



FALSE RAPE ACCUSATION – REQUIREMENT FOR A MEANINGFUL LEGISLATION

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ABSTRACT

‘Rape’, it’s a frightening issue in India and according to Webster’s law dictionary the word rape means “In common law, the felony of a man having illegal sexual intercourse with a female other than his wife, by force or with threat of violence and against her will; unlawful sexual act with an unwilling other, and usually involving threat of violence, or to commit the act of forcible sexual intercourse”.¹ False accusations are prevalent mainly in the offence of rape because it is a misconception that, the society thinks in each and every felony that the man is a real culprit and he should be hanged till death; this misconception is taken as a base for increasing number of false allegation cases day by day. The false claiming is horrible and disgraceful against the innocent person who becomes an accused of the bogus case. The present article revolves around the offence of rape and the false accusations in the aforesaid crime.

The article is divided into five phases, the first phase deals with general meaning and idea of the false accusation in the offence of rape and statistics of the respective problem, the second phase deals with the question why women falsely accuse a man for rape, the third phase deals with the

judicial cases, fourth phase deals with a question that how the false accusation effect someone’s life and the last stage deals with the summation, conclusion and suggestions.

The false accusation is a kind of catastrophic disaster in someone’s life who is innocent and it is very important to curb this practice.

INTRODUCTION

In our country, some people use the straight jacket formula of false accusations in grief-stricken situations. Every day in the newspapers there is a new mind boggling headline concerning bogus claims for an offence which is prescribed in the Indian Penal Code. History, sacred and profane the common experience of mankind teach us that women of the character prone for a selfish reason to make false accusation both of rape and insult upon the slightest provocation or even without provocation for ulterior purposes.²

The expression false accusation consists of two words – false and accusation; where the accusation means ‘a formal charge of criminal wrongdoing’. The accusation is usually presented to a court or a Magistrate having jurisdiction to inquire into the alleged crime.³ The aforesaid expression can also be stated as wrong claiming, this means an assertion or statement which is untrue to mislead. Herein the false accusation also contains a Latin maxim called ‘falsus crimen’ which means a false charge for claiming someone under any of the offence. For supporting this, the common law provides a

¹ Susan Ellis Wild, Webster’s Law Dictionary, Page 215 (2006).

² Alabama V. Patterson, printed in Haywood Petterson & Earl Conrad, Scottsboro Boy app. At 277 (1950).

³ Black’s Law Dictionary, Page 22.



doctrine of ‘crimen falsi’⁴ which means the crime of falsifying or any offence which involves some elements of false statement and dishonesty.⁵ Moreover, Justice Shemp interpreted the same expression in a case in the Honorable High Court of Lahore wherein ‘an offence of false accusation of rape’ was taken as a vexatious act to the accused person.⁶

Surprisingly the honorable Allahabad High Court in 2015 has stipulated the definition of false accusation of rape in the case of Gopal Gupta Vs. State of U.P.⁷, provides that a false accusation is an intentional false reporting of a case that has been filled by the alleged victim whereas in the actual instances the rape has not occurred.

Feminists, fought to have the criminal justice system and society to respect the veracity of women.⁸ Perhaps, they never looked outside the box which referred to the dark side of the women who used the legal system and played a victim card for getting perquisites from it. There is a myth that rape is a symbol of a patriarchal society⁹ which is dominated by vigorously masculine power of males, considered as the invasion upon a woman's physical or bodily privacy and outrageous to the dignity of a woman.

The philosophers/jurists/researchers provided the theories by relying on anecdotal evidences and hyperbolized the problem of false rape accusations for justifying the question that why a female would falsely accuse a man for rape? Similarly, there are several situations where men get raped by a female, she could be his boss, friend or someone else; they often do not report the case of being raped because of the problem that they too find themselves in a situation of hostility and skepticism.¹⁰ Such kind of females who do these accusations are taking advantages of procedural and penal code, where they try to report the false cases to get fruit out of it.

According to *Delhi Commission for Women in 2014*, they published a report wherein the previous year i.e. 2013-14 53% of rape cases were false and it opened a platform for the most heated debate upon the men's rights against the false rape cases.¹¹ According to *NCRB Report 2018*, there are aspects where the statistical data has been provided; which profanes that out of 23,801 false cases 5,878 cases were reported under the offence of rape (section 376, Indian Penal Code, 1860); although it's difficult to evaluate an accurate percentage of the false accusation perhaps in India NCRB report, 2018 incorporates approximately 25% out of

⁴ Black's Law Dictionary, Page 396.

⁵ Black's Law Dictionary, Page 396, and also see Fed. R. Evid. 609(a) (2).

⁶ Daropti vs. Paras Ram (25.09.1940 - LAHORE) : MANU/LA/0063/1940 (India) (para 3).

⁷ Gopal Gupta Vs. State of U.P., 2015(1) AC R762 (India) (Para 26).

⁸ Rape and Women's Credibility: Problems of Recantations and False Accusations Echoed in the Case of Cathleen Crowell Webb and Gary Dotson, Author – Julie Taylor (<https://heinonline.org/HOL/LandingPage?handle=he>

[in.journals/hwlj10&div=7&id=&page=](https://www.journals/hwlj10&div=7&id=&page=)) 25 March 2020 6:42PM.

⁹Whisnant, Rebecca, Feminist Perspectives on Rape, *The Stanford Encyclopedia of Philosophy*, Retrieved (May 17, 2019, 10:59 AM), <https://plato.stanford.edu/archives/fall2017/entries/feminism-rape> .

¹⁰ H. Kay, text, cases and material on Sex based discrimination 904 (2nd ed. 1981); Mac Keller, Rape: the bait and the trap page 63-64(1975).

¹¹Joanna Jolly, Does India have a problem with false rape claims?, BBC News (Retrieved at 8 Feb. 2017) <https://www.bbc.com/news/magazine-38796457>



the total cases were reported under section 376 of Indian Penal Code, 1860 were false cases.¹²

By considering the aforesaid mentioned official data it isn't erroneous and fallacious to say that some Indian women are shabby in nature, who involve themselves in a false case of rape which hasn't happened in real, for extraction of some extra benefits and advantages from the accused of such cases.

In *Dr. Subhash Kashinath Mahajan* case the learned Attorney General pointed out the statistics considered by the Court in the judgment under review indicate that 9 to 10 percent of cases under the Act were found to be false.¹³

RESEARCH METHODOLOGY

The research methodology endorsed and taken in this study is 'Doctrinaire'¹⁴ and contain the scrutiny of legal literature which are accessible from case law references, law journals, library researches, books, periodicals and internet.

RESEARCH QUESTIONS

- Are not the women involved in the case of false accusation an "accused", not a victim?

- Why a female would falsely accuse a man for rape?
- What are the aftermaths of false accusation of rape on the accused of a case with special reference and analysis based on judicial decision?
- In our country, it is assumed that when the topic is 'rape', women are the victims. I ask why?

WHY A FEMALE WOULD FALSELY ACCUSE A MAN FOR RAPE?

It is absolutely right to argue in accordance with the precedents given by the Supreme Court and the various High Courts that before registering any false case of rape every such female has a motive in her mindset; although consequently, many assault complainants endured unjust because of these probable contentions grounded in amateur psychology.¹⁵ In the light of the aforesaid question, it was observed by the high court of Odisha that in the submissions on the behalf of accused that the prosecutrix had initiated the proceedings of rape i.e. false allegations of rape to take revenge from the accused.¹⁶ Further, the Supreme Court also observed this and provided that the victims false rape has commenced the proceeding of her rape is to defame the reputation of the accused and his family in the society.¹⁷

¹² NCRB report vol. 3 page 261.

¹³ *Dr. Subhash Kashinath Mahajan v. The State of Maharashtra and Anr.*, MANU/SC/0275/2018 : (2018) 6 SCC 454 (India) (para 40) also see *Prathvi Raj Chauhan Vs. Union of India (UOI) and Ors.* AIR2020SC 1036, 2020(1)KLT810 (India) (Para 2)

¹⁴ "Doctrinal (or "black letter") methodology refers to a way of conducting research which is usually thought of as "typical legal research". A doctrinal approach to research will focus on case-law, statutes and other legal sources." [https://uweascllmsupport.wordpress.com/2017/01/18/research-methods-doctrinal-methodology/#:~:text=Doctrinal%20\(or%20%E2%8](https://uweascllmsupport.wordpress.com/2017/01/18/research-methods-doctrinal-methodology/#:~:text=Doctrinal%20(or%20%E2%8)

0%9Cblack%20letter%E2%80%9D,statutes%20and%20other%20legal%20sources.&text=Doctrinal%20analysis%20will%20focus%20on,sources%2C%20such%20as%20case%20law.

¹⁵ Bopst, Christopher (1998) "Rape Shield Laws and Prior False Accusations of Rape: The Need for Meaningful Legislative Reform;Legislative Reform," *Journal of Legislation: Vol. 24: Iss. 1, Article 7.* <http://scholarship.law.nd.edu/jleg/vol24/iss1/7>

¹⁶ *Dola and Ors. Vs. The State of Odisha*, 2018(4)RCR(Criminal)137 (India). (para 11)

¹⁷ *XYZ Vs State of Gujarat and Ors.* AIR2019SC 5395, (India) (para 12)



In the **University of Pennsylvania Law Review, 1970**, John Henry Wigmore with the shreds of evidences provides the reason behind the false accusation in the offence of rape and in other sexual offences. Under his study, it was mentioned that in society there are women who suffered a sense of shame when their pregnancy results are positive before marriage or after having consensual illicit sexual intercourse; he further provides that women often use this way of false accusation to extract money¹⁸ or to satisfy their notoriety desires or to get married under coercion or to grasp personal grudges.¹⁹

In ***Khalid Vs. State of Uttar Pradesh***,²⁰ it was stated that it is the bonafide duty of the courts, simultaneously, to remember that the false accusations of rape are not seldom. There have additionally been uncommon examples where a parent has convinced an artless or loyal girl to make a fraudulent allegation of rape either to extort money or to get rid of financial liability or to take revenge. The determination of rape only depends upon the facts, circumstances of each case, which should be closely scrutinized.

Sometimes women falsely implicate the accused under political pressure because

of harbingered enmity. The honorable Allahabad High Court has witnessed the case of political pressure for false accusation. It was observed by the court that the whole story of prosecution was false and bogus; no rape was committed upon the victim. The submitted medical report has also forbidden the charges of rape; further it was observed that the victim has done this for the lust of economic gains and the accused was roped in the false charges of rape and in present the crime was never committed.²¹

LEGAL APPRAISAL

In most of the cases, the Indian judiciary provided precedents apropos to false accusation wherein ***State of Sikkim Vs. Dawa Tshering Bhutia***,²² the question came into the picture that whether the defending party succeed in probabilising the heated argument in relation to the bogus case of rape, which would lead to the unavoidable end that the victim made the false allegations of outraging her modesty and attempt to rape. In the judicial cases, it was also found by the honorable courts that the cases of false accusation can be instituted against the accused out of criminal conspiracy²³ as per Section 120A of the Indian Penal Code 1860²⁴; apart from this it was also observed that a father of the prosecutrix not ordinarily subscribed the false allegations of rape on his

¹⁸ Radhu Vs. State of Madhya Pradesh 2007C riLJ4704, 2007(4)RCR(Criminal)158 (India) (para 15).

¹⁹ 3A JOHN HENRY WIGMORE, **EVIDENCE IN TRIALS AT COMMON LAW** § 924a, at 736 (Chadbourne rev. 1970). Also see Radhu Vs. State of Madhya Pradesh 2007C riLJ4704, 2007(4)RCR(Criminal)158 (para 15).

²⁰ Khalid and Ors. Vs. State of U.P. 2016(2)ACR1542 (India) (para 24) also see Mahendra and Ors. Vs. State of U.P. 2016(5)ADJ573, 2016 (94) ACC 421(India) (para 30) also see Radhu Vs. State of Madhya Pradesh

2007CLJ4704, 2007(4)RC R(Criminal)158 (India) (para 5)

²¹ Shami Ullah Vs. State of U.P. 2010(2)AC R1974 (India) (para 16 and 18).

²² State of Sikkim Vs. Dawa Tshering Bhutia SLR (2018) Sikkim 533 (India) (para 56)

²³ Shib Sankar Vs. The State of Tripura, (2017)1TLR293 (India) (para 6)

²⁴ Section 120A of the Indian Penal Code 1860 - When two or more per-sons agree to do, or cause to be done,—

(1) an illegal act, or



own daughter, he also narrated the whole case to the IO and police officer for drafting the criminal charge sheet on the accused, thereby the father of the prosecutrix has himself invited the ignominy.²⁵

It was observed by the honorable Apex court that such a course of conduct in the false cases of rape is entirely uncertain; according to the Principles and Practice of Medical Jurisprudence, Vol. II provides while dealing with the cases of an adult and a well sexually experienced lady, it is required to observe that “a fully grown girl or adult woman should be able to resist a sexual assault. We should expect to find evidence of a struggle to avoid sexual contact or penetration, and may well feel uncertainty about the real nature of an alleged assault in its absence...A false accusation of rape may sometimes be exposed by marks of violence, It is to be recorded that the evidences should be interpreted properly by the medical examiner, whether these bruises on the victim’s body are of violence during rape or being initiated by the prosecutrix for the false rape case.”²⁶

In the *State of U.P. v. Choteylal*,²⁷ the Supreme Court, while pointing out that the courts should always be alive about the impact of sexual assault on a victim, made the following observation: “.....A forcible

sexual assault brings in humiliation, feeling of disgust, tremendous embarrassment, sense of shame, trauma and lifelong emotional scar to a victim and it is, therefore, most unlikely of a woman, and more so by a young woman, roping in somebody falsely in the crime of rape. The stigma that attaches to the victim of false rape (i.e. male or accused) in Indian society ordinarily rules out the levelling of false accusations.”²⁸

The honorable Allahabad High Court in 2015 has stipulated the definition of false accusation of rape in the case of *Gopal Gupta Vs. State of U.P.*,²⁹ wherein it was provided that an intentionally false report has been filed by the alleged victim whereas in the actual instances the rape has not occurred. Further, it was also observed that the injuries on the victim’s body are self-inflicted and the court also laid down that even she refused her nail clippings to forensic expert for investigation because of the same reason.

The observation of an aggressive or critical manner the honorable Apex Court provided that ordinarily in our society, the cases of false accusation of rape are registered by an unmarried woman, who is not a trollop, but for the sake of some additional advantages from the accused the

(2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy: Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

²⁵ Inder Singh Vs. State of Rajasthan, 2002C riLJ721, 2002(2)RC R(Criminal)428. (India) (para 30)

²⁶ Pratap Misra and Ors. Vs. State of Orissa AIR1977SC 1307, 1977C riLJ817(India) (para 8)

²⁷ State of U.P. v. Choteylal, MANU/SC/0053/2011 : AIR 2011 SC 697 : 2011 (2) ACR 1885 (SC) (India) (para 22).

²⁸ State of U.P. v. Choteylal, MANU/SC/0053/2011 : AIR 2011 SC 697 : 2011 (2) ACR 1885 (SC) (India) (para 22), also see Sanjay Vs. State of U.P. MANU/UP/4306/2019; Crl. Appeal No. 2027 of 2015 (India) (para 37).

²⁹ Gopal Gupta Vs. State of U.P., 2015(1) AC R762. (India) (Para 26)



so called prosecutrix risk her most esteemed honour and self-prestige.³⁰

In the *State of Maharashtra V. Rameshwar Shridhar Jaware & Anr.*,³¹ it was observed that the girl was a rustic girl of the village and for procuring some advantages and perquisites lodged the false case of rape on the accused and because of the criminal proceedings, he suffered financially, mentally for 14 years of trial and judicial custody for a period of time.

In the case of Bombay High Court, *Bhagat alias Rikhman Mahabal Maurya V. The State of Maharashtra*,³² it was observed that accusing an innocent person under the case of rape for taking revenge of some past events is one of the major reason for increasing false accusation cases, wherein the present case provides that for not giving compensation for the damaged hut mentioned in the respective case leads to the conviction of an innocent person under the bogus rape case and faced a trial for five years to prove himself as an innocent.

The acquittal of the rape accused was done by the court after observing, interpreting the facts and evidences; the High court of Chennai has awarded Rs. 15 Lakh as compensation to the accused who was arrested as a college student on the charges of rape and made to confront the criminal trial of more than seven years. The accused was acquitted based on a DNA report that demonstrated he was not the father of the

child claimed in the case by the prosecutrix. The court also stated that the trial of false charges of rape had ruined the career and life of the accused.³³

The High Court of Rajasthan has laid down that the offence of rape has been incorporated as one of the most brutal and evil crimes against women, the courts observed that it doesn't only insult the womanhood, but also disrobe the prestige of women and erodes her dignity. On the other hand, the women also making the false accusation of rape by misusing the laws and criminal code. The cases of false accusation broke all the judicial norms or embodied the bad name on judicial fraternity and this aspect attains more significance herein it also exposes to launch a proceeding against women under section 182,195 and 211 of Indian Penal Code, 1860 which criminalises any person for filing a false charge.³⁴

A noted legal scholar Prof. Alan Dershowitz has given following quote in the said context "Rape is such a serious crime that deliberately bringing a false accusation of rape should be an equally serious crime and women are not being punished for those crimes. I believe that being falsely accused of rape is as traumatic as being raped". Meaning thereby that the impact of said calculated act and misuse of law, is that the incumbent, who has been charged for the offence of rape, the offence that he has never committed, his public image is completely ruined and tarnished, and not only he but his entire

³⁰ Shami Ullah Vs. State of U.P. 2010(2)AC R1974 (India) (para 16 and 18).

³¹ State of Maharashtra Versus Rameshwar Shridhar Jaware & Anr. 2007 SCC OnLine Bom 1166 : 2008 Cri LJ 675 : (2007) 6 AIR Bom R 809 (India) (Para 9,19, 22 and 23).

³² Bhagat alias Rikhman Mahabal Maurya V. The State of Maharashtra, 1985 SCC OnLine Bom 204, (1986) 2 Bom CR 175 (India) (Para 3, 8 and 10).

³³ Anonymous, The times of India (Retrieved at: 21 Nov. 2020, Page 3).

³⁴ Inder Singh Vs. State of Rajasthan, 2002C riLJ721, 2002(2) RCR(Criminal)428. (India) (Para 37)



family has to go through a great pain, and for rest of the life he and his family has to struggle to regain the reputation.³⁵

In the above context of false accusation of rape, in India, no law is present for the exact same offence which expressly talks about the false accusation of rape done by any person and further provide sanctions. If we go through with chapter XI of Indian Penal Code, 1860 Section 211 talks about false charges of offence made in intent to injury. The Allahabad High Court in Jugal Kishore case,³⁶ held that where a specific false charges is made, the proper section for the proceeding is to be adopted under section 211. The essential for invoking section 211 are that the complaint must have falsely charge such person with having committed an offence, there is to say, the person must be innocent; the person should know that there was no just or lawfull ground for such proceeding or charge and lastly there must have an intention to cause injury to the innocent.³⁷

Section 211 is divided into 2 parts first is talking about general false institution of criminal proceeding and second part is specifically dealing with some specific cases where false charges of offence is made in criminal proceeding which intends to injury. Wherein the first part laid down the punishment of two years or liable for fine or both; perhaps second part states that if any false charges are made where the section is

involved is having punishment of death penalty or life imprisonment than the punishment in such case will be of seven years or liable for fine or both. Further section states that falsely charging any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge, in such situations Section 211 will comes into picture and the proceedings of contempt of court³⁸ and section 211 he will be punished.³⁹

The expression “institutes a criminal proceeding” postulates an intention to set criminal law in motion; wherein there is a person who is giving information about the false charges to the police against an innocent person that he committed a cognizable offence, further the police has is bound under criminal code to investigate the accusation against that person.⁴⁰ In the cases of section 211, the prosecution (person against whom false charges where incorporated) has to prove that the charge was wilfully false to the knowledge of the maker and the prosecution is irreproachable.⁴¹

With the viewpoint of litigants, here courts have also observed that a case of false accusation causes a direct injury to honest litigants who don't have any idea about the false case of their client. Any such litigant may affect their career or can give a lifetime scar on his reputation for pleading a false case in the court. In the Indian penal code section 211 and Section 209 was not deliberated to

³⁵ Inder Singh Vs. State of Rajasthan, 2002C riLJ721, 2002(2) RCR(Criminal)428 (India) (Para 37)

³⁶ Jugal Kishore, (1886) 8 All 382 (India).

³⁷ Sew Ratan Vs. Emperor, AIR 1939 Cal 288 (India).

³⁸ It is provided that for punishment of contempt of court is by simple imprisonment upto six months, with certain conditions which are mentioned in section 3 and section 4A of the Contempt of Courts Act, 1971.

Where a charge is having contempt of court is, therefore a charge of an offence which invokes section 211 directly or indirectly.

³⁹ Hari Das Vs. State of West Bengal, AIR 1964 SC 1173 (India).

⁴⁰ Albert Vs. State of Kerala, AIR 1966 Ker 11 (India).

⁴¹ Hasan Mirza Vs. Emperor, AIR 1914 Cal 349 (India).



intervene as a trap for legal experts or lawyers or litigants who may inadequately or erroneously plead their case.⁴²

HOW IT AFFECT THE LIFE OF THE ACCUSED

Sadly, some women do lie about being raped or in other words false rape accusations do occur, devastating the lives and reputations of those accused. Consequently, the reality of underreporting is a separate problem and is of no consolation to those falsely accused of rape. The Indian ancient and modern society both have witnessed that after the filling of the case of every sexual offence the so called accused (who is innocent until proven guilty in accordance of law by the court)⁴³ of the case is being boycotted by the society;⁴⁴ even in some cases the boycott is also done by his relatives and family members. There could be a hypothetical perception of the natural human behavior after the context of boycott that he could be aloof, as he is having people

in his neighborhood perhaps they will maintain certain distance from him as being an accused of rape case. This boycott discriminates him from the society which makes him feel alone and even the chances of violent behavior of the accused towards women and society will be increased because of false accusation on him.

Justice Vinod Prakash in 2010 laid down that the offence of rape leaves cicatrix on the prosecutrix's soul but on the other hand, in the case false accusation of rape also leaves a scar on the accused over his whole reputation and personality for decades.⁴⁵ In *Rajoo and Others v. State of Madhya Pesh*,⁴⁶ the honorable Supreme Court has also observed the dark side of the false allegations of rape, the court stipulates that " It cannot be lost sight of that rape causes the greatest distress and humiliation to the victim but at the same time a false allegation of rape can cause equal distress, humiliation and damage to the accused as well. The accused must also

⁴² Vijay Pal Dalmia, India: Perjury, False Claim & False Prosecution In A Case, Section 209 Of IPC & Section 340 Of The Cr.P.C., Mondaq, (Retrieved at 28 Aug. 2019), <https://www.mondaq.com/india/trials-appeals-compensation/840672/perjury-false-claim-false-prosecution-in-a-case-section-209-of-ipc-section-340-of-the-crpc>

⁴³ According to Universal Declaration of Human Rights, 1948. Art. 11.1 states that "Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence." The presumption of innocent until proved guilty according to law is also incorporated under Article 6 of European Convention for the Protection of Human Rights and Fundamental Freedoms. Also read Article 14(2) of The International Covenant on Civil and Political Rights, 1996 which talks about the same context. According the common law rules it is the basic principle that an accused of the case is innocent until he is proven guilty whereas the said concept is applicable in India also because India

is the signatory of the aforesaid conventions on Human Rights. In the support of common law the British case of House of Lords, 1935 *Woolmington v. Director of public prosecutions* [1935] UKHL 1 where barrister Sir William Garrow, coined the presumption of innocence is often expressed in the phrase innocent until proven guilty'.

⁴⁴ Khap panchayat declared to boycott the rape accused from Rohtak district on the mere allegations, whereas the khap panchayat means the union of few villages which deals with cases and problems of the villagers it emerged as a quasi-judicial body. Deepender Deswal (reporter) Dec 21, 2012, 07.02 AM IST

<https://timesofindia.indiatimes.com/india/Now-khap-declare-social-boycott-of-rape-accused/articleshow/17701941.cms>

⁴⁵ *Shami Ullah Vs. State of U.P.* 2010(2)AC R1974 (India) (para 20)

⁴⁶ *Rajoo and Others v. State of Madhya Pesh*, MANU/SC/8353/2008 : 2009 (64) ACC 672 (SC) : 2009 (75) AIC 65 (India) (para 9).



be protected against the possibility of false implication...there is no presumption or any basis for assuming that the statement of such a witness is always correct or without any embellishment or exaggeration."⁴⁷

The life span of the society has witnessed examples where the cases can be registered by the known person also. For the aforesaid statement, in the UK a case came where an IT consultant has lost his job because of mere allegations of false rape on him, which was incorporated by his former girlfriend and has to suffer the imprisonment of three years during the trial. Further, it was provided by the Guildford Crown Court that the accused has lost his job and reputation in the society which will be reclaimed by him after explaining his innocence for decades.⁴⁸ The malicious prosecution is the commonest form of abuse of legal proceedings in order to harm another where it combined with a claim for false imprisonment, in these cases the accused has to prove that he was innocent and his innocence was to be pronounced by the tribunal in its judgement.⁴⁹

As per some studies it was provided by the jurist that where a false case on an accused is being incorporated, the phase of the financial crisis could be faced by the said accused of the case because the false case is registered by the females is to extract money and perquisites, for settlement of the case the arrangement of the perquisites will lead him to the phase of financial crises, the

connecting point of losing his job as per the above case of UK makes it more difficult.

In Rizwan Shah V. Shweta Joshi & Ors.⁵⁰ It was laid down by the Delhi High Court that "The criminal proceedings were initiated based upon false facts and sustained and contested by repeatedly asserting false and baseless allegations lowering image and reputation of appellants in the eyes of his neighbours, friend and relations." The custody of eight months and criminal judicial trial made him suffer from mental agony, the accused of the case lost his job and even due to this his future employment's prospects has also tampered. The honorable court has also provided damages of Rs. 2, 50,000 for the malicious prosecution and faced eight months of judicial custody.

SUMMATION & SUGGESTIONS

As per the examination expressed above by the Hon'ble Courts, Juris, researchers and the other legislators we go to a summation that the offence of false accusation of rape done by some shabby women is an abominable and villainous crime; to punish these females there is a requirement of a meaning full separate legislation or an amendment could be done in penal code with rigorous punishment. As explained above, ultimately section 211 of the Indian penal code attracts the false accusation of rape indirectly in its second part but the implementation of that said section is not providing any rigorous or deterrence in females that the false accusation will leads to

⁴⁷ Rajoo and Others v. State of Madhya Pesh, MANU/SC/8353/2008 : 2009 (64) ACC 672 (SC) : 2009 (75) AIC 65 (India) (para 9), Also see Mahendra and Ors. Vs. State of U.P. 2016(5)ADJ573, 2016 (94) AC C 421(India) (para 32)

⁴⁸ Anonymous, False rape accusation 'destroyed life' of Surrey man, BBC News, (Retrieved at: 2 Nov.

2010) <https://www.bbc.com/news/uk-england-surrey-11676804>

⁴⁹ Gobardhan Singh Vs. Ram Badam, AIR 1922 All 209 (1); 20 All LJ 284 (India).

⁵⁰ Rizwan Shah V. Shweta Joshi & Ors, 2011 SCC OnLine Del 5493 (India) (para 46 and 49).



their seven years of imprisonment or fine or both. The theory of deterrent punishment should be followed by the legislators while drafting the laws regarding such a context of accusation. As per the author of the prevention hypothesis of deterrence theory, J. Bentham gave a thought of prevention of deterrence is to both offenders and others from submitting a comparable offence. The goal which should be achieved is maximization of pleasure, joy and minimization of pain. The dread of resulting discipline on account of law should go about as a check from carrying out or committing crimes by people. This hypothesis has faith in giving a model of exemplary discipline through adequate and sufficient punishment.

The words of Judge James E. Horton of the Alabama Circuit Court has written in an opinion that would ultimately curtail his judicial career reflect an age-old fear that men are often falsely accused of rape and other offences. It should be noted that in the present case the victims are men; this fact is frequently ignored by the judges and society, a male could also be a victim of sexual offences. Since biblical times, society has witnessed the inimical aftermath of untrue accusation and induced to prejudice administered towards rape complainants.

The honorable courts have laid down many precedents as per the cases which provide the guidelines for dealing the cases of false accusation, which have to be followed wisely. To abstain from bogus allegations on an innocent, the Honorable Supreme Court provided that a preliminary enquiry might be directed and conducted by

the DSP, to detect whether the claims and allegations of the victim is attracting a case under the Atrocities Act and that the charges are not paltry or persuaded.⁵¹

As per the International Customary, Human Right, Conventional laws the accused is innocent until he/she is not proven guilty accordance to law; but on the mere allegations national media and the society consider him as a culprit and make him feel guilty even for those acts also which are bogus in the actual instances because of which the said accused hides his identity sometimes or desert their family and abscond from the respective area to find peace. In this context the legislative authorities should amend the laws and provide a punishment to the newspapers, national media and other people who consider an accused for guilty on an offence.

Notwithstanding, a litigant having authentic knowledge about the false claim of his client (or after he / she subsequently acquires that knowledge), the advocate is not supposed to make false claims in front of courts and thereby, it's his / her implied duty to provide the legit information that he is not legally entitled to support any false claims in front of the court. A litigant must decline the client's claims and instructions for the case if there is no evidence or the claim is without proper foundation. The potential of bringing a case of false accusation in front of the court, therefore it is to be considered as an intimidating engine in the hands of unscrupulous men. Society and people still have trust in legislative authority and in the lawmaker, which gives power in the Code of

⁵¹ Dr. Subhash Kashinath Mahajan v. The State of Maharashtra and Anr, MANU/SC/0275/2018: (2018) 6 SCC 454, (India) (para 83) also see Prathvi Raj

Chauhan vs. Union of India (UOI) and Ors. AIR2020SC 1036, 2020(1) KLT810 (India) (Para 2).



Criminal Procedure and Penal Code to lay down rules which may prevent such abuse.⁵² Making a bogus averment in the pleading pollutes the stream of justice. The framework and justice delivery system has to be pure and should be such that the persons who are approaching the Courts must be afraid of making false claims.⁵³ False accusation should be punishable with the same amount of ‘punishment’ as applicable to the ‘crime’ if it has actually occurred.

⁵²Jacob George vs. State of Kerala, 1995(19) AC R156 (SC) (India). (para 8)

⁵³Vijay Pal Dalmia, India: Perjury, False Claim & False Prosecution In A Case, Section 209 Of IPC & Section 340 Of The Cr.P.C., Mondaq, (Retrieved at 28

Aug. 2019), <https://www.mondaq.com/india/trials-appeals-compensation/840672/perjury-false-claim-false-prosecution-in-a-case-section-209-of-ipc-section-340-of-the-crpc>