



SPOUSAL RAPE IS OPTICAL ILLUSION IN WEDLOCK IN INDIA

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ABSTRACT

Marriage, in Indian society, is frequently portrayed as a sacred union, constructed on love, trust, and mutual respect. However, below this idealised picture, many ladies live via a painful, hidden reality. For them, marriage will become an area in which their consent is ignored, their bodies are controlled, and their voices are silenced, specifically about sexual autonomy. Marital rape—the act of a husband forcing his spouse into sexual sex without her consent—is a shape of sexual violence. Yet, the Indian felony system, shockingly, does now no longer criminalises this act. Through Exception 2 to Section 375 IPC, the regulation presents whole immunity to husbands, treating sexual get entry to as a marital proper as opposed to a number of mutual consents. While ladies out of doors marriage are blanketed through rape laws, the ones inside marriage are left vulnerable, unprotected, and denied justice definitely due to their marital status. This creates a deep contradiction within the promise of equality, freedom, and dignity in the Indian Constitution. This creation units the level for inspecting how felony gaps, social stigma, and patriarchal questioning converge to create surroundings wherein ladies cannot search for justice even for the maximum private and painful violation: rape via way of means of their very own spouse.

Keywords: Marital rape, Sexual Violence, Non-Breakable, Marital Counselling, Hidden.

INTRODUCTION

Marital rape refers to non-consensual sexual sex with the aid of using a husband together along with his spouse. It is a form of sexual violence and home abuse, wherein the spouse is compelled or coerced into sexual interest without their consent. In most revolutionary

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countries, consent is significant to all sexual relations, whether or not inner or outdoor marriage. However, India remains an exception in lots of ways.

Legal Illusion: Law doesn't acknowledge spousal rape. Indian Penal Code – Section 375 “Sexual sex with the aid of using a person together along with his very own spouse, the spouse now no longer being beneath Neath fifteen years of age, isn't rape.” This clause successfully legalises non-consensual intercourse inside marriage. So, although a female is forced, coerced, or violently assaulted with the aid of using her husband, it isn't taken into consideration rape beneath Neath regulation. This prison immunity creates a phantasm that: Rape cannot manifest inside marriage. Consent is thought of completely after marriage. Result: A female can be raped; however, the regulation erases that fact with the aid of using calling it a "husband's right." **Cultural Illusion:** Wedlock equals everlasting consent. Culturally, Indian society frequently treats marriage as A holy, non-breakable institution. A dating wherein a spouse is duty-bound to serve her husband, sexually and otherwise. A reason wherein permission isn't free from obstruction. This ends in risky myths like: A spouse must "submit" to her husband. Denial of intercourse with the aid of a spouse is immoral or grounds for divorce. Sexual get admission to is a husband's "marital right." Result: The loss of permission is standardised, and brutality is frequently visible as "marital wellbeing ". **Social Illusion:** Stillness, disgrace, abandonment. Even whilst ladies revel in sexual violence inside marriage, they often: Don't report it – because of stigma, worry of their circle of relatives' breakdown, or loss of prison support. Face sufferer holds responsible – being instructed to "modify" or that it is a "private matter." Have no institutional support – like shelters, marital counselling, or police sensitivity. Result: The trauma stays hidden; society chooses now no longer to peer into what's genuinely violent.

THE LEGAL POSITION IN INDIA OF THE IPC SECTION 375

The Exception is that Indian regulation defines rape below Section 375 of the Indian Penal Code (IPC). However, there is a stunning Exception 2 to this regulation “Sexual sex through a person together along with his very own spouse, the spouse now no longer being below fifteen years of age, isn't always rape”. This means that a husband cannot be prosecuted for raping his spouse (if she is over 15). The regulation gives a blanket immunity to husbands, treating marriage as implied lifelong consent. The Consequences of This Exception are that it normalises compelled intercourse in marriage. It denies physical autonomy to married women. It devalues consent as soon as a girl is married. This is why many feminists and human. The

Impact on Victims women who're raped through their husbands in India face: No felony recourse beneath Neath crook law. Stigma and blame if they talk out. Judicial apathy, as courts are certain through previous legal guidelines. Some ladies attempt to method the courts under the Neath legal guidelines like: Section 498A IPC (cruelty by husband), Protection of Women from Domestic Violence Act (PWDVA). However, those do now no longer specially understand marital rape as a crime. They would possibly assist in getting safety orders or a divorce, however now no longer criminal punishment. The judicial and legislative responses courts have from time to time expressed challenge, however, have stopped brief of calling for outright criminalisation.

Parliament has repeated debates; however, most governments have prevented robust steps. The Justice Verma Committee (2013) advocated criminalizing marital rape, post-Nirbhaya case. But this was not noted within the very last regulation amendment. The comparative perspective is that over a hundred countries, which include the UK, US, Canada, South Africa, and Nepal, have criminalized marital rape. India stays some of the few that is to protect the rapist if he's married to the victim. Fail to understand marital rape as against the law below IPC. Mirage way a misleading look of hope. Women suppose justice is possible—however the regulation shuts the door if the rapist is their husband. It sends a message that after you marry, your frame is now longer yours. In India, marriage is visible as a sacred institution. But for plenty women, it turns into a area of sexual exploitation and violence, sanctioned via way of means of old laws. Marital rape—compelled intercourse via way of means of one's husband—isn't identified as against the law in India beneath Neath crook law. This creates a “justice mirage”: sufferers see the idea of justice, but cannot attain it, because of legal, social, and institutional barriers. Legal Status of Marital Rape in India states in section 375 IPC – The rape law states that section 375 of the Indian Penal Code defines rape and consists of all sorts of non-consensual sexual sex. Exception 2 to Section 375 “Sexual sex or sexual acts through a person together along with his very own spouse, the spouse now no longer being below fifteen years of age, isn't rape.” This exception legally exempts husbands from being prosecuted for rape, except the spouse is below 15 years old. The 2013 Criminal Law (Amendment) Act neglected the advice of the Justice Verma Committee to delete this exception.

The constitutional values of this exception violate: Article 14 – Equality earlier the law. Article 15 – No discrimination based on sex. Article 21 – Right to existence and private liberty (consists of dignity and physical autonomy). It creates a criminal double standard—wherein

the equal act is rape if carried out through a stranger, however now no longer if carried out through a husband.

Government's Opposition Claims include: "It might destabilise the organisation of marriage." "It can be misused via way of means of ladies." "Marriage implies consent." Sex is regularly regarded as a wifely duty, now no longer a mutual act. Women are told: "It's your obligation." "Don't deny your husband." "This occurs in each marriage." This leads many ladies to now no longer even apprehend that what they're dealing with is rape. Family and Community Pressure survivors are discouraged from talking out. Elders regularly recommend ladies to "adjust," "shop the marriage," and now. Even if a girl decides to talk up, Police Often Refuse to file FIRs, as the Police say, "It's a marital issue." "Go to your circle of relatives court." Judges can also additionally suggest: Divorce is a protection under Neath Domestic Violence Act 498A (cruelty) case. But those do now no longer deal with rape as a crime. They provide compromise or protection, now no longer a punishment for sexual assault.

"My husband compelled me nearly every night. He said, 'You're my wife. You can't say no.' When I attempted to resist, he beat me." She approached the police however become instructed it's now no longer rape. Filed for divorce instead, however were given no justice for the sexual violence.

Woman changed into subjected to anal rape and violent sex. Husband used alcohol and beat her while she refused. Police refused to sign up rape case—counseled her to are seeking assist beneath Neath 498A IPC (cruelty). Human Rights Violations and Global Criticism. Equality earlier than the law. Freedom from torture and merciless treatment. Yet, marital rape immunity violates those ideas and brings global shame.

Multiple petitions had been filed tough the constitutional validity of Exception 2 to Section 375. The arguments are that it violates Article 14 (equality), 15 (non-discrimination), 19 (freedom), and 21 (proper to existence and dignity). Government's stand (as of 2022): Opposed criminalisation, pronouncing it would "destabilise the group of marriage" and "will be misused". No very last judgment has been given yet, reflecting the judiciary's hesitation to completely confront this issue.

Though now no longer a marital rape case, this example uncovered the judiciary's bias in rape legal guidelines, suggesting that loss of bodily resistance implies consent. Led to public outrage

and the primary wave of reform in rape legal guidelines in India. Shows how public stress is essential for prison reform, even today.

A girl approached Haksar (a human rights lawyer) pronouncing her husband frequently pressured anal intercourse on her. She had injuries, emotional trauma, and became suicidal. The police refused to report an FIR, pronouncing, "It's a marital issue." She was recommended to report under Neath. Survivor Testimony in RIT Foundation Case: A woman, married to a rich businessman, testified: "He might pressure himself on me, occasionally after I turned into bleeding. I stated no. I cried. But he stated: 'You're my wife, I can do what I want.'" She faced the fact that no aid from police or courts. Fear of losing custody of her children. This suggests how even knowledgeable girls in city areas are trapped with the aid of the law's silence. The Illusion: Reluctance to Reform. The Indian judiciary and authorities have resisted criminalizing marital rape, frequently arguing that: It might destabilize the own circle of relative's structure. It is hard to show in court. It is probably misused by girls in felony disputes. These arguments forget about the lived realities of girls and give a boost to the phantasm that marital rape is both rare, fictional, or unimportant. Result: The regulation protects patriarchy, now no longer survivors. Legal and social barriers and impact are that legal immunity under Neath IPC Women has no crook remedy. Institutional bias, police and judges frequently see compelled intercourse in marriage as normal.

COMPARATIVE INTERNATIONAL PERSPECTIVE IN COUNTRY STATUS OF MARITAL RAPE

- The UK criminalised in 1991
- USA criminalised in all states since 1993

Nepal Criminalized in 2006. South Africa criminalised under Neath sexual offenses act. India is still now no longer criminalised, despite repeated recommendations. This worldwide evaluation suggests that India is out of step with human rights standards. The psychological and social loss of physical autonomy is that Mental trauma and depression. Silence and social pressure. The regulation says: "Your consent ends the day you marry." That's why justice for marital rape survivors stays a mirage—seen in principle, unreachable in reality. The impact area consequence is that the legal married girls lack rape protection. Moral Legal gadget fails the maximum vulnerable. The cumulative result: Married girls end up invisible victims. They see the concept of justice, but cannot connect it. It turns into a mirage—a fake desire that

vanishes after they attain it. The concept of marriage as a guard for sexual violence famous how deeply patriarchal the group is in lots of settings. By denying that marital rape exists, society protects: Male sexual entitlement. Control over women's bodies. The phantasm of own circle of relatives' honour and stability, even at the price of women's dignity.

CONCLUSION

The refusal to apprehend marital rape as against the law is extra than only a felony oversight—it's miles a mirrored image of deep-rooted patriarchy, social silence, and country indifference. It sends a risky message: that when a female is married, her consent will become irrelevant, and her struggles will be invisible. This injustice isn't always theoretical—it's miles lived each day through infinite Indian ladies who're sexually violated inside marriage, but discover no felony recognition, no institutional support, and no societal empathy. The regulation, which must be a supply of protection, as an alternative will instead become a device of silence, reinforcing the very violence it must prevent. To hold denying the criminal activity of marital rape is to betray the Constitution's promise of equality, dignity, and private liberty. It is to deal with ladies as second-class citizens, whose rights disappear at the altar of marriage. Justice for marital rape survivors will continue to be a mirage till India: Abolishes Exception 2 of Section 375. Recognizes marital rape as a crook offense. Until then, the space between regulation and justice, among rights and reality, will hold to go away the married lady's unseen, unheard, and unprotected—even within the maximum intimate areas of their lives.

The contradictions of justice in instances of marital rape in India isn't only a crime in the means of escape it's far a systemic disloyalty of the very faith that the Constitution of India stands for: equality, dignity, freedom, and justice for all. By refusing to criminalize marital rape, the Indian felony gadget tells girls: "Your frame does now no longer belong to you after you are married. It strips away a woman's company over her frame and treats rape inside marriage as a personal matter, unworthy of public intervention or felony redress. Even while girls bravely come forward, the mirage of justice will become painfully clear. The police brush aside their complaints. The courts cite old laws. Society silences them with shame. And even well—that means felony treatments like Section 498A (cruelty) or the Domestic Violence Act fail to well known that non-consensual intercourse is rape—whether or not it occurs on a road or in a bedroom.

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