

MARITAL RAPE IN INDIA: A BRIEF OVERVIEW

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ABSTRACT

One of India's most heinous crimes is marital rape. Marital rape is no lesser than the offense of assault rather it is the type of assault. Most of the time, married women are the victims of marital rape. One of the greatest threats to gender equality in India is this. It is one such friendly detestable which has existed in India since antiquated times regardless keeps on causing a commotion in the country. Marital rape has never been viewed as a problem in Indian society. Due to a variety of factors, no one in Indian society ever objects to it. In this regard, there is no difference in the attitude of the Indian legislature. The Indian Constitution entrusts the most difficult task of enacting laws for the development, safety, and security of the nation to the Indian legislature. However, the legislature has no intention of eradicating marital rape as a problem. The Indian judiciary offers some hope in this regard, but it is limited because the legislature, not the judiciary, is responsible for drafting laws. In terms of marital rape, India does not have any effective laws. Anything regulations there in India are not sufficient to contain something as abhorrent as conjugal assault. There is a need to carry serious areas of strength to take on the Goliath of marital rape in India.

Keywords: Rape, marital rape, India, Indian Society, Indian Legislature, Indian Executive Indian Judiciary.

INTRODUCTION

Since time immemorial, India has been plagued by a wide range of social ills. Sati Pratha, forced marriage, the Devdasi system, the Purdah system, and other similar practices are a few of these social problems. With the passage of time, many of these social evils have vanished from India, but some are still very much present and continue to afflict the country. One of these social evils is marital rape, which has been a problem in India since ancient times and still exists today. It is one of these severe forms of social evil that has persisted throughout India's history and is still a common occurrence. The threat of marital rape is also viewed with some degree of indifference by Indian society and the Indian legislature. However, as can be

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seen from its numerous landmark judgments, the Indian judiciary is not so indifferent to the sin of marital rape; rather, the Indian judiciary as a whole is in favor of eliminating the sin. In most countries, committing marital rape is illegal and punishable, but this is not the case in India. There are no effective laws in India to address the problem of marital rape.

MEANING

Marital rape is nothing but a form of rape. There isn't a lot of distinction between the two with the exception of the way that in the event of marital rape, the culprit must be the life partner and no other person. At the point when the spouse commits non-consensual sex with his significant other, it adds up to conjugal assault. Similarly, marital rape occurs when the wife engages in non-consensual sexual activity with her husband. As a result, marital rape is a crime that does not discriminate based on gender; however, the majority of cases of marital rape involve the husband rather than the wife. There have been very few cases reported from anywhere in the world in which the wife raped her husband, while the opposite is not uncommon. While marital rape is in direct opposition to the idea of marriage, marital intercourse is unquestionably an essential part of every marriage.

HISTORY

All social evils have a history, and the rape of spouses is no different. Rape during a marriage is not a new or recent occurrence. It has been around since ancient India. It is undeniable that it existed in ancient, medieval, and contemporary India, despite the fact that the precise date of its inception in India is unknown. Women were generally not treated as human beings in those days; rather, they were thought to be the property of their fathers and, after marriage, of their husbands. They lacked rights and independence. In India, the sin of marital rape was the result of this erroneous thinking. In the past, there have been numerous instances of marital rape.

India did not have any effective laws to protect women at the time; The women lacked any rights at all, and even if they did have rights, they were unaware of them. In addition, women were completely dependent on their husbands and had no choice but to comply with their husband's wishes, regardless of whether they were right or wrong. This multitude of elements additionally contributed to the thriving of marital rape in India. Therefore, the evil of marital rape has a long history that spans ancient, medieval, and modern India.

INDIAN SOCIETY

Man cannot live alone because he is a social being. He can't live without society. Large numbers of his requirements like well-being, security, friendship, occupation, entertainment, and so on, are provided for by society. But every society also has a number of social problems that every person in that society has to deal with. Therefore, a society has both advantages and disadvantages. From its inception, Indian society has been patriarchal or dominated by men. Because the majority of those who are raped during marriage are women rather than men, marital rape is not generally regarded as a crime in Indian society. If men had been raped during a marriage, it would have been illegal in India long ago. In India, there are very few voices advocating for the criminalization and prohibition of marital rape. The most significant factor in the elimination of any social problem is society. No friendly evil can be destroyed by a general public except if the general public itself rejects it. In the event of India, marital rape has not been dismissed by the Indian culture due to which it keeps on blooming in India.

INDIAN EXECUTIVE

The Indian executive, like Indian society and the legislature, opposes making marital rape a crime in the country. Numerous attempts to criminalize marital rape in India have been made by various Indian governments, but none of them have shown the courage or will to do so. The flimsy justification offered for the country's refusal to criminalize marital rape is that such laws would undermine the institution of marriage and increase divorce rates. Thus, the mentality of Indian leaders is additionally exceptionally frustrating in such a manner.

INDIAN LEGISLATURE

The Indian legislature may be able to significantly reduce marital rape in the country. Be that as it may, there is a parcel of hesitance on a piece of Indian council, taking everything into account. In India, numerous attempts to criminalize marital rape have repeatedly failed. A few Bills have been acquainted in Indian Parliament to condemn marital rape in the nation yet not a single one of them could emerge into any kind of regulation. In India, only the Indian legislature has the authority to make marital rape a crime, but it has not done so quickly. The Indian legislature is primarily of the opinion that making marital rape a criminal offense would have a negative impact on the highly regarded Indian concept of marriage and increase the number of divorces in the country.

INDIAN JUDICIARY

The Indian judiciary is less reluctant and reserved than the Indian legislature when it comes to the sin of marital rape. Indian legal executive is significantly more proactive in managing the threat of conjugal assault. In a number of significant decisions, the Supreme Court of India strongly condemned the practice of marital rape in India and repeatedly called for its criminalization. In a similar vein, a number of Indian High Court judgments have called for the country's criminalization of marital rape. However, in this regard, the Indian judiciary plays a very limited role. It is the job of the Indian legislature to ban marital rape in the nation and not that of the Indian judiciary.

LAWS IN INDIA

In India, there are regulations set up to rebuff the culprits of assault. Rape is punishable under Indian Penal Code Section 376. However, there are no specific laws in India that address the scourge of marital rape. Section 375, Exception 2, IPC, is the only law that offers some form of protection to victims of marital rape. It says that the husband can be punished for rape if he has sex with his wife who is younger than 15 years old. However, in the case of *Independent Thought v. Union of India*, the Supreme Court of India changed this age to 18 years. As a result, the law in India currently states that a husband can be punished for rape if he has sexual intercourse with his minor wife, but a major wife has no such remedy. As a result, Indian laws only offer partial protection to victims of marital rape. In India, there is no universal protection against the evil of marital rape.

CONCLUSION

Therefore, it can be safely concluded that marital rape, like rape, is a serious threat to achieving gender equality in India. Women in India can never be said to be free and independent as long as such evils persist. Marital rape is one of the greatest smears to one side to balance and right to life of ladies in India. Marital rape should be totally killed from India to turn into a created country since it is quite possibly of the greatest snag in the improvement of India. However, Indian society, the Indian legislature, and the Indian executive need to change their primitive mindsets in order to achieve this goal. The Indian judiciary must exert sufficient pressure on the Indian legislature and executive to criminalize marital rape in the country through its farsighted judgments. In India, marital rape can only be criminalized if the Indian society, legislature, and executive play a proactive role in this regard. Therefore, the legislature,

executive, and judiciary of India must unite to combat the sin of marital rape; only then can such a terrible sin be eradicated from the nation.

SUGGESTIONS

Thus, after this intricate and tattered conversation on every single part of marital rape, one thing is completely clear marital rape is a fundamental social underhanded which has emphatically inundated India. The same must be eliminated immediately from the country. The following are some crucial recommendations for achieving that goal:

1. In India, marital rape must be made a felony.
2. Both minor, as well as significant wedded ladies, should be lawfully safeguarded against conjugal assault. There should not be any separation between the two in such a manner.
3. The punishment for assault and marital rape should be the same.
4. Exception 2 of Section 375 of the Indian Penal Code must be repealed so that marital rape is not considered an exception to rape crime.
5. As with rape, marital rape must be covered by the Indian Evidence Act's provisions.
6. Marital rape should be made an impartial offense.
7. In order to prevent misuse of marital rape laws, adequate safeguards must be included. For example, the accused husband's family members must not be harassed in such cases, and the husband must not be arrested immediately on the allegation of marital rape by his wife.

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