verbally or physically behavior with sexual connotations, either explicitly or by inference, especially whenever the female worker submits or refuses such behavior and unreasonably interferes with her job productivity and has the impact of generating intimidation.

Conclusion:

Sexual offences against women have increased at a rapid rate in recent years. One such offence against women that has caused immense trauma and distress is the offence of Outraging the Modesty of a woman. This offence has been defined under Section 354 of the Indian Penal Code, 1960. In this article, the author has discussed the essential ingredients of this crime and also the legal provisions present in our justice system concerning this crime. Recent scenario regarding this crime has also been mentioned. The author has also sought to clarify the very thin distinction between the offence of outraging the modesty of a woman and the attempt to rape. Therefore, these are often over that section 354 addresses offences against ladies that falls wanting rape and thus, grants protection against exploitation of ladies. Crime against ladies are increasing and laws protective ladies are crucial. It will so be over that this section serves its purpose right in granting protection to ladies against whom such indecent and immoral acts are committed.

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