

Special Penal Legislations Relating To Women But Are Affecting Men

Author – *Yash Vashisth, LL.M, Galgotias University, Greater Noida, Uttar Pradesh*

Abstract

Society and lawmakers see women's tears, but not men's. Women are protected by law against domestic violence, cruelty, and harassment, but males are not. Women create bogus cases out of revenge against her husband, and women's include family members of males in false cases and they being harrassed by the women's and their relatives . A woman can lawfully exploit a guy if her complaint is believed to be sincere and genuine. Several words in provisions protecting women aren't defined, hence it includes anything related to that word. Women's crimes are non-bailable, cognizable, and non-compoundable. The most overused laws are 498A of IPC, Laws relating to DV act and other laws. These laws don't allow women to utilise them for revenge. Women shouldn't double-edge these laws. The laws are women's immunity and should always be followed.

Introduction

Despite being a male dominated society for decades, India has just enacted legislation that specifically protects women. For example, The Domestic Violence Act, 2005 ("DV Act"), was passed to safeguard women who have been subjected to years of mental and physical abuse by men in Indian society. Another law that has ensured women can support themselves after a divorce is the Hindu Adoption and Maintenance Act, 1956 ("Maintenance Act"). A new section 498-A was added to the Indian Penal Code (IPC) in 1983. Married women are shielded from abuse and dowry harassment by their husbands and their male relatives under this provision. Also protecting women against assault or criminal force and sexual harassment are sections

Special Penal Legislations Relating To Women But Are Affecting Men

Author – *Yash Vashisth, LL.M, Galgotias University, Greater Noida, Uttar Pradesh*

354, 354-A, and 354-B of the IPC. Countless women were helped by the aforementioned laws, which brought them closure and justice¹.

In spite of the fact that laws catering specifically to women, such as those described above, are absolutely necessary to safeguard the interests of women, there are situations in which women have exploited these laws for their own personal gain. There is a significant possibility that an innocent man may be found guilty as a result of this procedure. The sanctity of these laws has been completely undermined as a result of such a blatant disregard for them².

Women's Situations at Different Stages

If we look at the condition of women throughout the early Vedic period, we see that it was actually rather favourable. It was during this time that women gained the ability to vote and attend public school, and it was also around this time that women began participating in the Janau rite on par with males. There was no pardah (veil) regime, and women actively participated in intellectual conversations. In the prevailing patriarchy of the time, women enjoy equal status to men.

Wives were granted the same religious standing as husbands, and the term "ardhangini" was used to refer to both (half part of male). Since the Mughal era, women's status as a whole has deteriorated. Common practises were the Pardah system and marriages between minors³.

In the Muslim community, divorce was common. Women could only do housework and were prohibited from working outside the home. Jauhar was traditionally

¹ Soumya Vemulakonda, Misuse Of Women Centric Laws In India, <https://www.hellocounsel.com/misuse-of-women-centric-laws-in-india/>

²Ibid.

³ Pratibha Kumari, Women Centric Laws: Consequences Faced by Males, <https://www.legalserviceindia.com/legal/article-3390-women-centric-laws-consequences-faced-by-males.html>

Special Penal Legislations Relating To Women But Are Affecting Men

Author – *Yash Vashisth, LL.M, Galgotias University, Greater Noida, Uttar Pradesh*

committed by women (burn their body in order to save themselves from the enemy). The plight of women worsened after the advent of the modern era (i.e., the British period). There was no difference between the sati system, the dowry system, the veil system, sexual harassment, sexual assault, rape, etc., all of which affect women. The Prevention of Sati Act, 1829, and other pieces of legislation were enacted to put an end to the sati system and child marriage⁴.

Soon after the post-independence period, the government. numerous steps to stop the violence against women. Legislation such as Hindu Marriage Act⁵, Hindu Adoption and Maintenance Act⁶, Dowry Prohibition Act⁷, the Special Marriage Act⁸, the Domestic Violence Act⁹, Prohibition of Child Marriage Act¹⁰, and various sections of the Indian Penal Code¹¹ that prohibit sexual offences against women, etc. Moreover, the Constitution also ensures the promotion of women's standing. Women now have far more independence in every sphere of life. Unfortunately, women had begun to use their newfound independence as a tool to oppress men.

‘Women Centric Laws in IPC, 1860 that affecting Men’

- **Cruelty-Section 498- A of IPC**

To protect women from the violence of their husbands and other male relatives, Section 498-A of the Indian Penal Code, 1860 was enacted. Whoever, being the husband of such woman or relative of such husband, subjects such woman to cruelty

⁴Ibid.

⁵The Hindu Marriage Act, 1955

⁶The Hindu Adoptions and Maintenance Act, 1956

⁷The Dowry Prohibition Act, 1961

⁸The Special Marriage Act, 1954

⁹Protection of Women from Domestic Violence Act, 2005

¹⁰The Prohibition of Child Marriage Act, 2006

¹¹The Indian Penal Code, 1860

Special Penal Legislations Relating To Women But Are Affecting Men

Author – *Yash Vashisth, LL.M, Galgotias University, Greater Noida, Uttar Pradesh*

shall be punished by imprisonment for a term which may extend to three years and shall also be liable to fine, as stated in Section 498-A¹².

However, there are situations in which these laws are being exploited by women for revenge or personal gain and women create bogus cases against their husbands and in-laws. Because of this, there is a possibility that innocent people will be punished, which will undermine the primary rationale for having such a provision in place.

In the case of ‘**Savitri Devi v. Ramesh Chand &Ors**’¹³, court stated that the laws are intended to protect women from cruelty, domestic violence, and other forms of violence, but that these laws are being abused by involving distant relatives, minors, and grandparents. Whether the perpetrators of cruelty or domestic violence are the husband or the in-laws, the case must be brought against those individuals, and not the family as a whole.

- **Assault or criminal force to woman with intent to outrage her modesty-
Section 354 of IPC**

It says that using criminal force or assault on a woman with the intent to outrage her modesty constitutes this offence. However, this provision has the potential to be abused by women against men with the intention of doing so in bad faith. In most situations, a violation of section 354 of the Indian Penal Code will not be considered to have occurred if the offender accidentally touches or pushes the woman. In addition, the provision in the IPC can only be used by women against men, which demonstrates unequivocally that it is gender biased and can be abused by women against men. For the simple reason that only men are capable of stalking a woman. This Statement alone demonstrates how gender discrimination is inherent in the act itself¹⁴.

¹²The Indian Penal Code, 1860, Section 498- A

¹³2003 CriLJ 2759

¹⁴ Legal Thirst, Harassment of Men in securing Women’s rights in India, <https://legalthirst.com/harassment-of-men-in-securing-womens-rights-in-india/>

Special Penal Legislations Relating To Women But Are Affecting Men

Author – *Yash Vashisth, LL.M, Galgotias University, Greater Noida, Uttar Pradesh*

- **Rape- Section 375 of IPC**

This provision is made in light of the sexual abuse and harassment that women face, this section discusses about the rape. As a form of protection against the crime of rape, it is an excellent provision for women. This authority is specifically granted to women so that they may protect themselves from the most heinous crimes, including rape¹⁵. But in today's world, these powers are being abused against men in order to blackmail them, demand money, and do a variety of other things. It is a misuse of power to do this thing because instead of using it as a defence, you are using it as a weapon against men. This section in no way addresses the situation that arises if a man is raped by a woman.

In a report that was published in 2014 by the Delhi Commission of Women, it was revealed that of the rape cases that were filed between April 2013 and July 2014, 53.2% of the cases were false. There was a possibility of fabricated cases in which women exacted vengeance on men by blackmailing them for financial support and material goods. According to the data presented in the report, only 1,287 of the 2,753 rape complaints received between April 2013 and July 2014 were true and 1,464 cases were found to be false¹⁶.

‘Domestic Violence Act, 2005’

The Indian Parliament passed the Protection of Women from Domestic Violence Act in 2005 to better safeguard the rights of women who have been victims of domestic violence or other forms of family-based violence. Abuse of any kind, including physical, sexual, verbal, emotional, and financial, is considered domestic violence under Section 3(a) of the Act¹⁷. Because of the patriarchal nature of our society,

¹⁵The Indian Penal Code, 1860, Sec. 375

¹⁶Indiatoday.in, 53.2 per cent rape cases filed between April 2013-July 2014 false, says DCW, <https://www.indiatoday.in/india/north/story/false-rape-cases-in-delhi-delhi-commission-of-women-233222-2014-12-29>

¹⁷Protection of Women from Domestic Violence Act, 2005, Sec. 3(a)

Special Penal Legislations Relating To Women But Are Affecting Men

Author – *Yash Vashisth, LL.M, Galgotias University, Greater Noida, Uttar Pradesh*

women and children are disproportionately affected by domestic violence. The purpose of the Domestic Violence Act of 2005 is to provide a four-pronged safety net for female victims of domestic violence, including orders for the defendant's home, custody orders, protection orders, and finances¹⁸.

The idea that domestic violence could be committed against a man does not even cross the minds of most Indians; our culture is still stuck in the idea that it only happens to women. It is commonly held that a man cannot be a victim of a woman but men are victims too.

Misuse of DV Act

The Act makes the presumption that the only people who can be victims are women. In addition to this, similar to the majority of women's rights laws in India, the Act operates under the presumption that there are only two genders. It is stated in Section 32(2) of the Act that the statement of the woman who is the victim will be considered as true without any need for supporting evidence to be presented. This provision states that the statement will be taken at face value¹⁹. Because of this, the potential for misusing this Act has increased. The women take undue benefit of this act by putting his husband and husband's family members in false cases.

It has been observed that the Protection of Women from Domestic Violence Act, 2005, suffers from inherent flaws that tempt women to misuse their provisions and men to fear being prosecuted under law without any rhyme or reason, as stated in the judgement handed down by the Punjab High Court in the case of **Balwinder Singh v. Richa Sharma**. The court pointed out that a major problem with this statute is its susceptibility to frivolous and misleading lawsuits, which women will use to try to teach a lesson to their male relatives²⁰.

¹⁸ Amulya Bhatia, Women centric laws in India : beneficial or detrimental, <https://blog.ipleaders.in/women-centric-laws-india-beneficial-detrimental/>

¹⁹Protection of Women from Domestic Violence Act, 2005, Sec. 32

²⁰ArchitBatra,

Special Penal Legislations Relating To Women But Are Affecting Men

Author – *Yash Vashisth, LL.M, Galgotias University, Greater Noida, Uttar Pradesh*

‘The Dowry Prohibition Act, 1961’

India widely practises dowry. This custom honours the groom for marrying his bride with household goods, cars, and money. This custom has become a way to extract as much money as possible from the bride's family; failure to do so leads to harassment of the married woman by her husband and his family. Indian villages and households see many dowry deaths. Inability to pay dowry is a cause of domestic violence. The Dowry Prohibition Act was enacted on May 1, 1961, to prevent giving or receiving dowry and its consequences²¹.

By refusing to pay the dowry that the groom's side requests, this is used to protect women from violence. However, this could be abused by the women to sue the groom's family and cause them harm. Many women take advantage of this law to intimidate the groom's family.

According to a report by the National Crime Records Bureau (NCRB) in the year 2015, approximately three lakhs people were arrested for the crime of dowry; however, surprisingly, only twenty percent of those arrested (accused) were found guilty of the crime²².

‘The Hindu Adoption and Maintenance Act, 1956’

The legislation that has allowed women to resume respectable lives after a divorce. A woman and her children need the Maintenance Act to ensure they can maintain the same standard of living they had before the divorce. The Maintenance Act ensures that basic needs such as shelter, food, clothes, and education will be met. A guy has a responsibility to provide for his ex-wife until she remarries.

²¹ Amulya Bhatia, Women centric laws in India : beneficial or detrimental, <https://blog.ipleaders.in/women-centric-laws-india-beneficial-detrimental/>

²² Times of India , <https://timesofindia.indiatimes.com/india/10-of-dowry-cases-false-government-plans-changes-in-law/articleshow/46649047.cms>

Special Penal Legislations Relating To Women But Are Affecting Men

Author – *Yash Vashisth, LL.M, Galgotias University, Greater Noida, Uttar Pradesh*

There have been instances of women seeking to extort money from men by intimidating and blackmailing them in order to obtain their financial cooperation. When a couple gets divorced, maintenance is an additional argument that can be used to seek for money. When filing for divorce, it is common for women to lie about their employment position in order to receive support payments. The vast majority of these gripes are spoken on the spur of the moment and are directed at trivial concerns²³.

‘How are men in a worse position than women?’

Men face discrimination from a number of laws. All too often, they become victims of bogus accusations. Women often utilise the laws enacted to safeguard their rights as a means to intimidate and even gratify their ego. They view the law enforcement as extremely harsh and frequently become victims of police brutality. The situation is further complicated for innocent men because most offences committed against women are cognizable and non-bailable²⁴.

There are laws in place to safeguard the interests of women, but none to advocate on their behalf. The majority of divorces involve allegations of domestic violence or cruelty, which are both covered by the Domestic Violence Act and Section 498-A of the Indian Penal Code, respectively. Oftentimes, people bring these suits in order to financially benefit from their relationships. His professional life and social standing could be destroyed by even a single unfounded accusation. And there are documented cases of women getting married numerous times to the same wealthy man in order to inherit his wealth and receive support payments.

While there are rules in place to safeguard women from sexual harassment in the workplace, no comparable protections exist for men. The conventional wisdom holds

²³ Lawyered, Misuse of Matrimonial Laws by Women's: The Gender's Advantage, <https://www.lawyered.in/legal-disrupt/articles/misuse-of-matrimonial-laws-by-womens-the-genders-advantage/>

²⁴ Sneha Singh, Women-centric laws : consequences faced by males, <https://blog.ipleaders.in/women-centric-laws-consequences-faced-males/>

Special Penal Legislations Relating To Women But Are Affecting Men

Author – *Yash Vashisth, LL.M, Galgotias University, Greater Noida, Uttar Pradesh*

that only females are targeted as victims of sexual harassment and eve teasing, while males can only be harassers and never targets²⁵.

‘Real Instance in which women-centric laws have been misused’

On the 21st of November, 2020, there was an event that took place in the city of Chennai. A young man by the name of Santhosh who was pursuing a degree in engineering was charged of raping a woman. The woman's mother went to Santhosh's parents and told them that her daughter was pregnant and that Santhosh was the father. She also demanded that an immediate marriage be arranged. Following the denial of the rape charge by the Santhosh family regarding the accused Santhosh, he was placed under arrest and remanded in judicial custody for a period of ninety-five days. A disagreement between the two sets of families ultimately led to the cancellation of the wedding. The woman had already given birth to a girl by the time he was released on bail, and it was discovered that the baby's DNA did not match Santhosh's but rather matched that of another individual. On February 10, 2021, the court declared him not guilty after conducting a DNA analysis. In the meantime, he did not continue his education and his reputation suffered as a result²⁶.

Conclusion

Laws that focus on women's needs are enacted with the purpose of shielding women from the harmful practises of other people. It was the need at the time that they were adopted, and the need continues to this day. But in addition to that, it is vital to make sure that no innocent people are harmed by such laws during any kind of conflict at all. This is an absolute necessity. In addition, it is a difficult task that is in the hands of the judges to ensure that the perspective of society, which holds that women are the ones

²⁵Ibid.

²⁶Suresh Kumar, Tamil Nadu man who lost engineering degree, jailed for 95 days for false rape gets Rs 15 lakh compensation, <https://timesofindia.indiatimes.com/city/chennai/tamil-nadu-man-who-lost-engineering-degree-jailed-for-95-days-for-false-rape-gets-rs-15-lakh-compensation/articleshow>

Special Penal Legislations Relating To Women But Are Affecting Men

Author – *Yash Vashisth, LL.M, Galgotias University, Greater Noida, Uttar Pradesh*

who are always the victims in women-centric laws, does not influence their decisions in any way while they are making such decisions.

This is an unfairness to both men and women because of the misuse of gender-based laws. It's possible for someone to be either an abuse victim or an abuser. Although domestic violence against men is less common than against women, it does not make it any less serious or less deserving of protection for those who experience it. For as long as we can remember, if a woman slaps a guy, the assumption is that he must have done something wrong or that she was provoked into taking action. Violence towards anyone, regardless of their gender, is never acceptable and should never be justified. It comes as a shock to learn that men are also victims of this atrocity, as women make up the vast majority of those affected. Although this component of domestic abuse receives little attention and is rarely discussed, it is high time for society and lawmakers to take action and establish legislation to address it. Equal justice under the law is a fundamental human right for all people.