

Rape Sentencing in India – A Brief Overview

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Abstract: Rape sentencing in India has recently attracted media attention for multiple reasons. This paper endeavours to survey the rape sentencing scenario in India in the light of judicial pronouncements.

Keywords: Rape sentencing, Sentencing, Supreme court.

1. Introduction

In recent times, the issue of rape sentencing has garnered media attention and judicial scrutiny. The view of the Apex Court is that rape is a heinous offence and should be punished with the severest sentence.

In State of A.P. v. Bodem Sundara Rao: AIR 1996 SC 530, while dealing with a case of reduction of sentence from 10 years R.I. to 4 years R.I. by the High Court in the case of rape of a girl aged between 13 and 14 years it was observed:

“In recent years, we have noticed that crime against woman are on the rise. These crimes are an affront to the human dignity of the society. Imposition of grossly inadequate sentence and particularly against the mandate of the Legislature not only is an injustice to the victim of the crime in particular and the society as a whole in general but also at times encourages a criminal. The Courts have an obligation while awarding punishment to impose appropriate punishment so as to respond to the society's cry for justice against such criminals. Public abhorrence of the crime needs a reflection through the Courts verdict in the measure of punishment. The Courts must not only keep in view the right of the criminal but also the rights of the victim of crime and the society at large while considering imposition of the appropriate punishment. The heinous crime of committing rape on a helpless 13/14-year-old girl shakes our judicial conciseness. The offence was inhumane”.

In Madan Gopal Kakkad v. Naval Dubey and Anr.: (1992) 3 SCC 204, it has been observed as follows:

“Though all sexual assaults on female children are not reported and do not come to light yet there is an alarming and shocking increase of sexual offences committed on children. This is due to the reasons that children are ignorant of the act of rape and are not able to offer resistance and become easy prey for lusty brutes who display the unscrupulous, deceitful and insidious art of luring female children and young girls. Therefore, such offenders who are menace to the civilized

society should be mercilessly and inexorably punished in the severest terms.”

In State of Andhra Pradesh v. Bodem Sundra Rao: AIR 1996 SC 530, the Apex Court noticed that crimes against women are on the rise and such crimes are affront to the human dignity of the society and, therefore, imposition of inadequate sentence is injustice to the victim of the crime in particular and the society in general. After so observing, the learned Judges had to say this:

“The Courts have an obligation while awarding punishment to impose appropriate punishment so as to respond to the society's crime for justice against such criminals. Public abhorrence of the crime needs a reflection through the Court's verdict in the measure of punishment. The Courts must not only keep in view the rights of the criminal but also the rights of the victim of crime and the society at large while considering imposition of the appropriate punishment”

In State of Karnataka v. Krishnappa: (2000) 4 SCC 75, a three-Judge Bench opined that the courts must hear the loud cry for justice by the society in cases of the heinous crime of rape on innocent helpless girls of tender years and respond by imposition of proper sentence. Public abhorrence of the crime needs reflection through imposition of appropriate sentence by the court. It was further observed that to show mercy in the case of such a heinous crime would be travesty of justice and the plea for leniency is wholly misplaced.

In Jugendra Singh v. State of Uttar Pradesh: (2012) 6 SCC 297, while dwelling upon the gravity of the crime of rape, the Apex Court had expressed thus:

“Rape or an attempt to rape is a crime not against an individual but a crime which destroys the basic equilibrium of the social atmosphere. The consequential death is more horrendous. It is to be kept in mind that an offence against the body of a woman lowers her dignity and mars her reputation. It is said that one's physical frame is his or her temple. No one has any right of encroachment. An attempt for the momentary pleasure of the accused has caused the death of a child and had a devastating effect on her family and, in the ultimate eventuate, on the collective at large. When a family suffers in such a manner, the society as a whole is compelled to suffer as it creates an incurable dent in the fabric of the social milieu.”

2. Conclusion

In conclusion, it can be stated that all Trial Judges should follow the above quoted precedents and award stringent punishment to rape convicts.

References

- [1] Code of Criminal Procedure, 1973.
- [2] Indian Penal Code, 1860.