



BATTERED WOMAN SYNDROME- A RESULT OF SEXUAL AND GENDER BASED VIOLENCE

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ABSTRACT

The principle of battered woman syndrome in India although applied but partially as the trauma through which the deceased had gone that within a few years of marriage she decided to commit suicide. A woman expects love and care from her husband and when she didn't get the same and in place of it gets to face too much torture all her dreams just become a nightmare. And she starts cursing herself. And as in the country like India where the bond of marriage is so sacred and the more responsibility of it is on the shoulders of the woman and she has have to bear all the pros and cons there are very little things which help them out in getting justice. A woman feels so shattered when she gets to face harassment at the hands of her husband that she ultimately kills herself shows the helplessness she's suffering from as she don't have that courage to kill the batterer.

The raising voice of women have been muted by the people in power since so many years, due to such helplessness only and to show the power they have woman acts in that particular way and also wants to teach a lesson to such abusers and harassers.

India is a country where womanhood has always been celebrated and worshipped as the life giver or life creator and each one of us must join our hands to not turn her in the life taker. It must be taken care of that no woman should feel cursed and bad for being a woman and taken birth as one.

BATERED WOMAN SYNDROME- A RESULT OF SEXUAL AND GENDER BASED VIOLENCE

Anais Nin, an American-Cuban French Essayist once said that "*And the day came when the risk to remain tight in a bud was more painful than the risk it took to blossom.*"¹ This explains why a woman faces Battered Women Syndrome ('...battered women who may lose control slowly rather than suddenly'. Battered women kill to avoid further violence, not because they have lost control. "Fear" is more likely to result in controlled defensive action rather than uncontrolled violence. '...killing by battered women is the product of desperation in intolerable circumstances')², which was first recognized in an English case, Regina v. Kiranjit Ahluwalia³. In the particular case the court tried to expand the functioning of the provisions of grave and sudden provocation. This was further explained in the case of R. v. Humphreys⁴. Thus, it has been realized that if someone and in particularly as to be referred here when a woman has been so traumatized and has been ill-treated at the hands of her husband or any other person over a period of time that her sufferings turn

¹<https://www.google.com/search?q=anais+nin&oq=anais+nin&aqs=chrome..69i57j0l5.3915j0j8&sourceid=chrome&ie=UTF-8>

² Dennis J. Baker, Glanville Williams: Textbook of Criminal Law 744(Sweet & Maxwell, London, 3rd edn.,2012)

³ [1992]EWCA Crim 1

⁴ [1995]4All E.R.1010



into fear and then in anger and in result of it she has the feeling of inflicting same harm on the person who has led her in that situation which results in seeking a pleasure and satisfaction out of the act done by her. It has to be seen that what led her to the act and to what all she dealt with over a period of time and not just before the act. The same has been discussed in the above mentioned cases. In the Ahluwalia's case it was considered that the accused was ill-treated from the beginning of their marriage and also at the time of her both pregnancies, the time at which a woman needs full support and care of her husband which justifies her act of inflicting harm to her husband to which she too agreed but she never intended to kill her husband. In the latter case the accused was violently treated by the deceased throughout their living together and his last comment on her inability to commit suicide provoked her so much and as a result of his daily taunts she used to cut her wrists and at last to set herself free from his torture and ill-treatment she ended up killing him. The court considered her mental state while she was with the deceased who tortured her and this depicts the condition of a woman when she had become a tool in the hands of men and is suppressed by them and in result of it she does an act to take revenge and set herself free from the constraints of men. Hence, battered women syndrome became an exception to the act of murder in the English Law.

Through these cases it can be seen that how the sexual and gender based violence towards women by men lays not only physical impact but also mental illness. It shows that when things get summed up its result comes in a much unexpected way. With this it also gave direction to the courts that the ambit of

provocation should be increased and must think about how the previous acts affected the state of mind of the wrongdoer. And basically the cases related to women as they are so vulnerable and always concerned about the well being of their family and when they did not get the same respect and are treated so inhumanely over a long period of time that one can't even imagine their state of mind and how traumatized they feel and what led them to take so harsh step.

It was quite appreciable then, that English Law recognized battered woman syndrome as one of the basis of defense in cases of murder. Also, how the battle of Kiranjit Ahluwalia helped other women to live fearlessly and to seek justice if they have get hidden off their abuser. This has made people aware that how their inhuman act can affect a person's mental stability and level of trauma they go through and in result of it what kind of crime they can do in order to inflict the same harm they have been through and make the other person to realize the pain they have been causing to them. So much harassment make women fearless and they get a pleasure in inflicting harm to the person who always ill-treated her and gave her mental stress that she gradually loses her self control and just want to end all the atrocities she's being facing by finishing the person who is the cause of all of them.

Though English Laws recognized and accepted battered woman syndrome in 1992 but India is still not at that par. Currently, India is not seen as the safe place for women not even at their homes. India is a place where it's been said that 'wherever the women is respected at that place the God exists' but it's very heart wrenching that the place where such philosophies were followed now the



same women have been a victim of sexual harassment and gender-based violence. Men in the country are moving them like puppets. Although the Constitution has given equal rights to all, women has always been seen as the secondary to men either it be in public or at their personal spaces. The Constitution alone didn't aided the safety of women and in order to assure the same several specific legislations have been made since the independence of India. Some of the legislations being The Dowry Prohibition Act, The Indecent Representation of Women (Prohibition) Act, The Commission of Sati (Prevention) Act, Protection of Women from Domestic Violence Act, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, etc. Also, there have been inserted several sections in Criminal Procedure Code, Indian Penal Code in order to protect women from the sexual or mental abuse.

But all these legislations have failed to understand the concept of battered woman syndrome. None of them have realized the situation of a woman where she wanted to end all the atrocities she's been going through and her willing to end all of them by making the inflictor of those atrocities to go through the same pain he been inflicting on her and get a peace of mind and live a life in self satisfaction.

It's been seen that u/s-498A of Indian Penal Code, 1860 mental and physical cruelty towards woman is an offence but there the harm is caused by woman on herself or where due to such harassment she died and not that she killed the person who has done such

harassment to her and is only a remedy for a married woman.

Also, section-300 exception 1 of the Indian Penal Code, 1860 recognizes grave and sudden provocation as one of the defenses for murder where if murder has been done by a person due to the act so provoking preceded it that the murderer murdered the other person but it has not recognized what in the situations where due to the series of acts (termed as 'cumulative provocation') a person gets provoked and in order to end all further pains in defense of oneself, murders the abuser or harasser.

But later the Delhi High Court in State v. Hari Prashad (2016)⁵ partially applied the principle of battered woman syndrome. The case is as follows:

Hari Prashad (the accused) was married to Pushpa (the deceased) on 2-02-1990. She was ill treated by her husband after one month of the marriage. A male child was born out of their marriage on 25-11-1990. On the night of 31-05-1993 she ceased poured kerosene oil on herself and set fire to herself. The shrieks of her were audible to the neighbor Jaidev Sharma and his wife. On reaching the spot they saw the deceased in fire and the accused was pouring water on her and after that wrapped her in a sheet and took her to LNJP Hospital. She told to the doctor that she took this extreme step because of harassment done by her husband to her.

The accused was sent to trial on 27-04-1994 u/s-304B (dowry death) and 306 (abetment to suicide) of IPC. He said that he just brought her back home from her parental home 2-3

⁵ <https://indiankanoon.org/doc/77210070/>



days back before the incident took place. He said that he never ill treated her and have he been the person behind the act done or instigated her to take such an extreme step why he would have taken her to the hospital. Also, he added that the deceased used to question him about the relationship between him and one woman at his work place.

The witnesses in this case were the brothers of the deceased namely, Hari Prashad Pandey and Sanjay Pandey and their mother, Shashi Pandey. They said that the deceased was harassed by the accused a lot. She was approximately taken six times from their home by the accused on instance that he would not now ill treat her. But he always did the same. He did these acts as he was not satisfied with the dowry he received in the marriage from them. With that many times he used to beat her after consuming alcohol. On August 03, 1991 his sister was beaten so badly that she had to be given emergency treatment at Raj Clinic Kondli who referred her to GTB Hospital for an eye injury. She also made a call for complaining about her husband to women cell and in result the accused gave written assurance that he would not be repeating the acts of harassment. But he continued. To save her from further violence the couple took a rented house near the workplace of the deceased's brother so that she feels safe but the deceased not stayed there for long time and returned to other home. Unfortunately the statements of the deceased were not recorded as she was held to be unfit and died within 2-3 days.

The learned judge convicted him u/s-306 i.e. abetment of suicide as the woman had been harassed too much and the trauma she had been through. She suffered from battered woman syndrome where the batterer was the

deceased. The woman thought that the fear of her will only lapse when she will take her own life and there is more freedom in death than in life.

In this case the principle of battered woman syndrome although applied but partially as the trauma through which the deceased had gone that within a few years of marriage she decided to commit suicide. A woman expects love and care from her husband and when she didn't get the same and in place of it gets to face too much torture all her dreams just become a nightmare. And she starts cursing herself. And as in the country like India where the bond of marriage is so sacred and the more responsibility of it is on the shoulder of the woman and she has to bear all the pros and cons there are very little things which help them out in getting justice. A woman feels so shattered when she gets to face harassment at the hands of her husband that she ultimately kills herself shows the helplessness she's suffering from as she doesn't have that courage to kill the batterer.

Indian courts are trying to understand that women how have been traumatized by their male counterparts and how the latter is suppressing the former in any possible way and in result of which they do such acts which shocks the conscience of the nation and is not expected in the wildest dreams of one.

But it is good to see that the mental state of women is started being recognized in India because of the way they are treated in cases where they are not able to be at par with the demands of their husbands.

In India women face domestic violence a lot and in result to it most of them commit suicide. The Indian law still has to recognize the law of battered woman syndrome and



cumulative provocation as the women are so vulnerable that they have no other choice and they commit a crime in result to it. And they too have right to live with dignity which although our constitution states but is not able to provide to those women who are living a life of torture and assault.

So in coming years there is a hope that the Indian law will recognize the rule and will be able to provide justice to them and they will be freed from the male domination and will not be facing more cruelty, torture and assault.

Now, the opening words of the essay can be well understood and it could be seen that battered woman syndrome is an example of it which shows that woman sees that their life has so much risked that now they can take the risk of living freely without any violence and ill-treatment.

The raising voice of women have been muted by the people in power since so many years, due to such helplessness only and to show the power they have woman acts in that particular way and also wants to teach a lesson to such abusers and harassers.

India still has to travel a long way to cut out the sexual harassment and gender-based violence against women. There are talks on women empowerment and giving opportunities to women to showcase their talent and get the same respect as any other men gets. But this can only be achieved through creating such environment for them be it either in public or at their homes and what should be kept in mind is their mental state and through what all they are going through. The sufferings of women should be

healed and they must be ensured that they are safe and everyone is pushing them towards the development and no pulling should be done in to restrict her mentally or physically.

India is a country where womanhood has always been celebrated and worshipped as the life giver or life creator and each one of us must join our hands to not turn her in the life taker. It must be taken care of that no woman should feel cursed and bad for being a woman and taken birth as one.

One must feel blessed that they have taken birth on this planet and make it a better place of living for all of us. In end would like to quote a poem by Ella Linero⁶,

“What is gender?

Is gender an identity?

Certainly gender is not a choice.

But gender is shaped, molded to young new minds,

strings hang from children’s joints to dance as society tells them

No matter man or woman, we are born into roles.

The woman, the one whose mind stands and pleads on her legs, bring about equality

But whose body reacts not out of her own accordance and moves

Moves, graceful, gentle, elegant, and FEMININE.

As society tells her, she is a woman, and that is her role.

Where she wishes to stomp, she stands on her tiptoes.

Where she wishes to thrash, she glides across the floor.

⁶ <https://www.powerpoetry.org/poems/gender-inequality>



A puppet bound by the hands of society,
pushing, pushing
To free herself, to change what being a
woman means,
what (gender) equality means.

The man, he is to castrated by the hands to be
a MAN.

What does that mean? Better put, what does
that mean to society?

I don't dance.

I am the example to others, and know how to
do everything

I don't feel things, or at least show them,
because that is not what I do.

I am powerful and MANLY,
funny that should be made into an adjective...

But, I am not one who should be played with
like a puppet, much like the woman,

I do have feelings, but they cannot be
expressed for society tells me I will be seen
otherwise,

I don't know everything even when I'm
expected to,

I have my pride as a man, and am no one's
puppet, I too wish to change the meaning of
"man".

But strip us down, wash away our skin, we
are bare, we are the same,

INSIDE

What makes us, us?

Is it our gender?

Is it society?

No, what makes us, what makes you, is
ultimately your decision,

and that's something, not even society, can
take away from you."


