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False allegations of Rape: Are the accused deprived of their basic legal rights?

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The most heinous crime a person can commit is rape. Our laws allow a woman to file a charge of rape against the person who raped her. Numerous laws have been created in her favour, to protect the victim's modesty and provide justice. There is, however, another side too. According to the NCRB reports, more than half of rape cases ended with acquittals following lengthy court proceedings. This brings attention to the flip side of the situation, which is falsely accusing someone of rape when nothing of that sort has occurred. Here, it's crucial to realise that accusing someone of rape is a serious charge. It has been noticed that, even before the court renders its decision, people who are accused of rape are frequently made fun of by their colleagues, friends, and even family. This article demonstrates how false rape accusations harm genuine rape cases and presents rape laws that are detrimental to the rights of those who are accused. This article also aims to draw attention to the punishment for the false accuser and the defences open to the accused against a false FIR. This paper also draws a conclusion and recommends reforms to address this problem.

Keywords: *rape, media trial, false accusations, false evidence.*

INTRODUCTION

We cannot determine who is the victim and who is the perpetrator solely based on gender. As the famous quote says, "Every coin has two faces." There will always be another side to a case

that we should look into. It is truly the case that rape is the most heinous and detestable of all crimes, and that the 2012 Nirbhaya case shocked the nation's conscience. Regrettably, there is another side too, that is, there are cases today in which a woman files an FIR (First Information Report) pertaining to a rape case without any lawful justification.

Nowadays, many mainstream media cover various stories, almost on daily basis, that some women are taking undue advantage of the laws, which are made with the motive to protect and provide justice to them, and filing a false FIR to take revenge, settle scores, intimidate someone, defame a person or gain monetary benefits from the same. And unfortunately, these incidents are becoming increasingly common, making it a more serious issue to investigate. This substantial rise in the filing of rape cases occurred after the enactment of strict anti-rape laws in India. While some of these instances have been genuine, others are merely false claims made to unlawfully benefit from these laws. It is shameful that a woman falsely files a rape report to entangle some men and settle scores with them at a time when women are still frequently assaulted and struggle to seek justice.

As per a saying, rape is supposed "an accusation simply to be made and difficult to prove, and perhaps even difficult to be defended by the one accused, albeit not so innocent," Even a simple rape accusation can indeed be disastrous for the accused, leading to social isolation and, frequently, losing their livelihood and source of income. This happens because the accused is treated as guilty and tagged with the name ‘rapist’ even before the trial starts. Oftentimes, they carry this burden with them throughout their life, even when they are found proven innocent, in the form of psychological problems and a history of being accused of a gruesome crime.

FAKE RAPE CASE: THE MEANING

‘Fake Rape Case’. How this word is used is the key point of reference for dealing with false rape claims. This is a key issue and a substantial factor in determining the quantum of violation allegations that are deemed to be false. So, one should be careful enough while terming and defining this. According to Section 375[1] of the Indian Penal Code, rape is defined

[1] Indian Penal Code 1860, s 375

as "sexual intercourse with a woman against her will, without her consent, by coercion, misrepresentation, or fraud, or at a time when she has been intoxicated or duped, or is of unsound mental health, and in any case, if she is under 18 years of age".

When someone accuses an individual of sexually assaulting them when no such incident has occurred or occurred consensually and with the will of both the parties, it is known as a false allegation of rape. Such erroneous accusations are, typically, the result of several causes, including lying, false memories, and aided recollections. Another reason for doing this is to exact revenge or to torment someone for a range of personal reasons. Let's know and understand the issue of fake rape cases in detail.

WHAT DO THE STATISTICS SHOW?

In the year 2014, the Delhi Commission of Women (DCW) released stunning statistics showing that 53.2% of the rape cases registered between April 2013 and July 2014 in Delhi were proven to be "false," exposing a trend of women filing bogus rape claims[2]. According to the findings, only 1,287 of the 2,753 rape complaints made between April 2013 and July 2014 were found to be true, with 1,464 cases being found to be fake. The report also disclosed that 525 cases were discovered to be false between June 2013 and December 2013. And there were 900 bogus rape cases between January 2014 and July 2014.

The Delhi Commission of Women added that it was looking into specific rape cases to make sure the victims obtained justice. However, it was noted that the complainant frequently became hostile and that retaliation had become the most frequent motive for making a false complaint[3]. Based on the latest report of the National Crime Records Bureau's (NCRB) "Crime in India - 2020," under the category of "Disposal of Persons Arrested for Crime against Women 2020", the number of people convicted for the offence of rape throughout India is 4473, and the number of people acquitted is 6842. According to the same data, 5403 persons have been declared not guilty of rape nationwide, while 3814 have been found guilty, under the category of "Court Disposal of Crime against Women 2020." This signifies that in India, the number of

[2] '53.2 per cent rape cases filed between April 2013-July 2014 false, says DCW' (*India Today*, 29 December 2014) <https://www.indiatoday.in/india/north/story/false-rape-cases-in-delhi-delhi-commission-of-women-233222-2014-12-29> accessed 22 August 2022

[3] *Ibid*

rape cases that result in convictions would be lower in 2020 than the number of acquitted cases. It is evident from NCRB reports that 6842 accused people under the category of "Disposal of persons arrested" and 5403 accused people under the category of "Court disposal" are falsely charged with the heinous offence of rape.

WHAT ARE THE REASONS FOR FAKE RAPE CASES?

The reason behind filing a false rape charge against a person by a woman are manyfold. The motive and purpose change from case to case. Some of the major reasons are as follows:

- **Past hostility and vengeance**

Personal animosity and the urge to take revenge are the major reasons which encourage a woman to file a fake complaint of rape against a man. It has frequently been noted that accusing a man of rape has been the most efficient way to settle scores with a former competitor, blackmail a wealthy individual, or for a variety of other reasons. Even though the individual making the complaint is aware that they may not have enough proof to justify their contention and win the case, the damage to the reputation of the accused is already done, even after he has been found not guilty. Recently, in 2021, while the Delhi High Court was expressing its worry over an alarming increase in false rape cases, Justice Subromonium Prasad seriously stated that "this court is pained to note that there is an alarming increase in false cases of rape and offences under Section 354, 354A, 354B, 354C, and 354D only to arm-twist the accused and make them succumb to the demands of the complainant". Justice Prasad also added that "allegations regarding offences such as rape, one under Section 376 IPC, cannot be made at the drop of a hat to settle personal scores.[4]"

- **Breach of promise to marry**

In some cases, women have claimed that men have engaged in sexual behaviour fraudulently with them after falsely promising to marry them. Initially, the woman gets into a consensual sexual relationship with the man, with the man promising to marry her in good faith. The relationship goes on for a few years. Later, when things don't work out in her favour and if the

[4] Soibam Rocky Singh, 'Delhi High Court expresses worry over 'alarming increase' of false rape cases' (*The Hindu*, 22 August 2021) <https://www.thehindu.com/news/national/delhi-high-court-expresses-worry-over-alarming-increase-of-false-rape-cases/article36042093.ece> accessed 22 August 2022

man couldn't able to fulfill his promise because of unforeseen and uncontrollable circumstances, this woman files a case of rape against the man. This case cannot be said to be a case of rape in legal parlance because the man promises in good faith and didn't make any false promises only to satisfy his lust. But, in another case, when the man promises in bad faith and with no intention of adhering to the promise at the time, he is giving it, and that false promise must be crucial straight away or have some relevance to the woman's decision to undertake the sexual act, it constitutes an act of rape committed by the man. The Supreme Court made the same assertion in the case of PramodSuryabhanPawar vs The State of Maharashtra (2019)[5]. Recently, in August 2022, the Supreme Court observed that there is a difference between a false promise to marry and a breach of a promise which is made in good faith but subsequently not fulfilled[6]. We cannot draw any similarity between rape, which is often destructive of the whole personality and degrades the very soul of the victim, and consensual sex between lovers before marriage, which is said to be a pleasure that fulfills the physiological need of sexual desire. There exists a huge difference between sexual assault and consensual sex. Thus, the court must carefully evaluate whether the male had genuine intentions of marrying the victim or had bad motives.

In a report supported by NCRB with the help of the Centre for Women's Development Studies (CWDS), which is primarily researched in the Delhi area, it was stated that "In 2013, out of 583 rape cases that were decided in the six district courts of Delhi, only 133, or 23%, resulted in a conviction." A six-month study of rape cases in Delhi revealed that nearly a third of them involved consenting couples, with the girl's parents falsely accusing the boy of rape. A total of 40% of the cases involved consenting couples. The breach of the promise to get married was the basis for another 25% of the cases.

- **Social stigma towards love marriages in society**

In a diverse country like India, there are still certain remote towns and villages where it is still the norm to forbid women from selecting their partners since doing so is considered to cause

[5] *PramodSuryabhanPawar v The State of Maharashtra* (2019) 9 SCC 608

[6] 'Promise of Marriage Made In Good Faith But Subsequently Not Fulfilled : Supreme Court Quashes Rape Case' (*Live Law*, 2 August 2022) <https://www.livelaw.in/top-stories/supreme-court-rape-case-promise-marriage-breach-mandar-deepak-pawar-vs-state-of-maharashtra-2022-livelaw-sc-649-205487> accessed 21 August 2022

disgrace to any family or community to which they may belong. When their relationship is made public, women could find themselves in a position where they feel compelled to accuse their boyfriends of rape. This is particularly true when it comes to inter-religious and inter-racial relationships. In cases like this, evidence of sexual intercourse may even be submitted as evidence in court. Additionally, the men's reputations are irreparably damaged as a result of being wrongfully accused or suffering an emotional breakdown. In instances like this, women are also found to be depressed and guilty of devastating the lives of the accused to safeguard their social standing.

HOW DO FAKE RAPE CASES AFFECT GENUINE RAPE CASES?

Rape is not just an unlawful act but also the most heinous and gruesome crime that a person can commit. After such a horrific incident, a woman can feel depressed, exhausted, and anxious. The recovery process for a survivor takes a long period. To be honest, the convict destroyed the mental state of the victim. Further, it is a well-known fact that rape cases in India are drastically increasing year by year. This issue is not just affecting the lives of those who suffered and survived this horrific rape, but also every girl's right and freedom. Yes, you heard right. The rapid increase in rape cases and other sexual assaults indirectly affects the freedom of every girl or woman in India. We know how many restrictions were imposed on girls by their parents, which are prevalent even these days. The reason why Indian parents do this is that they were concerned over their daughter's safety and security. The hard fact is that the parents' concern over their daughter is going to the extent of even curtailing her freedom. And, this is affecting women's empowerment. Thus, rape is not just an issue of maintaining law and order in the country, but also a big problem and an obstacle to the development of the nation.

The government should take the necessary measures right away to address this situation. The government should focus primarily on preventing rapes from happening in the first place. To achieve this, some institutional changes and reforms in the police, judicial system, and other government agencies are required. However, the police should also handle reported rape cases effectively, impartially, and independently. One of the most crucial measures for preventing and deterring future rape cases is having the police thoroughly and impartially investigate

reported rape cases and present the charge sheet to the court within the time given. This sends a serious message to society at large which further prevents genuine rape cases to happen. Here, it's important to note that 99.1% of sexual assault cases go unreported in 2018 and that the offender is typically the victim's spouse in the majority of these cases, according to the National Family Health Survey report[7]. Even after excluding marital rape and assault from the analysis, there are still few complaints of sexual violence. Only 15% of cases of sexual assault by someone else (other than the present husband) are reported to the authorities[8]. According to the survey, women are less likely to disclose sexual assaults due to issues like a lack of trust in the police, and low conviction rates for these offences. There are many reasons for the low conviction rate. One reason among them is the high acquittal rate. In this way, fake rape cases are negatively affecting the issue of non-disclosure by genuine rape victims. As a result, in a nation where crimes against women are common, this situation of the rapid increase in false rape charges will put it in jeopardy for honest victims to even report such crimes.

The act of filing a false rape charge on a man is not only affecting the lives of the innocent accused but also makes genuine rape survivors more difficult to file a case. For fear of not being able to support their claims and allegations and being labelled as attention-seeking false accusers, many victims choose not to do so. As false rape cases are flashing on television screens, and newspapers daily, people have got aware of fake rape cases and their increase. Unfortunately, this led society to cast a doubt on few legitimate cases. Thus, the issue of false accusations of rape is indirectly affecting the reporting of genuine cases by rape survivors due to the fear of doubting their words. Therefore, false charges of rape will only return society to the days when legitimate rape survivors had to fight their battles alone and no one believed they had suffered.

MEDIA TRIAL: FURTHER WORSENING THE SITUATION

Media which is the fourth pillar of democracy can play a significant role in society by creating awareness and educating people by providing authentic news. It has a wide scope to influence

[7] Pramit Bhattacharya & Tadit Kundu, '99% cases of sexual assaults go unreported, govt data shows' (*Live Mint,* 24 April 2018) <https://www.livemint.com/Politics/AV3sIKoEBAGZozALMX8THK/99-cases-of-sexual-assaults-go-unreported-govt-data-shows.html> accessed 21 August 2022

[8] *Ibid*

young minds and show the right path to make constructive and reasonable opinions. It is not an exaggeration when one says that the media can solve many problems in India to some extent and the issue of fake rape cases can be one among them. However, the scenario is completely different. It is said to say that the media is worsening the present issue more and more for the sake of TRP. It is not bothering to look into the statistics of the accused who are acquitted after full judicial proceedings. Besides educating people regarding the famous legal principle 'innocent until proven guilty, it makes false statements against the accused and encourages people to call the suspect the tag 'rapist'. Because of the mass courage by the media, he continues to be labelled as a 'rapist' even after his honourable acquittal. The situation is worse if the celebrity is accused of rape charges. The media is ignorant of whether the case is sub-judice or not and start media trials in the name of investigative journalism acting as juries and delivering their verdicts. The media, which is a crucial pillar of our democratic system, should work to expose the plight of rape suspects similarly following their court-ordered acquittals to how they report the filing of rape cases.

ARE THE RAPE LAWS STRICTER?

After the December 16 gang rape and murder in Delhi, a countrywide public uproar in 2012 resulted in the passage of the Criminal Law (Amendment) Act in 2013[9], which broadened the definition of rape and increased the severity of punishment. The Justice J.S. Verma Committee, which was formed to review and suggest changes to the country's criminal legislation, recommended the reforms to Parliament. The 2013 Act, which went into effect on April 2, 2013, doubled prison sentences in most sexual assault cases and also authorised the death penalty in rape cases that resulted in the victim's death or left her in a vegetative condition. It also established new offences such as using unlawful force on a woman to disrobe, voyeurism, and stalking. The penalty for gang rape was doubled from 10 years to life imprisonment to 20 years to life imprisonment.[10] Previously, there was no particular legal framework for offences

[9] Aparna Viswanathan, 'A task only half finished' (*The Hindu,* 28 August 2013) <https://www.thehindu.com/opinion/lead/a-task-only-half-finished/article5065462.ece> accessed 23 August 2022

[10] Abhishek Kumar Singh, 'Is India becoming the 'sextortion capital' of the world?' (*TFIPOST,* 11 June 2022) <https://tfipost.com/2022/06/is-india-becoming-the-sextortion-capital-of-the-world/> accessed 23 August 2022

like as unwanted physical contact, words or gestures, demand or solicitation for sexual favours, exhibiting pornography against a woman's consent, or making sexual comments. However, the 2013 Act specified these offences and assigned penalties. Similarly, stalking is now punished by up to three years in prison. The penalty for acid assault has been doubled to ten years in jail.

According to figures released by the Delhi Commission of Women (DCW), 53.2% of the rape cases in Delhi that were reported to the authorities between April 2013 and July 2014 were false. While this is going on, our courts are cheerfully dismissing Rape FIRs once parties contact them after the 'settlement' (often monetary). The recent Delhi High Court ruling allowing a lady to drop a rape FIR against her Father-in-Law after he paid Rs 10 lakh in the final settlement must be read.[11] All victims must get justice, but no innocent person should be jailed without an inquiry. Even a single rape is a stain on society; nonetheless, this offence is so serious that we frequently dismiss innocent men as "collateral damage," even if the cases made against them are found to be false. Every country is recognised for its laws and how they evolve in response to changing times. It is past time for the government to take a firm stand against such corrupt, unethical, and completely unbalanced social practises.

ARE STRICT LAWS A THREAT TO INNOCENT MEN?

"A perfect human society is a utopia". This statement doesn't just come off as a general saying this statement carries a lot of importance in its own right. Law is what makes society perfect and harmonious. But most of the safety still leaves room for errors. This can also be related to the two-faced behaviour of every idea in society. Every idea in society has both advantages and disadvantages. The advantages of laws are mostly visible in everyday society but the general disadvantage of law is its own "Rigidity". Rigid laws not only ensure the proper behaviour of people of the society but sometimes makes the law vulnerable to improper usage.

"It is better to save a guilty man than to condemn an innocent man". This famous quote by Voltaire is one of the fundamentals of law and the rights of the person in society. But the

[11] *Ibid*

rigidity of the same laws fails to ensure and save an innocent man. This challenges the own rule of law giving rise to doubts about the legal system.

When we consider the Indian Legal system, the rising answer of false accusations and condemnation of innocent men due to strict laws of the country. "Post the horrendous Nirbhaya gang rape incident in 2012, rape laws were toughened even further and due to huge pressure, the laws equipped women to file FIR anywhere anytime and the accused Men would be booked on a mere complaint, no medical required either," says ArnaazHathiram, founder of 'Voice for Men' fighting for men's rights in India and one of the few to provide freedom of expression to men[12]. The rules meant to protect and assist true victims of this heinous crime have tragically been twisted into a weapon by many women (and men) today to fix or trap innocent men. The retribution might take numerous forms, such as an ex-boyfriend marrying someone else, a family property dispute, or even physical violence.

ASSESSING THE VERACITY OF THE COMPLAINTS BY THE POLICE

Law doesn't provide for a mechanism to prima facie identify the veracity of the complaint. With this, the criminal justice system would be filled with spurious investigations and unfounded allegations. India is already suffering from a high rate of acquaintance rape and under-reporting. The issue of fake allegations of rape may even add up to the problems. A senior police officer of Jaipur police headquarters in an interview in 2017 said that out of 276 complaints received on rape accusations, 43% of them turned out to be false[13]. With this rate of the high relevance of fake allegations, there is an urgent need of redefining our criminal justice framework. In general, the criminal justice framework is defined by the Union and State legislatures. As per the procedural norms, the main task of the police is to take cognizance of every serious offence immediately after receiving the complaint, conduct a spot investigation and deduce facts and identify the offender. Here, an investigation is a crucial prerogative of police officers. Even in the case of ***Lalitha Kumari v Government of Uttar Pradesh***[14], it was

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[12] *Ibid*

[13] 'Crime & city: 43% rape cases that we `solved' in 2016 were false, say police' (*The Times of India,* 24 January 2017) <https://timesofindia.indiatimes.com/city/jaipur/crime-city-43-rape-cases-that-we-solved-in-2016-were-false-say-police/articleshow/56748082.cms> accessed 22 August 2022

[14] *Lalita Kumari v Govt. of UP and Others* (2012) SCC 1515

held that there is a mandatory obligation of the police officer to lodge the FIR, once the complaint and information are received. And the threshold of lodging the FIR, there is no need of scrutinizing the truthfulness or otherwise of the complaint.

The conviction rate in India is predominantly low. Out of 4 rape cases filed, 1 case is judged for conviction. There may be many reasons for this scenario, such as; insufficient shreds of evidence, the absence of the complainant, faulty investigations, and the victim turning hostile. The demand for the quick disposal of cases is also adding up to the poor investigation of the case. In the case of ***Husainara Khatoon v Home Secretary, State of Bihar***[15], it was held that "No procedure which does not ensure a quick reasonable trail can be regarded as reasonable, fair or just as it would fall foul of Article 21. But on the other side of the coin, a quick trial would also defeat the concept of 'Innocent until proven guilty' as a proper investigation is essential to prove a person guilty but not on vague terms. And it is also the duty of the public prosecutor to prove the person guilty, which must be countered by the defence counsel as a delegate of the accused.

According to the Criminal Amendment of 2013, a prosecutor is crucial in the process of fact-finding the complainant. The prosecutor has to identify false cases and if needed withdraw the case which is filed by the complaints out of fear, lack of evidence, or societal pressures. Article 21[16] emphasizes 'fair and proper investigation' under the wider concept of a fair trial. The sole purpose of an investigation is to prevent pending cases with improper evidence. But, when the investigation itself is improper, this would defeat the whole purpose of justice through fair and proper investigation. If a search for truth is the overarching claim of every criminal justice system and truth is founded on fairness and procedure established by law, there should be a "No-Crime" category for the acquittal.[17]

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[15] *Hussainara Khatoon& Ors vs Home Secretary, State of Bihar* (1979), AIR 1369

[16] Constitution of India 1950, art. 21

[17] Yophika Grace Thabah & Rini Jincy Paul, 'Role of Police and Prosecution in Eliminating False Rape Cases: Applying the British No-Crime Label in Indian Criminal Justice Administration' (2019) 10(2) Indian Journal of Law and Justice, 11 <https://ir.nbu.ac.in/bitstream/123456789/3616/1/Vol.%2010%2C%20No.%202%2C%20September%202019_4.pdf> accessed 21 August 2022

PUNISHMENTS FOR THE FALSE ACCUSER

After the Nirbhaya incident, which rocked the country's conscience, it was imperative to change the laws regarding sexual harassment. The Justice Verma Committee provided suggestions that were implemented into the Indian Penal Code in 2013, and the new more stringent laws have increased women's protection and security[18]. Such a change would have exceedingly negative and severe effects. In the first place, it stereotypes Indian men as having only one trait that can be related to their personalities. As it reinforces and misrepresents the progress the nation has made to correct and abolish the patriarchal system, this closed system strengthens the grip of patriarchy. The revelation that more than half of the cases reported to the authorities are fake demonstrates how much progress has been made in that area toward social reform.

In addition, it creates a jarring dichotomy in the Indian feminist movement, which is still in its infancy. The goal of promoting equality and understanding between the different genders is trivialized by the fact that women are registering false rape cases while also receiving support from organizations that assist women who have truly been assaulted. If a fake complaint is filed or fabricated evidence is submitted to prosecute an innocent person, or if there is any purpose to charge an innocent, the Indian Penal Code has codified specific offences when fabricating has occurred, and the subsequent defences can be raised[19]:

Section 193: Punishment for false evidence

Anyone who deliberately provides false testimony in any phase of a legal proceeding or falsifies false testimony with the purpose to use it in any stage of a legal proceeding will be punished with either type of imprisonment for a term that may reach seven years, as well as being subject to a fine. Anyone who deliberately provides or fabricates false testimony in any

[18] *Ibid*

[19] *Dhruv Dikshit,* 'False Accusation of Rape And Punishment For False Complaints In India' (*iPleaders*, 10 October 2015) <https://blog.ipleaders.in/false-accusation-rape-punishment-false-complaints-india/> accessed 23 August 2022

other situation will be punished with imprisonment for a term that may reach three years and liable to a fine[20].

Section 196: Using falsified evidence

Whoever corruptly uses or seeks to use as true or genuine evidence that he knows to be false or fabricated will face the same punishment as if he supplied or produced false evidence[21].

Section 211: Falsely charging an offender with the purpose of damage

Whoever, knowing that there is no just or lawful ground for such proceeding or charge against that person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges that person with having committed an offence, shall be punished with imprisonment of either description for a term that may extend to two years, or with fine, or with both. And shall be punished with imprisonment of any kind for a duration that may extend to seven years if such criminal process is launched on a false charge of an offense punishable with death, imprisonment for life, or imprisonment for up to seven years and shall also be liable to fine[22].

The Case of Radhu v State of Madhya Pradesh[23]

The jury should be aware that fabricated rape accusations are not unheard of. The Supreme Court correctly held in this case that judges should keep in mind the fact that false accusations of rape are widespread. It has happened that a parent has tricked their naive and submissive daughter into accusing her of rape to get retribution, demand money, or even escape any potential financial obligations. The details and circumstances in each case, which must be proven in court beyond a reasonable doubt, will determine whether the incident was indeed a rape or not.

While rape is a sensitive crime, it is also a very sensitive claim to make against an individual because it has the potential to ruin his life. Another point to keep in mind in these situations is that the court must exercise complete objectivity and thoroughly review the relevant facts and

[20] Indian Penal Code 1860, s 193
[21] Indian Penal Code 1860, s 196
[22] Indian Penal Code 1860, s 211
[23] *Radhu v State of Madhya Pradesh* (2007) 12 SCC 57

circumstances before reaching a decision. The party or parties who falsely accused someone should be held legally liable for compensating that person for the distress and suffering resulting from the allegation in the form of a penalty that will be made available to the wrongfully accused. The compensation awarded shall be determined by the degree of distress and suffering that was inflicted, such as whether the wrongfully accused served a prison sentence, including the length of time spent, whether their image was injured and led to the loss of their work, etc. False accusers who are found to be guilty should be required by law to take obligatory counseling sessions that address the seriousness of their damaging charges and identify deep psychological problems. The judiciary should also issue a decision that would significantly affect the accuser's financial situation. To guarantee that the perpetrator won't make another error this serious and irreversible, harsh sanctions should be levied.

RIGHTS OF THE ACCUSED PERSONS IN THE INDIAN LEGAL FRAMEWORK

"Everyone is equal before the law" is the dictum that runs the Indian judicial system. The word 'Everyone' includes both the plaintiff and the accused. The constitution consists of some provisions for the protection of the accused as it is important to understand the fact that the accused is not guilty, but just a possibility. Hence, it is a dire violation of the rights of the accused if he is devoid of his basic fundamental rights and is treated as a culprit. There are certain laws that protect the accused and his rights[24]. Firstly, the Constitution of India provides the accused with some fundamental rights such as Article 14, Article 20, Article 21, Article 22, etc. Article 14 deals with the rights of every citizen in India. According to Article 14, every person must be treated equally before the laws even if he/she is an accused criminal.

Article 20 exclusively deals with the rights of the accused. It is as follows:

Article 20(1)- Protection against retrospective provisions of an Act - A person's crime may only be evaluated by the law in effect. This indicates that a person cannot be convicted for an act that was not a crime when it was performed but became one thereafter[25].

[24] Simzkaur4, 'Rights of Accused Persons' (*Legal Services India*) <https://www.legalserviceindia.com/legal/article-219-rights-of-accused-persons.html> accessed 24 August 2022

[25]Constitution of India 1950, art. 20(1)

Article 20(2)- Right to protection against double jeopardy - No person shall be punished or prosecuted for the same offence twice[26].

Article 20(3)- Right to protection against self-incrimination - No person who is accused shall be forced to act as a witness against himself. This right not only extends to those who are formally accused but also to the suspects in a criminal case[27].

Article 21- Right to be free from torture and Maltreatment - The Supreme Court ruled in *Sunil Batra v Delhi Administration*[28] that Article 21 outlawed mental abuse, physical coercion, physical infliction, and torture beyond the boundaries of legitimate confinement[29].

Article 22(1)- Right to know the grounds for the arrest - A person accused of committing a crime has the right to know the grounds for his arrest[30].

Article 39A[31]- Right to free legal aid

In ***M.H. Hoskot v State of Maharashtra***[32], the Supreme Court stated that if a prisoner is prevented from engaging a lawyer due to reasonable grounds such as indigence or an incommunicado situation, a court shall, if the circumstances of the case, the gravity of the sentence, and the ends of justice so require, appoint a competent council for the person's defence, provided the party does not object to that lawyer. Secondly, there are a few rights reserved under the Indian Evidence Act of 1872 as well.

Section102 and Section 105[33]- Right to be presumed innocent

Unless and until proven guilty, a person is assumed innocent. This is referred to as the Presumption of Innocence. However, there are exceptions to the presumption of innocence, such as where mens rea is not necessary to be shown and in circumstances such as drug addiction, dowry, and terrorist-related offences.

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[26] Constitution of India 1950, art. 20(2)
[27] Constitution of India 1950, art. 20(3)
[28] *Sunil Batra v Delhi Administration* (1980), AIR 1579
[29] Constitution of India 1950, art. 21
[30] Constitution of India 1950, art. 22(1)
[31] Constitution of India 1950, art. 39A
[32] *Madhav Hayawadanrao Hoskot v State of Maharashtra* (1978), AIR 1548
[33] Indian Evidence Act 1872, ss 102 & 105

Sections 103, 133, and 166[34]***- The right to appear before a witness or cross-examine a witness*** to, the accused influence a judgement in his favour. The provisions for this privilege are found in Sections 103, 133, and 166 of the Indian Evidence Act, 1872.

REMEDIES FOR THE ACCUSED PERSON AGAINST FALSE FIR

As soon as an FIR is filed and the accused discovers it, he or she may act in the following manner if he or she believes the FIR is frivolous/malicious:

1. Filling out a request for a copy of the FIR under Section 157[35] of the Criminal Procedure Code for a preliminary investigation.
2. Filling out an application for anticipatory bail under Section 438[36] of the Cr.P.C before a session judge or a high court to escape arrest.
3. Filing a writ case under Article 226[37] of the Constitution before the Hon'ble High Court to quash the FIR, since the high court has inherent competence under Section 482[38]of the Cr.P.C.

A writ can be sought on any grounds that are adequate to show the accused's innocence. If the accused has submitted all relevant proof, the High Court might continue with the FIR quashing. The High Court has the authority to order subordinate authorities to stop all legal actions against the accused.[39]

- **Preventive Measures Before Arrest**[40]**:**

Anticipatory Bail

[34] Indian Evidence Act 1872, ss 103, s 133 & 166
[35] Code of Criminal Procedure 1973, s 352
[36] Code of Criminal Procedure 1973, s 438
[37] Constitution of India 1950, art. 226
[38] Code of Criminal Procedure 1973, s 482
[39] Aadarsh Kumar Shrivastava, 'Legal rights for false and forged first information report (FIR) and complaints' (*iPleaders*, 3 August 2020) <https://blog.ipleaders.in/legal-rights-false-forged-first-information-report-fir-complaints/> accessed 22 August 2022
[40] Kanishk Ritu Khullar, 'Augmentation of False FIRs: What are the different Remedies available in Indian Laws against False C' (*Legal Services India*) <https://www.legalserviceindia.com/legal/article-220-augmentation-of-false-firs-what-are-the-different-remedies-available-in-indian-laws-against-false-cases.html> accessed 21 August 2022

The purpose of Section 438 is to ensure that no one is harassed or humiliated to satisfy the complainant's grievance or personal vengeance ***[HDFC Bank ltd. v J.J. Mannan alias J.M. John Paul***[41]*]*. If a false F.I.R is registered against a person for a non-bailable offence, that person may seek bail before the Session Court or the High Court before the arrest is effected under Section 438 of the Code of Criminal Procedure, 1973. However, once the trial begins in court, the accused may file an application for discharge with the court where the issue is being heard under Section 227 of the Criminal Procedure Code. And if, after reviewing the case's records and papers and hearing the accused's and prosecution's arguments, the judge determines that there are insufficient grounds to continue against the accused, the court will dismiss the accused and note the reasons for discharge.

In the case of ***Rashmi Rekha Thatoi Ors. v State of Orissa Ors.***[42], it was held that Section 438 provisions cannot be utilised once the accused has been arrested. If the accused wishes to be freed on bail for the offence or offences for which he is arrested, he must seek his relief under Section 437[43] or Section 439[44] of the Code. However, the court's order for anticipatory bail can only become operational if the person is arrested since when awarding anticipatory bail the respective court issues the decision to release the person on bail if the person is arrested.

- **Quashing of FIR**[45]

High Court's inherent power under Section 482 of the Cr.P.C.

Section 482[46] of the Code of Criminal Procedure vests in the High Court the inherent power to issue such orders as may be required to give force to any order under this Code, to prevent abuse of any Court's process, or otherwise to ensure the interests of justice. The fundamental powers of the High Judicial, both in civil and criminal situations, are intended to serve a beneficial public aim, which is that a court procedure should not be allowed to devolve into a weapon of intimidation or vengeance. As a result, if the High Court believes that there is no

[41] *HDFC Bank ltd. v J.J. Mannan alias J.M. John Paul* (2009) Criminal Appeal No. 2415/2009
[42] *Rashmi RekhaThatoiOrs. v State of Orissa Ors*. (2012) Criminal Appeal No. 750/2012
[43] Code of Criminal Procedure 1973, s 437
[44] Code of Criminal Procedure 1973, s 439
[45] *Ibid*
[46] Code of Criminal Procedure 1973, s 482

prima facie case against the accused and that the complaint submitted against the accused is vexatious, the Hon'ble High Court may quash the F.I.R.

The Supreme Court ruled in ***Parbatbhai Ahir v State of Gujarat***[47] that-In deciding whether criminal prosecution or complaint should be quashed under Section 482, the High Court must consider whether the objectives of justice would warrant the use of the inherent authority. While the High Court's inherent power has a broad range and scope, it must be employed to accomplish the goals of justice or to prevent abuse of any court's procedure.

- **Remedies after being acquitted in a falsely implicated case**[48]**:**

After the false F.I.R is invalidated by the Court through the above-mentioned judicial process, the individual against whom the false case was formed might seek the following remedies:

- ✓ **Compensation for an unjustified accusation:**

Section 250(1)[49] of the Cr.P.C. states that if a magistrate finds that "there was no reasonable justification for making the charge against the accused person," he may compel the person making the false charge to pay compensation to the accused. Section 250(2)[50] also stipulates that the amount of compensation should not exceed the amount of the fine imposed by the magistrate.

- ✓ **Filing a Civil Suit for Defamation:**

Filing a false lawsuit against a person is often done by people to defame and torment the person with whom they have animosity and hostility, and even after being acquitted or the case being dismissed, the victim suffers through disgrace and character assassination in society. As a result, such a person may file a civil suit against the complainant of the false case under Section 19[51] of the Code of Civil Procedure, 1908.

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[47] *Parbatbhai Ahir v State of Gujarat* (2017) Criminal Appeal No. 1723/2017
[48] *Ibid*
[49] Code of Criminal Procedure 1973, s 250(1)
[50] Code of Criminal Procedure 1973, s 450(2)
[51] Code of Civil Procedure 1908, s 19

ANOTHER SIDE OF THE REMEDIES FOR THE ACCUSED: MISUSE

There are always two sides to a provision. The rights of the accused are such provisions that are always contended in society, whether it is right or wrong to provide the accused with such extensive rights. There have been many instances where it is very much proved and witnessed that the accused is the wrongdoer but still it takes years to declare the accused guilty. This is because of the misuse of provisions which causes unnecessary delay in the proceedings of the suit. There are instances where people are falsely acquitted due to improper evidence. But on the other side, there are also instances where the accused is innocent but has suffered many years as the undertrial prisoner. These provisions have come to rescue the accused at times of false allegations.

While rape is a serious offence, it is also a very sensitive claim to make against someone who has the potential to ruin his life. Another thing to keep in mind in such matters is that the court must be completely objective and carefully investigate the facts and circumstances before reaching a decision. In certain situations, the court has been exceedingly watchful in these matters, finding the accused not guilty and awarding compensation to the accused. Despite this, we cannot disregard the reality that the accused's previous esteem and reputation may be damaged as a result of the charges levelled against him. Even though someone was not found guilty in court, he may nevertheless be guilty in the eyes of society and may suffer irreversible mental anguish and misery.

CONCLUSION

Every individual has certain constitutional, basic, and legal rights to survive and flourish in society, which have been granted by the state. These rights are also protected by laws and legislation. However, some people utilise these laws to harass others and to gain an unfair advantage. People tend to forget that the statutes and legal systems are there to help us and keep us safe, not to harass innocent people for personal reasons. In our society, filing criminal charges against somebody is considered a curse, resulting in damage to his character and honour for the rest of his life. Even after his acquittal, society regards him as a blight.

But it's important to remember that when a woman alleges anyone of rape, it's not only the man's image that's in danger; it's also the woman's. And it's not just one woman who is put on trial, but the entire female race. This is why women are often hesitant to report rape or sexual harassment. It takes bravery for a woman to speak up about her assault. False allegations of sexual abuse are a big setback for women's rights. Let us hope that fraudulent rape allegations are few and far between and that women who are actual survivors receive justice. There have been countless cases when the media has been criticised and accused of performing the accused's trial by passing the "Verdict" based on their findings before the Court's decision. The trial must be conducted by the Court rather than the media. The media trial is unquestionably an unwarranted intrusion into the process of delivering justice. The Supreme Court has permitted the use of contempt powers by courts against publications and media outlets in several cases. The media's rights to free speech and expression cannot be permitted to affect the trial itself.

Many smart legislative requirements exist to penalise the offender who initiates a false case; but, in the existence of these legal rules, the courts have seen an increase in the number of fake cases. As a result, unique legislation to deal with false cases is needed, as proposed by the Law Commission in its 192nd report, to create a strong deterrent in society against this crime. Aside from that, there is a need to educate individuals about their rights and the remedies available in the event of a false F.I.R. Many reforms to the criminal justice system are driven by the apprehension of fake rape accusations instances. The concept that policy suggestions may be focused on erroneous data can also create a concern, as such data could result in unneeded or wrong criminal justice changes. The problem of fake rape claims affects both litigation and law enforcement. The research on deceptive assertions must be carefully studied, and further study is required.