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False Rape Allegations and its Implications on basic Legal Rights of the accused

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The threat of fabricated rape accusations also had a significant impact on the creation and use of the legal doctrine. In terms of sexual offences, strategies to influence the judgements of the police and prosecutors include using corroborating notices, maintaining immunity from domestic harassment, and fear of fabricated claims. More than half of rape cases, according to NCRB data, resulted in acquittals after drawn-out legal battles. The National Human Rights Commission (NHRC) recently suggested keeping the identities of those accused of rape a secret until the court rules to protect them from "false cases." Equal protection under the law and before the law is spelled out in Article 14 of the constitution. It opposes discrimination and forbids administrative actions as well as discriminatory laws. Most false rape accusations are skewed because they are based on the idea that men are violent, cruel, and domineering by nature and are thus held responsible for the crime. Public opinion frequently inadvertently causes a judge to form an unconscious bias in his mind when he judges the alleged culprit by accepting the media's reports. The right to life and personal freedom under Article 21 of the constitution is violated. The accused is treated with contempt and shame by society, which destroys his dignity. And when it comes to liberty, the accused is imprisoned from the moment he first takes a seat in the accused box until the judge delivers the verdict. This essay also intends to raise awareness of the penalties for false accusers and the possible defences for those who have been accused of a fake FIR. This essay also offers a conclusion and suggestions for changes to make to solve the issue.

Keywords: *rape, false allegation, false evidence, media trail, punishment, fundamental rights.*

INTRODUCTION

In a nation like ours, rape is a horrifying crime that affects every third woman and occurs far too frequently. Rape also has terrible repercussions. Section 375¹ of the Indian Penal Code defines it legally, while Section 376² outlines the punishment. After the infamous Nirbhaya Rape Case,³ which rocked the entire nation of India, major changes were made to the rape laws in 2013⁴. However, despite a sharp increase in the number of rape cases reported to police in India following this incident, a survey revealed that more than half of those cases were false. As long as the idea of rape has existed, there have likely been false rape accusations. Such stories are now available at the click of a mouse from nearly every corner of India. A mother falsely accused a neighbour of raping her daughter. A woman falsely accused two guys of gang rape. A brother-in-law is accused of raping a daughter to settle a property dispute. False accusations of rape and sexual assault are a grim reality in Indian society that destroys the wrongly accused man's soul, destroys his self-respect, and for many, robs them of the will to live. This occurs as a result of the accused being stigmatised as a rapist and treated as guilty before the trial even begins. Even when they are judged to be innocent, they frequently live with the consequences of this weight in the form of psychological issues and a history of being charged with horrifying crimes.

MEANING OF FAKE RAPE ALLEGATION

There is no clear definition of what makes a false complaint, but according to the worldwide organisation of chiefs of police, "the judgement that a report is false must be substantiated by proof that the assault did not occur." The vague word "false allegation" is widely used, although it does not always signify the same thing to different people. False claims are assertions that are unfounded and inaccurate and are made to mislead someone. False accusations of sexual assault

¹ Indian Penal Code 1860, s 375

² Indian Penal Code 1860, s 376

³ 'What is Nirbhaya case?' (*The Times of India*, 18 December 2019)

<<https://timesofindia.indiatimes.com/india/what-is-nirbhaya-case/articleshow/72868430.cms>> accessed 10 December 2022

⁴ 'How Nirbhaya case changed rape laws in India' (*The Times of India*, 19 December 2019)

<<https://timesofindia.indiatimes.com/india/how-nirbhaya-case-changed-rape-laws-in-india/articleshow/72868366.cms>> accessed 10 December 2022

are very uncommon. An allegation must first have a deceptive intent for it to be false. Then, there must be unsupported, untrue allegations that are either false accusations or false denials about the offender(s), act(s), and/or setting. Therefore, when terming and defining this, one should take sufficient caution. Rape is defined 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 the age of 18," in Section 375⁵ of the Indian Penal Code. False allegations of rape are made when someone accuses another person of sexually assaulting them when no such occurrence has occurred or has occurred consensually and with the consent of both parties. These false allegations are frequently the consequence of several factors, such as lying, false memories, and assisted recalls. To seek retribution or punish someone for a variety of personal reasons is another justification for doing this.

WHAT THE DATA INDICATIVELY IMPLY

The Delhi Commission of Women (DCW) revealed startling statistics in 2014 that revealed 53.2% of the rape cases in Delhi that had been reported between April 2013 and July 2014 were "false," demonstrating a pattern of women making fraudulent rape allegations.⁶ Only 1,287 of the 2,753 rape complaints made between April 2013 and July 2014 were determined to be legitimate, with 1,464 cases being determined to be fraudulent, according to the findings. The investigation also revealed that between June 2013 and December 2013, 525 cases were found to be fake. In addition, between January 2014 and July 2014, 900 false rape cases were reported. To ensure that the victims of rape received justice, the Delhi Commission of Women further stated that it was looking into individual rape instances. It was found, though, that the complainant frequently displayed hostility and that revenge had grown to be the most common reason for filing a false report.⁷ According to the National Crime Records Bureau's (NCRB) most recent report, "Crime in India - 2020," under the category of "Disposal of Persons Arrested for Crime against Women

⁵ Indian Penal Code 1860, s 375

⁶ '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 12 December 2022

⁷ *Ibid*

2020," there have been 4473 cases of rape convictions in India, while 6842 cases have resulted in acquittals. This means that in India, in 2020, there will be fewer rape cases that end in convictions than there are acquittals. The NCRB findings make it clear that 5403 accused individuals under the category of "Court disposal" and 6842 accused individuals under the category of "Disposal of persons apprehended" have been wrongly accused of the horrible crime of rape. In 'Sejal Sharma v State of Haryana'⁸ on September 23, 2021, the petitioners reportedly blackmailed the defendant by recording a video of him with a female and threatening to file a bogus rape case against him if he didn't pay them Rs. 20 lacs. After the proper inquiries were conducted and the case was presented before the court, the court found that the petitioners had been operating a racket and had a practice of threatening and blackmailing people by falsely accusing them of rape.

Numerous such instances where someone was blackmailed with a bogus rape case in exchange for money exist. False rape claims can ruin the life and career of the accused, the Delhi High Court stated just recently in 2021 in response to the rise of false rape cases in India- "False allegations of rape have the potential to destroy the life and career of the accused. The accused in a false case of rape loses his honour, cannot face his family and is stigmatized for life".

Instances -

- Case of Vishnu Tiwari: Vishnu Tiwari, of Uttar Pradesh, was imprisoned for 20 years on rape charges before being found innocent. He was accused of beating and raping the woman while she was five months pregnant in a sexual assault lawsuit that was brought against him. His case was dismissed in 2005 due to inadequate paperwork; 16 years later, the Allahabad High Court took it up and declared him not guilty of any charges and freed him. However, by that time, the man had already wasted 20 years of his life that he never deserved.⁹

⁸ 'Sejal Sharma v State Of Haryana' (*Indian Kanoon*) <<https://indiankanoon.org/doc/110889529/>> accessed 22 December 2022

⁹ Bismee Taskin, 'How do I start life at 43, asks Vishnu Tiwari who spent 20 years in jail in false rape case' (*The Print*, 10 March 2021) <<https://theprint.in/india/how-do-i-start-life-at-43-asks-vishnu-tiwari-who-spent-20-years-in-jail-in-false-rape-case/618521/>> accessed 12 December 2022

- Chennai false rape case: In 2010, a woman and her family accused an engineering student of rape, claiming that the man had impregnated their daughter and refused to wed her. Based on this allegation, the court detained the man for 95 days until he could obtain bail. However, DNA testing revealed that the man was not at fault, and the court exonerated him, awarding him 15 lakhs in damages.¹⁰
- Minor daughter falsely accused her father of rape: a minor girl falsely claimed that her father had raped her. The father was arrested and spent about three years in jail for a crime that he never committed. Later, the daughter acknowledged that she had made a false complaint.¹¹
- In another case, a mom in Ghaziabad accused her neighbour of raping her daughter late at night. The woman was fined Rs. 20,000 and warned that if she didn't pay the fine she would spend 15 days in jail. During the court processes, it was discovered that the accusations made against the man were untrue and that there was no evidence against him.¹²

REASONS FOR GIVING FALSE RAPE ALLEGATIONS

False promises of marriage: It has repeatedly proven challenging to determine whether a rape case has been falsely reported, but it is undeniable that the number of these bogus cases has been rising. Men have allegedly engaged in sexual activity with women under false pretenses in certain instances by promising to marry them in the future. The Bombay High Court has ruled that in these situations if there is proof of a "deep love affair," the man cannot be found guilty of rape based on an incorrect interpretation of the circumstances.

¹⁰ Suresh Kumar, 'Tamil Nadu man who lost engineering degree, jailed for 95 days for false rape gets Rs 15 lakh compensation' (*The Times of India*, 21 November 2020)

<<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/79332992.cms>> accessed 12 December 2022

¹¹ 'Thane court pulls up minor girl for falsely accusing father of rape' (*Hindustan Times*, 23 December 2016)

<<https://www.hindustantimes.com/cities/thane-court-pulls-up-minor-girl-for-falsely-accusing-father-of-rape/story-RfVbf3M3ekTAEWSSelJaHK.html>> accessed 12 December 2022

¹² 'Woman files false rape complaint against neighbour in UP's Ghaziabad, fined Rs 20,000' (*India Today*, 31

January 2021) <<https://www.indiatoday.in/india/story/woman-files-false-rape-complaint-against-neighbour-in-up-s-ghaziabad-fined-rs-20-000-1764533-2021-01-31>> accessed 12 December 2022

Old grudges and revenge: It has frequently been noted that accusing a guy of rape is the best way to settle an old score, blackmail a wealthy individual, or exact revenge for a variety of other reasons. Even though the individual making the complaint is aware that they may not have enough proof to support it, the harm to the accused's reputation is frequently irreparable even after he has been found not guilty.

In a multicultural nation like ours, there are still certain remote towns and villages where it is still the norm for women to be prohibited from selecting their partners since doing so is thought to bring disgrace to any families or communities to which she may belong. When their relationship is made public, women could find themselves in a position where they feel compelled to accuse their loves of rape. This is particularly true when it comes to interactions between people of different races and religions. In circumstances like this, evidence of sexual intercourse may even be presented in court. Additionally, the men's reputations are irreparably damaged as a result of being wrongfully accused or experiencing an emotional breakdown. In cases like this, women are also discovered to be depressed and guilty of damaging the lives of the accused to preserve their social standing.

Marital Rape: The fact that marital rape is not covered by India's anti-rape laws has been brought up repeatedly. Therefore, the only option open to a woman who has been sexually assaulted by her husband is to file for domestic violence, divorce, or both. To get revenge for the unfair treatment they have endured, women who have been victims of marital rape for a long time but are unable to obtain the justice that an unmarried rape victim would receive will occasionally turn to other women to bring false charges against their husbands. Whether these examples are right or wrong depends on your point of view.

EFFECTS OF FAKE RAPE CASES ON GENUINE RAPE CASES

The vilest and most horrific crime a person can commit is rape, which is also illegal. A lady might experience depression, exhaustion, and anxiety after such a terrible event. A survivor's healing process requires a lot of time. To be honest, the prisoner ruined the victim's mental health. Additionally, it is a well-known truth that the number of rape cases in India is

dramatically rising every year. This problem affects every girl's freedom and rights as well as the lives of those who endured and survived this horrifying rape. You did hear correctly, Every girl and woman in India is indirectly affected by the sharp rise in rape cases and other sexual attacks. We are aware of the numerous limitations that girls' parents placed on them, many of which persist today. Indian parents took this action because they were worried about their daughter's safety and security. The unfortunate reality is that the parent's concern for their daughter has even led them to limit her freedom. And it has an impact on the empowerment of women. Rape is thus not only a problem for upholding the law and order in the nation but also a significant issue and a barrier to the country's development.

The government should act swiftly to rectify this situation by taking the required steps. The primary goal of the government should be to stop rapes before they even occur. The police, court system, and other government organisations must go through some institutional changes and reforms to accomplish this. However, the police must also treat reported rape cases in a professional, unbiased, and impartial manner. Having the police properly and impartially investigate reported rape cases and submit the charge sheet to the court within the allotted time is one of the most important steps for preventing and deterring future rape cases. This conveys a strong message to society as a whole and further discourages the occurrence of actual rape cases. The National Family Health Survey study states that 99.1% of sexual assault incidents in 2018 were unreported and that the perpetrator is often the victim's husband in most of these cases.¹³ There aren't many reports of sexual violence, even after the research excludes marital rape and assault. Only 15% of instances of sexual assault committed by someone other than the victim's current husband are reported to the police.¹⁴

The survey found that because of problems including a lack of trust in the police and poor conviction rates for these crimes, women are less inclined to report sexual assaults. The low conviction rate is due to a variety of factors. One of these is the high rate of acquittals. In this

¹³ 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 11 December 2022

¹⁴ *Ibid*

sense, the issue of non-disclosure by actual rape victims is badly impacted by phoney rape cases. The dramatic rise in fake rape accusations will make it more difficult for sincere victims to even disclose such crimes in a country where crimes against women are pervasive. Falsely accusing a guy of rape not only negatively impacts his life but also makes it more challenging for real rape survivors to bring a claim. Many victims decide not to do so out of concern that they won't be able to back up their claims and accusations and would be seen as attention-seeking false accusers. People are becoming more aware of fake rape cases as they are reported more frequently in newspapers and on television. Sadly, this made society doubt some of the most solid cases. Because rape survivors are afraid that their testimony would be questioned, the problem of false claims of rape is thus indirectly affecting how they report on real cases. False accusations of rape will therefore only bring society back to the time when real rape survivors had to fight their battles alone and no one believed they had been hurt.

EFFECTS OF MEDIA TRAIL

The fourth pillar of democracy, the media, may have a big impact on society by raising awareness and educating people through the dissemination of reliable news. It has a big potential to shape young minds and show them the way to form sensible and productive thoughts. It is not overstated to claim that the media can, in part, resolve several issues in India, among them the problem of fabricated rape accusations. The situation is very different, though. According to certain reports, the media is escalating the current problem for the sake of TRP. The statistics of those charged who are cleared following thorough legal proceedings are not worth looking into. Along with informing people of the well-known legal maxim "innocent until proven guilty," it also encourages false accusations against the suspect and the label "rapist" to be used. Even after his honourable acquittal, he is still referred to as a "rapist" due to the media's widespread bravery. If the celebrity is charged with rape, the situation is worse. In the name of investigative journalism, the media holds media trials where they serve as juries and render findings without knowing whether the case is currently in court or not. Our democratic system depends on the media, which should seek to publicise the plight of rape suspects after their court-ordered acquittals in a manner akin to how it reports the filing of rape cases.

AMENDMENTS IN LAWS ABOUT RAPE

A nationwide public outcry in 2012 following the December 16 gang rape and murder in Delhi led to the enactment of the Criminal Law (Amendment) Act in 2013¹⁵, which expanded the definition of rape and toughened the sentence. The revisions were suggested to Parliament by the Justice J.S. Verma Committee, which was established to study and recommend changes to the nation's criminal legislation. The 2013 Act, which took effect on April 2, 2013, quadrupled jail terms in the majority of cases of sexual assault and authorised the death penalty in rape cases where the victim died or was left in a vegetative state. Additionally, it created brand-new offences like stalking, voyeurism, and employing unlawful force to force a woman to undress. From 10 years to life in prison to 20 years to life in prison, the punishment for gang rape has been doubled. ¹⁶Before, there was no specific legal framework for crimes like making sexual remarks, demanding or soliciting sexual favours, or making unwanted physical contact or verbal or physical gestures.

The 2013 Act, however, defined these offences and imposed punishments. The current sentence for stalking is up to three years in prison. The sentence for an acid attack has been increased to ten years in prison. 53.2% of the rape cases in Delhi that were reported to the authorities between April 2013 and July 2014 were fraudulent, according to data supplied by the Delhi Commission of Women (DCW). When parties contact our courts following the "settlement," our courts gleefully dismiss rape FIRs while this is happening (often monetary). It is important to study the recent Delhi High Court decision enabling a woman to dismiss a rape FIR against her father-in-law after he paid Rs 10 lakh in the settlement. Justice must be served to all victims, but no innocent person should be imprisoned without a trial. Even one rape leaves a mark on society, but this crime is so grave that we regularly write off innocent men as "collateral damage," even when the accusations made against them are subsequently proven to be untrue. Every nation is

¹⁵ 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 13 December 2022

¹⁶ 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 13 December 2022

known for its laws and how they change throughout time to reflect the changing world. The moment has come for the government to firmly oppose such unethical, corrupt, and wholly imbalanced social practices.

RAPE LAWS AND THEIR DANGER TO INNOCENT VICTIMS

"A perfect human society is a utopia." This statement contains a great deal of significance on its own and is not just a generalisation. Law is what perfects and equilibrates society. However, the majority of the safety still allows for error. This is also relevant to how contradictory every concept in society is. Every social concept has both benefits and drawbacks. The majority of laws' benefits are readily apparent in modern society, but one of their main drawbacks is their inherent "Rigidity". In addition to ensuring that members of society behave appropriately, strict regulations can occasionally leave them open to erroneous application. "It is better to save a guilty man than to condemn an innocent man". One of the cornerstones of the rule of law and individual rights in society is this famous Voltaire quotation. The same laws' rigour, though, fails to protect and save an innocent man. This calls into question the existing rule of law and casts doubt on the legal system.

When we look at the Indian legal system, the strict regulations of the nation have led to an increase in false allegations and the imprisonment of innocent men. "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, creator of "Voice for Men," an organisation that promotes men's rights in India and is one of the few to allow men to express themselves freely.¹⁷ Many women (and men) today have unfortunately turned the regulations intended to help the real victims of this horrible crime into a weapon to fix or trap innocent men. Various sorts of retaliation could occur, like an ex-boyfriend getting married to someone else, a disagreement over family property, or even bodily harm.

¹⁷ *Ibid*

AUTHENTICITY OF COMPLAINTS

There is no procedure in law to establish the validity of the complaint prima facie. If this were to happen, the criminal court system would be clogged with phoney inquiries and baseless accusations. A high percentage of acquaintance rape and underreporting are existing problems in India. The issue of false rape accusations may potentially exacerbate the issues. In an interview given in 2017, a senior police officer from the Jaipur police headquarters stated that out of 276 complaints regarding rape claims, 43% of them were found to be untrue.¹⁸ There is an urgent need to redefine our criminal justice system given the number of false allegations and their high relevance.

There is no procedure in law to establish the validity of the complaint prima facie. If this were to happen, the criminal court system would be clogged with phoney inquiries and baseless accusations. A high percentage of acquaintance rape and underreporting are existing problems in India. The issue of false rape accusations may potentially exacerbate the issues. There is an urgent need to redefine our criminal justice system given the number of false allegations and their high relevance. In the case of 'Lalitha Kumari v Government of Uttar Pradesh'¹⁹, it was 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. In India, conviction rates are generally low.

One rape case out of four that was filed has been adjudicated as guilty. This situation could occur for a variety of reasons, including a lack of solid evidence, the absence of the complainant, shoddy investigations, and a hostile victim. The urgency with which matters must be resolved is contributing to the inadequate case investigation. It was determined in the case of *Husainara Khatoon v Home Secretary, State of Bihar*,²⁰ "No procedure which does not ensure a quick reasonable

¹⁸ '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 12 December 2022

¹⁹ *Lalita Kumari v Govt of UP & Ors* (2012) SCC 1515

²⁰ *Hussainara Khatoon & Ors v Home Secretary, State of Bihar* (1979) AIR 1369

trial can be regarded as reasonable, fair or just as it would fall foul of Article 21." On the other hand, a hasty trial would also undermine the principle of "Innocent until proven guilty," as a thorough investigation is required to establish guilt in specific terms. Additionally, it is the public prosecutor's responsibility to establish guilt, and the defence attorney, who represents the accused, must refute this.

The Criminal Amendment of 2013 stipulates that a prosecutor is essential in the process of gathering evidence for the complainant. The prosecutor must spot fabricated cases and, if necessary, drop the charges that are brought by complaints due to anxiety, a lack of proof, or social pressures. Article 21²¹ emphasizes 'fair and proper investigation' under the wider concept of a fair trial. An investigation's sole goal is to stop ongoing cases from having invalid evidence. However, if the investigation itself is flawed, the goal of achieving justice through a fair and proper investigation would be completely defeated. There should be a "No-Crime" category for the acquittal if the central tenet of every criminal justice system is the pursuit of truth, and if the truth is built on fairness and legally prescribed procedure.²²

PUNISHMENTS

It was crucial to alter the rules against sexual harassment following the Nirbhaya incident, which shook the nation's conscience. The Indian Penal Code was revised in 2013 to include the Justice Verma Committee's recommendations, and as a result, women are now better protected and more secure.²³ Such a change would have extremely detrimental and serious consequences. First of all, it perpetuates the misconception that Indian males have just one personality attribute. This closed system increases the hold of patriarchy by reinforcing it and misrepresenting the steps the country has taken to correct and destroy it. How far social reform has come in that area is evidenced by the discovery that more than half of the cases reported to the authorities are false. Additionally, it produces a startling disparity in the young Indian feminist movement. The

²¹ Constitution of India 1950, art. 21

²² 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

²³ *Ibid*

fact that women are filing fictitious rape accusations while also receiving support from organisations that help women who have been assaulted trivialises the goal of promoting equality and understanding between the sexes. The Indian Penal Code has codified several crimes when fabricating has taken place, and the following defences might be raised:²⁴

Section 193: Punishment for false evidence

Anyone who knowingly gives false testimony in any stage of a judicial action or fabricates false testimony with the intent to use it in any stage of a legal proceeding shall be penalised with one of these forms of imprisonment for a term that may reach seven years, as well as being liable to a fine. Anyone who knowingly gives or fabricates false testimony in any other circumstance may be subject to a fine and a term of imprisonment that may last up to three years.²⁵

Section 196: Using falsified evidence

Anyone who fraudulently presents evidence that they know to be false or made up as true or real will be punished in the same way as someone who provided or manufactured false evidence.²⁶

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

Whoever initiates or causes to be initiated any criminal proceeding against that person, or falsely accuses that person of having committed an offence, knowing that there is no just or lawful basis for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term that may extend to two years, or with a fine, or with both. If a criminal case is started based on a false accusation of a crime punishable by death, life in prison,

²⁴ Dhruv Dikshit, 'False Accusation of Rape And Punishment For False Complaints In India' (*iPleaders*, 10 October 2015) <<https://blog.iplayers.in/false-accusation-rape-punishment-false-complaints-india/>> accessed 13 December 2022

²⁵ Indian Penal Code 1860, s 193

²⁶ Indian Penal Code 1860, s 196

or a sentence of up to seven years in jail, the offender will also face fines and imprisonment of any type for a period that may reach seven years.²⁷

*The Case of Radhu v State of Madhya Pradesh*²⁸

The jury needs to understand that false rape charges are not unheard of. In this instance, the Supreme Court correctly ruled that judges should consider the prevalence of false rape charges. It has happened that a parent has misled their gullible and obedient daughter into declaring that she committed rape to exact revenge, demand payment, or even get out of any prospective financial commitments. Whether or not the incident constituted a rape will depend on the specifics and circumstances in each case, which must be proven in court beyond a reasonable doubt. Even though rape is a serious crime, accusing someone of it is also incredibly sensitive because it could ruin his life. Another thing to keep in mind in these circumstances is that, before making a decision, the court must operate in total neutrality and carefully consider all the pertinent facts and circumstances. A penalty that will be made available to the unfairly accused should be utilised to compensate that individual for the grief and suffering brought on by the allegation by the party or parties who made the false accusation.

The amount of compensation given will depend on the severity of the suffering that was caused, including if the falsely accused was imprisoned and for how long, whether their reputation was damaged, and whether they were forced to quit their jobs, etc. When false accusers are proven guilty, mandatory counselling sessions that address the gravity of their destructive accusations and pinpoint significant psychological issues should be mandated by law. The judge ought to render a judgement that has a major impact on the accuser's financial circumstances. Harsh penalties should be applied to ensure that the offender won't commit another error this significant and irreparable.

²⁷ Indian Penal Code 1860, s 211

²⁸ *Radhu v State of Madhya Pradesh* (2007) 12 SCC 57

RIGHTS OF THE ACCUSED PERSONS IN THE INDIAN LEGAL FRAMEWORK

The guiding principle of the Indian legal system is that "everyone is equal before the law." Everyone refers to both the accuser and the plaintiff. To ensure that the accused is understood to be innocent and only a potential offender, the constitution includes specific safeguards for their protection. Therefore, it is a grave infringement of the accused's rights if he is denied access to his fundamental freedoms and is treated like a criminal. The accused and his rights are protected by certain laws.²⁹ First off, the Indian Constitution grants the accused several important rights, including Articles 14, 20, 21, 22, and others. Every Indian citizen's rights are covered in Article 14. Even if someone is charged with a crime, they must be treated equally in front of the law, according to Article 14.

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

Article 20(1)- Protection against retrospective provisions of an Act - The law in force is the only authority that may judge a person's offence. This means that a person cannot be found guilty of an act that was lawful at the time it was committed but became unlawful later.³⁰

Article 20(2) - Right to protection against double jeopardy - No one may face punishment or legal action twice for the same offence.³¹

Article 20(3) - Right to protection against self-incrimination - No one who is accused may be made to testify against themselves. This right applies to both people who are officially accused and those who are being investigated for a crime.³²

²⁹ Simzkaur, 'Rights of Accused Persons' (*Legal Services India*) <<https://www.legalserviceindia.com/legal/article-219-rights-of-accused-persons.html>> accessed 14 December 2022

³⁰ Constitution of India 1950, art. 20(1)

³¹ Constitution of India 1950, art. 20(2)

³² Constitution of India 1950, art. 20(3)

Article 21- Right to be free from torture and Maltreatment - In 'Sunil Batra v Delhi Administration'³³, the Supreme Court held that Article 21 forbade torture and other cruel treatment that went beyond the confines of legal detention.³⁴

Article 22(1)- Right to know the grounds for the arrest - A person who is being held on suspicion of a crime has a right to know the reasons behind the stop.³⁵

Article 39A³⁶- Right to free legal aid.

In *M.H. Hoskot v State of Maharashtra*³⁷, the Supreme Court ruled that a court must appoint a qualified council for the person's defence if the circumstances of the case, the seriousness of the sentence, and the ends of justice so require, provided the party does not object to that lawyer. This rule applies if a prisoner is prevented from hiring a lawyer due to reasonable grounds such as indigence or an incommunicado situation. Second, the 1872 Indian Evidence Act also contains a few privileges that are reserved.

Section 102 and Section 105³⁸- Right to be presumed innocent

One is presumed innocent until and unless proven guilty. The Presumption of Innocence refers to this. There are, however, exceptions to the presumption of innocence, including situations where 'men's rea' need not be proven and crimes involving terrorism, dowries, and drug addiction.

Sections 103, 133, and 166³⁹- the ability to confront witnesses or cross-examine them to help the accused persuade a jury to find him not guilty. Sections 103, 133, and 166 of the Indian Evidence Act, of 1872 include the details of this privilege.

³³ *Sunil Batra v Delhi Administration* (1980) AIR 1579

³⁴ Constitution of India 1950, art. 21

³⁵ Constitution of India 1950, art. 22(1)

³⁶ Constitution of India 1950, art. 39A

³⁷ *Madhav Hayawadanrao Hoskot v State of Maharashtra* (1978) AIR 1548

³⁸ Indian Evidence Act 1872, ss 102 & 105

³⁹ Indian Evidence Act 1872, ss 103, s 133 & 166

LEGAL REMEDY AVAILABLE

If the accused thinks the FIR is malicious or frivolous, he or she may take the following actions as soon as they are made aware of it:

Submitting a form by Section 157⁴⁰ of the Criminal Procedure Code to obtain a copy of the FIR for a preliminary investigation, submitting an anticipatory bail application under Section 438⁴¹ of the Criminal Procedure Code before a session judge or a high court to avoid being arrested, filing a writ complaint under Article 226⁴² of the Constitution with the Honorable High Court, which has inherent jurisdiction under Section 482⁴³ of the Criminal Procedure Code, to have the FIR quashed. Any arguments that are sufficient to demonstrate the accused's innocence may be utilised to request a writ. The High Court might proceed with the FIR quashing if the accused has provided all pertinent evidence. The High Court has the power to direct lower courts to halt any legal actions taken against the accused.

Preventive Measures Before Arrest:⁴⁴ Anticipatory Bail- In the case of *HDFC Bank Ltd. v J.J. Mannan alias J.M. John Paul*⁴⁵, Section 438 was put in place to make sure that no one was bullied or humiliated to appease the complainant's grievance or exact personal retribution. According to Section 438 of the Code of Criminal Procedure, 1973, if a false F.I.R. is filed against a person for a non-bailable offence, that person may request bail before the Session Court or the High Court before the arrest is made. However, under Section 227 of the Criminal Procedure Code, the accused may apply for discharge to the court where the matter is being heard following the start of the trial. And if the judge judges that there are insufficient grounds to proceed against the accused after reading the case's records and papers and hearing the accused and the prosecution's arguments, the court will dismiss the accused and write the reasons for discharge.

⁴⁰ Code of Criminal Procedure 1973, s 157

⁴¹ Code of Criminal Procedure 1973, s 438

⁴² Constitution of India 1950, art 226

⁴³ Code of Criminal Procedure 1973, s 482

⁴⁴ 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 12 December 2022

⁴⁵ *HDFC Bank Ltd v JJ Mannan alias JM John Paul* (2009) Criminal Appeal No 2415/2009

It was decided in the case of *Rashmi Rekha Thatoi Ors. v State of Orissa Ors.*⁴⁶ that the provisions of Section 438 cannot be applied after the accused has been taken into custody. The accused must file a petition for relief under Section 437⁴⁷ or Section 439⁴⁸ of the Code if he wants to be released on bail for the crime or crimes for which he was detained. The court's order for anticipatory bail, however, can only be put into effect if the person is arrested because when anticipatory bail is granted, the court issuing the order chooses to release the person on bail if the person is arrested.

Quashing of FIR⁴⁹: The High Court has the inherent authority to issue any orders necessary to give effect to any orders made under this Code, to prevent abuse of any Court's process, or in any other way to further the interests of justice, according to Section 482⁵⁰ of the Code of Criminal Procedure. In both civil and criminal cases, the High Judicial's core powers are meant to further the public good by preventing the use of the legal system as a tool of intimidation or retaliation. Therefore, the Hon'ble High Court may dismiss the F.I.R. if it determines that there is no evidence to support an accusation against the defendant and that the complaint lodged against him/her is frivolous. In '*Parbatbhai Ahir v State of Gujarat*'⁵¹, the Supreme Court held that the High Court must assess whether the goals of justice would justify the deployment of the inherent jurisdiction when determining whether to quash a criminal prosecution or complaint under Section 482. Although the High Court's inherent power has a wide range and extent, it must be used to further the interests of justice or stop the misuse of any court's processes.

Remedies after being acquitted in a falsely implicated case:⁵² The person against whom the false case was made may pursue the following remedies after the false F.I.R is invalidated by the Court via the aforementioned legal procedure:

⁴⁶ *Rashmi Rekha Thatoi & Ors v State of Orissa Ors* (2012) Criminal Appeal No 750/2012

⁴⁷ Code of Criminal Procedure 1973, s 437

⁴⁸ Code of Criminal Procedure 1973, s 439

⁴⁹ *Ibid*

⁵⁰ Code of Criminal Procedure 1973, s 482

⁵¹ *Parbatbhai Ahir v State of Gujarat* CrI App No. 1723/2017

⁵² *Ibid*

Compensation for an unjustified accusation: According to Section 250(1)⁵³ of the Criminal Procedure Code, a magistrate may order the person who made the false charge to pay the accused compensation if he determines that "there was no reasonable justification for making the charge against the accused person". By Section 250(2)⁵⁴, the compensation cannot be greater than the fine levied by the magistrate.

Filing a Civil Suit for Defamation: False lawsuits are frequently brought against people to humiliate and torment them, and even after they are cleared or the case is dropped, the victim still endures social humiliation and character assassination. As a result, under Section 19⁵⁵ of the Code of Civil Procedure, 1908, such a person may bring a civil lawsuit against the complainant of the false case.

CONCLUSION

When women themselves abuse the laws intended to protect them, endangering their basic human rights and causing innocent victims to suffer at the hands of the legal system, it becomes impossible to trust in the truth. When the victim of a phoney rape case endures years of suffering while going through a false accusation trial, the adage "justice delayed is justice denied!" becomes a reality. There have several cases of wrongfully accused or implicated individuals who have been forced to lead wretched lives as a result of allegations of sexual assault. Women have accused their husbands of raping their children in recent years, and this has even resulted in shattered homes. There have also been instances where women have made up accusations of sexual misconduct against their coworkers, neighbours, or other distant relatives or friends. The fundamental issue with such a claim is that the court automatically empathises with the victim and assumes the accused is guilty even before the court renders its decision. A person who has been wrongly accused in these scenarios may suffer greatly as a result of the court and media sympathising with the accuser in these circumstances. While rape is a sensitive crime, it is also a very sensitive claim to make against a person because it has the potential to ruin his life.

⁵³ Code of Criminal Procedure 1973, s 250(1)

⁵⁴ Code of Criminal Procedure 1973, s 250(2)

⁵⁵ Code of Civil Procedure 1908, s 19

Another thing to keep in mind in these situations is that the court must exercise complete objectivity and thoroughly review the relevant facts and circumstances before reaching a decision. There have been instances where the court has exercised considerable caution and declared the accused innocent while also awarding compensation to the accused. It is simple to accuse someone of rape, but difficult to prove it. It is also challenging for the accuser to defend themselves. An accusation of rape can have a terrible effect on the accused person's life by isolating them from society and, in many cases, destroying their ability to do business and source of income. It takes a lot of bravery for a woman to speak up about a horrible experience like rape since it's such a danger.

In these circumstances, the National Human Rights Commission (NHRC) has advised keeping the rape suspects' identity secret and unpublished until they have been found guilty to protect them from "false charges."⁵⁶ The entire society must maintain its cohesion and take aggressive measures to counter the growing threat of false rape accusations. The media trail of rape victims needs to be curtailed. Sensitizing women activists and women's rights committees at the state and national levels is crucial to address the urgent problem of fake rape allegations swiftly and efficiently. The apprehension of fake rape allegations cases has influenced several improvements to the criminal justice system. The possibility that policy recommendations may be based on faulty data does pose a problem since such data may result in unwarranted or incorrect modifications to the criminal justice system. Both the prosecution and the application of the law are affected by the occurrence of false rape allegations.

The Indian Penal Code's Section 375⁵⁷ does not address rape against men or transgender people. This is the biggest gap in India's rape laws. However, there have been many instances of males being raped and molested and being caught up in fake rape accusations to further specific ulterior purposes. But our law says nothing about it. Given the alarming increase in rape occurrences in India, it is crucial to pass laws or make some adjustments to existing laws to make

⁵⁶ 'NHRC study recommends protecting rape accused from 'false cases' till found guilty' (*Hindustan Times*, 27 October 2020) <<https://www.hindustantimes.com/india-news/nhrc-study-recommends-protecting-rape-accused-from-false-cases-till-found-guilty/story-WDKegC6e1EZkqtleCJogN.html>> accessed 12 December 2022

⁵⁷ Indian Penal Code 1860, s 375

them more gender-neutral. Since everyone is just fighting for the rights and dignity of women, no one talks about the honour and dignity of a man. Laws are being developed to protect women, but these laws could be abused by women. Where is the legislation to protect a guy from a woman like this when he is being persecuted and accused in bogus cases? Men must be protected against these women to reduce the number of fake rape allegations in India, therefore keeping an eye out for them is urgently necessary.