Rising Menace of False Rape Cases in India Problems and Solutions

Menace of false rape cases on the pretext of one or other has been rising since the new amendment in rape law in the 2013 in India. The fact is evident from the study of court judgments delivered by the fast track courts constituted across the country including Delhi and news items appearing in the media. There is need to put early check on this rising menace which may destroy fabric of society and misuse of law for various motives.

A news item published on you tube website is an eye opener, it reads as “25 false rape cases in Punjab within a week after Delhi Gang rape case...Actually the women was in jail accused for giving a HIV injection to a child with a man.....the youth didn't get bail but this women got bail for such a heinous crime because she was a women.....There has been a sudden and bound to happen hike in registering of false rape cases with sensitizing of police for rape cases after Delhi Gang rape case of 16 December 2012 ....But now after many strict laws implemented and making of strict laws against rape I welcome that but be prepared for such false cases against you and prepare to go behind bars for nothing after a bad Dowry law and new tool and is being made for women to misuse against innocent men .....I am not against these strict for women laws but if such is the implementation then the situation is alarming........!!!!”

Case Laws:
Illustration 1:
Ar news items is more alarming, it reported that “A Moga woman's story of her kidnapping from Chandigarh and dumping here after gang rape in a moving car has turned out to false. She posed as victim to frame her boyfriend's wife who had got her into prison on the accusation of attempted murder by poking with HIV-infected needles. She was out on bail when she made up the story. Along with suspect Gurveer Kaur (24), the police have also arrested Rohtash Kumar, who claimed to have brought the woman to hospital in her unconscious state. Suspects Gurveer Kaur, Rohtash, Ramesh, and Sunil Kumar are charged under Sections 420 (cheating), 195 (submitting false evidence to get someone imprisoned for life), 211 (false charge with intent to injure) and 120-B (criminal conspiracy) of the Indian Penal Code (IPC). The plan also involved consensual sex between Gurveer Kaur and Rohtash Kumar to make it easy to prove rape.”

Illustration 2:
It is the case of the prosecutrix that she is a divorcée and she was working as instructor with the organization of Art of Living where alleged accused was also working. They came in contact with each other. The acquaintance had developed into love. The prosecutrix has alleged that the alleged accused had promised to marry her and she had faith in him. Hence, they had also developed sexual intimacy and were having sexual relations from May 2012 to March 2013.

The prosecutrix had insisted to marry with him. He had only assured her that he will fulfil the promise but did not fulfil the same. According to the prosecutrix, she had consented to have sexual relations with the alleged accused, subsequently he had refused to marry her & therefore she felt cheated and according to her, her consent cannot be taken into consideration. [Para 2]

Since 12th May 2013 he had started behaving indifferently with her which was the reason for suspected his bonafides. She had tried her best to seek information about him but in vain. [Para 3]

On the basis of her report Crime No.168 of 2013 is registered at Rafiq Ahamed Kidwai Marg Police Station for the offence punishable under Section 376 and 417 of IPC.

The prosecutrix further submitted that she had to gather courage to file the complaint against the alleged accused and she felt that he should be punished and sent to jail for the offences committed by him. It was an admitted position that the prosecutrix was also a divorcee she was divorced in March 2013. [Para 3]

It was submits on behalf of the alleged accused that the prosecutrix was fully aware about his status. He had no intention to cheat her. He had developed relation with her only after he was divorced.

It was submitted that the prosecutrix was working as Inspector in Central Excise Department. She was 42 years old, whereas the alleged accused was 35 years old. There was vast difference in their age. It was further submitted that the relationship was based on mutual understanding and mutual consent. There was no element of promise to marry.
Bombay High Court observed that it was further submitted on behalf of the alleged accused that he may not totally deny the relationship which he had with the prosecutrix. However, it appears that they could not pull on and hence parted ways. He got remarried on 18th May 2013 with one Divya.

Court’s attention was drawn to the fact that the alleged accused has got married on 18th May 2013 and the first information report was lodged on 06/06/2013 to ventilate the grievance.

The prosecutrix stated before the High Court that the looks of the alleged accused were so deceptive that she was bound to believe that he would marry her.

It was further submitted on behalf of the alleged accused that he is no more working with the said organization i.e. Art of Living which is admitted by learned APP; therefore, there is no question of tampering evidence. The applicant is working in a private company, whereas the complainant is a Government Servant, who is working as Inspector in Central Excise Department.

The fact that the prosecutrix admits that she had consented for sexual relations, it cannot be inferred at this stage, that she was ravished by the alleged accused. The element of cheating can be considered at the trial after adducing substantive evidence. [Para 4]

Bombay High Court observed that as prima face case was made for the grant of pre-arrest bail to the alleged accused and that in spite of sympathy with the prosecutrix, the alleged accused cannot be sent to custody as it would not serve any fruitful purpose except to satisfy vendetta of the prosecutrix. [Para 5]

Illustration 3:

This case unfolds the sad and sordid story of a frail and traumatized person; old aged 75 years who has been arrested and prosecuted for the offence of rape which he had not committed at all. The poor old man had to suffer incarceration in jail for six months before he was released on bail by this court for absolutely no fault and besides that had to suffer the ignominy and humiliation at the hands of his friends and relatives for having been arraigned as an accused in a rape case. [Para 1]

It would be limpid from the following discussion that a false rape case was slapped upon the accused and that in spite of sympathy with the prosecutrix, the alleged accused cannot be sent to custody as it would not serve any fruitful purpose except to satisfy vendetta of the prosecutrix. [Para 1]

Trial Court observed that “The testimony of the prosecutrix clearly demonstrates that she had levelled false allegations of rape against the accused at the instance of two other prosecution witnesses. It is amply manifest that the accused had not committed rape upon the prosecutrix and a false story of rape had been cooked up by prosecutrix and at the instance prosecution witness who lodged the complaint against the accused. It is further evident that mastermind prosecution witness wanted to usurp the house of the accused by ensuring that he remains in jail for a long time.” [Para 7]

It is a matter of intense regret that even the frail and sick aged persons are not spared from the false allegations of rape. There can be nothing more discomforting and painful than false accusation of rape against a fragile old man who has already seen 75 summers. Right since the day, when the accused was produced before me for the first time, I wondered how such a frail old man, who cannot even stand straight, would rape a young lady in her mid thirties, having lot more strength than the accused. I suspected something fishy right since day one and my suspicion came true in the deposition of the prosecutrix. A grandfatherly figure had to suffer humiliation amongst his children neighbours etc. besides suffering jail term of about six months on false charges of rape. [Para 8]

Sufferings of Accused of False Allegations of Rape:

A trail court described the sufferings of accused of false rape charges even after acquittal in following words:

“Can the lost honour and dignity of the poor old accused be restored? Can he spend the ‘Sanyas Ashram’ of his life as peacefully as he would have, had he not been arraigned as accused in this case. Certainly the memories of this false case, horrible days spent in jail and presence in court during hearings would hound him like a ghost for the remaining part of his life. He would not command that much respect and reverence in his family, which he used to before the present case.” [Para 9]

I have earlier also observed in one of my judgments that after the infamous gang rape of a medical student in a moving bus in South Delhi on 16.12.2012, the whole nation arose from slumber suddenly for showing anger and outrage towards incidents of rape and demanding stringent punishment for rapists. [Para 10]

Consequences and Sufferings of Accused of False Charges:

In the words of trial judge of FTC “These ‘victims’ of false rape cases cannot be forgotten. A false allegation of rape creates havoc in the life of the accused. His whole future is shattered, his family faces
isolation & ridicule and his life destroyed. It is very difficult to come out of the shock, trauma, ridicule and humiliation of having been arraigned in a rape case, even after the acquittal by the court." [Para 11]

**Role of Media and Society:**

Media, both print and visual, started highlighting the rape incidents, a commission was set up by the Govt. of India for suggesting a stern penalty for rapists and criminal laws were amended. New definition after 2013 Criminal Law Amendment has widened in scope so much so that mere statement of victim of rape may bring the alleged accused behind the bar. In the words of trial judge in a case "Such an atmosphere was created that the mere statement of a lady that she has been raped, came to be taken as gospel truth, the accused arrested and charge-sheeted.” This may lead to an unprecedented surge in filing of false rape cases, wherein accused had to be acquitted after a protracted trial. It is these false cases which play havoc with the crime statistics leading to the labelling of Delhi as a ‘rape capital’.

Nobody bothers to see in how many cases are the accused in fact convicted. Media turns a blind eye towards acquittals. The acquittal of an accused is not noticed at all and he continues to be labelled as a 'rapist' even after his honourable acquittal. [Para 10] There is need for research this aspect of misuse of the newly amended law for nefarious motives against potential accused.

Media so called fourth pillar of democracy can play an important role in creating awareness about provisions of law and consequences of filing false rape cases against innocent alleged accused. It is important to mention the observations of Fast Track Court Judge while acquitting the alleged accused and highlighted the role of media in following words:

"I hope and trust that the media, which is an important pillar of our democratic set up, would strive to highlight the plight of rape accused after their acquittal by courts in the same way in which they report filing of rape cases." [Para 12]

Court further observed that “Be that as it may, the accused herein is acquitted. This is all what this court can do in his favour. Rest is upon the society in general and media in particular how they would treat the accused hereafter.” [Para 13]

**Solutions:**

**Compensating the acquitted accused of false charges:**

Is there need for compensation of Accused of false alleged rape?

Trial judge opined that “In my opinion, the time has come that the acquittals in rape case should be taken seriously. The acquitted accused in such cases involving disgraceful accusations of rape, which is the most hated crime in the society, too are the victims. Their lost honour, dignity and status in the society cannot be restored but they can be compensated so that they are able to start life afresh.” [Para 11]

Trial judge further suggested that the courts need to be empowered to award compensation to men acquitted in false rape cases by either amending the existing section 357 of Code of Criminal Procedure, 1973 or adding a separate section in the Code.” [Para 11]

Compensation can help in financial rehabilitation of at least poor alleged accused after acquittal of charges, but what about those victims who may suffer due to false charges of rape but financially well off.

**Case of perjury can be initiated against instigators:**

Taking serious view of role played by one of the witness to trial in fake rape charges Fast Track Court observed that “I hasten to say that prosecution witness (name withheld) who was the mastermind in cooking up false allegations of rape against the accused should not be let off and deserves to be prosecuted for fabricating and giving false evidence, which is being done by way of a separate order of even date.” [Para 14]

Society as a whole and various stakeholders entrusted with the responsibility maintain harmony and act in a proactive manner to fight this emerging menace of fake rape cases. There is urgent need to deal with stern action by all concern by creating awareness about consequences of fake rape cases, onus is more on woman activist and women rights commissions at state and national levels to act well in time to fight this menace of fake rape cases.

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*Dr. Mukesh Yadav*

*Editor, JIAFM*