

**Review Article**

## The Permission to Rape: Implications of Exception 2 to Section 375, IPC 1860

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**Abstract**

The following article is an analysis of Exception 2 to Section 375 of the Indian Penal Code, 1860. The provision is an exception clause to Section 375 of the IPC, 1860 which deals with the offence of rape and has been lately amended by the Criminal Law (Amendment) Act of 2013. While the provision is exhaustive and explanatory in detail, it gives a nod to and exempts marital rape. It states expressly that sexual intercourse by a man with his wife, who is not 15 years of age, is not rape. The provision is contradictory to not only its very own section but also to a number of other laws. Firstly, it allows for a man to rape his own wife. Secondly, it technically reduces the age of consent for a married woman, where in turn it also implies that there is no requirement of consent of a married woman. It is also not seen as criminal under the laws relating to domestic violence. There is no respite for a woman who suffers at the hands of her own husband, but if she was raped outside, the laws would help her. India is a signatory member of the Convention on the Elimination of all forms of Discrimination against Women, but has not done away with an expressly oppressing law. We are still stuck with the ancient laws based on the principle of *pativrata*. The article discusses in detail the foundation of the irrevocable consent, the development of law, the implications of the current law and the need and suggestion for changes.

**Keyword:** Rape; Judicial Separation; Decree; Pativarta; Separated Wife; Divorce

**Introduction**

The law relating to rape in section 375 of the IPC was amended by way of the Criminal Law (Amendment) Act 2013. The provision itself is descriptive and not much is left for implied meanings. Reading the provision while keeping in mind the Nirbhaya case draws home the gravity of the need of the amendment. It is a well drafted law that leaves no scope for haywire interpretations, except for its tragic nod to marital rape, or rather the continued legislative

endurance to it. The law relating to marital rape contradicts the provisions of the very same section it is included in. Section 375 provides the exception that "Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape" [1]. However, the same provision also seeks to protect girls below the age of consent of 18 years with the provision that "a man is said to commit rape if he ... (has sexual intercourse with a woman)... with or without her consent, when she is eighteen years of age" [2]. The predicament arises because a woman under 18 years of age is very much capable of being the legally

wedded wife of a man, by virtue of child marriage being only voidable at the option of one party [3] and not void. So if we consider an illustration where a 16 year old girl is raped by her husband it would not be an offence, but if the same girl, married or not, was raped by someone other than her husband it would be the offence of rape.

The essence of the offence of rape comes from the mental condition of the victim. Her refusal to engage in a sexual intercourse or her inability to give consent determines whether the act was rape or not [4]. It is disrespectful to the individuality of a woman to say that she cannot decide what she does with her body once she is married. It is like attaching proprietorship of her body to her husband. This provision affirms the age old belief of wives being the property of their husbands. Vinita Chandra, in her book 'Gender Relations in Early India', talks about the foundations of today's chauvinistic approach towards women. She quotes ancient scriptures to emphasize on the concept of '*pativrata*.' Jayal has commented on the transition of the concept of the wife from *sahdharmini*, one who is true friend and confidante of her husband who reserves for herself the right to independent judgment, to the *pativrata*, who is but a mere devotee of that exalted all wise and all powerful God called *pati* (husband) for he is the Lord. What *pativrata* symbolizes so well is really the 'service role' of women. Servility and complete subjection to the husband is prescribed for the wives by all the *Smriti*-writers in general. Vyasa says that a woman has no separate existence from her lord in matters of piety, gain and desire. The *sastras* have laid down the dependency of love [5]. The ideology of *pativrata* negated the very identity of a woman, as well as her choice even in the matters completely personal to her [6], like the control over her sex life. Since the woman was constantly required for her services, she could never be allowed to have the choice of renunciation for acquiring religious merit [7], where renunciation meant the giving up of family life and abstinence. The need for the continuous submission of a woman to her husband came from the belief that the man's life would be incomplete without a wife as he could not beget children without her. Depriving women of any choice, agency, justice and resourcefulness; the *pativrata* ideology was designed as an effective tool towards the social exclusion of women [8] and gave the husbands a customary, or rather lawful right over the subjection of their wives.

Thus, there was no concept of rape within marriage in the traditional Indian marriage system and it got the legislative nod under the British Raj despite the initiative taken by the lawmakers to do

away with the exemption. In 1855 the government was urged to intervene in the practice of child-marriage by the initiatives of the *Brahmo* reformer A.K.Dutt. The government responded to all these efforts with the inclusion of married girls in the age of consent clause in the 1860 Penal Code, i.e., sexual intercourse with a girl under 12 years of age, even by the husband, was statutory rape. It was only when the law members introduced the Consent Bill in January 1891 with the dual objectives of protecting young girls from immature prostitution and child-wives from premature consummation that the distinction between the married and the unmarried girls in the consent provisions became a highly charged issue. This step would have done away with the marital rape exemption. The Bengali barrister Manomuhan Ghose provided the most detailed objections to the Indian consent bill on the grounds of the marital rape clause. He argued that there was no moral or legal justification for the inclusion of marital rape in the former and its exclusion from the latter. Ghose dismissed the idea that the prior inclusion of the marital rape clause in the IPC 1860 was sufficient grounds to retain the clause in the 1891 bill; the earlier provision he argued had led to not a single successful prosecution of an Indian husband on the charge of marital rape. He argued, moreover, that since a child wife was already sufficiently protected by the existing provisions of the penal code that held a husband criminally liable for various acts which constituted an offence against his wife if she were under twelve years of age with or without her consent – there was no reason to reinforce the provision of marital rape in the penal code. According to Ghose, the colonial authorities had a devious plan in insisting on the marital rape clause; for they were not committed to challenging patriarchal privileges as such, but only to making a symbolic attack on the 'honour' of Indian male. On the one hand, in the marital rape clause the Indian husband was being denied the 'lawful access to his wife. On the other hand, Ghose also demonstrated that the colonial law undercut any real challenges to a husband's patriarchal privileges by assuring to every Indian husband the absolute right to the company of his wife [9].

Thus, the exception clause to rape with respect to married girls stayed in the 1860 Penal Code, which was adopted by a number of South-Asian countries. All these countries including Sri Lanka and Bangladesh, exempt marital rape as an offence. In India the clause was amended to increase the age from 12 years to 15 years. However, it is little solace as regards the Prohibition of Child Marriage Act, 2006 and moreover, for married women across India, the

exception clause is a sentence to a life of sexual abuse. As stated by *The Abuse Counseling and Treatment, Inc.*, "When a woman is raped by a stranger, she has to live with a frightening memory. When she is raped by her husband, she has to live with the rapist". We continue to follow a law which is more than 150 years old, given by a people who were not our own, and follow it despite having come a long way in terms of individual rights and liberties of the people and seeing a great social advancement across the globe. Moreover, the laws of the law-giving country, the United Kingdom have also changed over time.

The United Kingdom laws with respect to marital rape were based on the principle of Irrevocable Consent. In his *History of the Pleas of the Crown* (1736), Sir Matthew Hale made the following pronouncement: 'But the husband cannot be guilty of a rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract the wife hath given up herself in this kind unto her husband which she cannot retract'[10]. Hale's pronouncement was accepted as an enduring principle of common law. However, finally, the principle which put in distress all the married women in UK and in turns all the married of countries which were once colonized by the crown, was made obsolete, two centuries after Hale's pronouncement. The marital rape exemption was abolished in 1991 by the Appellate Committee of the House of Lords, in the case of *R v R*. Owen J clearly expressed his reluctant acquiescence with Hale's general pronouncement, and the need to extend the exceptions to the doctrine of implied consent as follows:

"I accept that it is not for me to make the law. However, it is for me to state the common law as I believe it to be. If that requires me to indicate a set of circumstances which have not so far been considered as sufficient to negative consent as in fact so doing, then I must do so. I cannot believe that it is a part of the common law of this country that where there has been withdrawal of either party from cohabitation, accompanied by a clear indication that consent to sexual intercourse has been terminated, that does not amount to a revocation of that implicit consent. In those circumstances, it seems to me that there is ample here, both on the second exception and the third exception, which would enable the prosecution to prove a charge of rape or attempted rape against this husband" [11].

With changing social views, and international condemnation of sexual violence in marriage, courts have started to apply the rape laws in marriage. On 9th of July 1993, India ratified the Convention on the

Elimination of all forms of Discrimination against Women [12], which guides the State parties towards abolition of laws discriminatory towards women. In 2011, the UN Women report *Progress of the World's Women: In Pursuit of Justice* stated that: "By April 2011, at least 52 States had explicitly outlawed marital rape in their criminal code" [13].

Add to the international efforts towards the criminalisation of marital rape, the widely known damage it can cause to the victims of the act. Marital rape can be more emotionally and physically damaging than rape by a stranger. Dr. Judith McFarlane and Dr. Ann Malecha found in their research that following sexual assault 22% of sexually assaulted women reported suicide threats or attempts compared to 4% of physically-abused only women. And not just the victims, the children of the victims more often than not require professional counseling. Children of sexually abused mothers, age 12 to 18, showed the same degree of depressive behaviors as children under treatment for depression, and appreciably more behavioral problems than youngsters of physically-abused only mothers [14].

However, when the Indian legislators sat down to draft the Criminal Law (Amendment) Bill, 2012, they went back to the ancient views of the *sastras*, and no heed was paid to the humanitarian concerns over giving permission to a man to rape his wife. The chairman of the standing committee on home affairs M Venkaiah Naidu said that leaving scope for the wife to accuse her husband of rape "has the potential of destroying the institution of marriage" [15]. The committee also tried to point out that the wife has the refuge of the provisions of cruelty against women [16] in section 498A of the Indian Penal Code. However, the section does not define cruelty or specify sexual act as being inclusive of it and its punishment may extend to 3 years only. The Hindu Marriage Act also has provisions relating to cruelty as grounds for divorce. However, refusal to have sex has also been made a ground for divorce by judicial pronouncements and it is considered cruelty in itself. Thus, a married woman is left with no relief if she is raped by her husband.

Recently two judgments of the Indian Courts brought to the fore the contradiction of the laws as relates to man and woman. In May 2014, a judge, Virender Bhat, officially confirmed that rape laws do not apply to married couples—once you're legally wed, forced sex is no longer a crime. He was hearing a case in which a woman alleged she had been drugged, then forced to marry, and then raped—in other words, she hadn't consented to the marriage or the sex. Bhat said there was no evidence that the

accuser had been drugged, but he also said that if the woman's husband had forced himself on her, that wouldn't qualify as rape under Indian law [17]. On the other hand, in August 2014, the Family Court in Mumbai granted a man divorce over wife's demand for excessive sex. The husband had approached the family court in January, saying that his wife was "adamant, aggressive, stubborn and autocratic". The man, in his petition told the court that she was showing an "excessive and insatiable desire for sex" and harassed him since their marriage in April 2012. He also alleged that she administered him medicines and also forced him to consume liquor and forced him into having sex and whenever he tried to resist it, she would abuse him following which he had to succumb to her pressure and persistent demands. He said his wife has made his life horrible with her "cruel behavior" and her "excessive prank for sex" has made it difficult for him to live together with her under one roof. Judge Rao allowed the petition and dissolved the man's marriage [18]. While the cases maybe technically different from the remedial point of view, it goes on to show the gravity of importance that is given to the right the man over his sexual independence and the need for the woman to be sexually submissive.

Very few countries, as 52 is a very small number considering the number of countries that are part of the United Nations, considers rape as what it really is. Rape, not only marital rape, but rape as it is, must be treated as an act of violence first and then as sexual assault. It is an act of violence against the body and mind of a woman and it must be punished. If domestic violence is an offence, rape, which has been called a graver offence than murder, must be declared an offence.

Article 2 of The Declaration on the Elimination of Violence against Women states,

"Violence against women shall be understood to encompass, but not be limited to the following:

(a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation..."

Also, under the Protection of Women from Domestic Violence Act 2006, Section 3 gives the definition of domestic violence to include sexual abuse.

Definition of domestic violence—For the purposes of this Act, any act, omission or commission or

conduct of the respondent shall constitute domestic violence in case it:

(a) Harms or injures or endangers the health, safety, life, limb or well being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional and economic abuse.

Explanation-I For the purposes of this section:

(ii) "Sexual abuse" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of woman. ..." [19].

Section 20 and 22 afford the victim monetary relief and compensation against the accused [20]. Thus, although a victim of marital rape can seek relief under the act it is only civil in nature and the rape is not considered a crime.

This seems to go against the whole principle of wrongs against the public being criminal in nature, as is the case with rape of unmarried women and violence of any kind itself. The perpetrator of a criminal act is punished and the current law regarding marital rape is a loophole against violent acts especially of the sexual nature.

In addition to the implications towards the domestic violence laws of the country, Exception 2 to Section 375, IPC also negates the purpose of the laws relating to child marriage and age of consent.

As per the Indian Penal Code, the instances wherein the husband can be criminally prosecuted for an offence of marital rape are as under:

1. When the wife is between 12–15 years of age, offence punishable with imprisonment up to 2 years or fine, or both;21
2. When the wife is below 12 years of age, offence punishable with imprisonment of either description for a term which shall not be less than 7 years but which may extend to life or for a term extending up to 10 years and shall also be liable to fine [22].
3. Rape of a judicially separated wife, offence punishable with imprisonment up to 2 years and fine [23].
4. Rape of wife of above 15 years in age is not punishable [24].

However, if the girl was unmarried, she would get justice and the perpetrator be punished with imprisonment of either description for a term which shall not be less than 7 years but which may extend to life or for a term extending up to 10 years and shall also be liable to fine, no matter what the victim's age [25]. Especially, if the victim being unmarried was

under 18 years of age, sexual intercourse with or without consent would be rape as the age of consent in 18 years.

This evident contradiction in the law on the age of consent has fettered the battle against child marriage in India but the government has chosen to concede to the “social realities of the nation”. The Centre has told the Supreme Court that it was deemed “not appropriate and practical” to remove this anomaly since there were at least 23 million child brides in India, who constitute nearly half of all child brides in the world and an attempt to bring sex in child marriages on a par with age of consent as others will lead to various “social tensions”. Significantly, in October 2013, the government refused to sign the first-ever global resolution on early and forced marriage of children, led by the UN which was supported by 107 countries.

A recent PIL by organization ‘Independent Thought’ emphasized that Exception 2 to Section 375 of the IPC allows sexual relationship with a married girl at the age of 15 whereas under all the others laws, a person below the age of 18 is a child. This contradiction in law, the PIL said, encouraged sexual relationship with a girl child under 18 because she is married.

Responding to a PIL that demanded removal of this disparity on age of consent, the Ministry of Home Affairs (MHA) conceded that while it was making efforts “in a discreet manner”, to prohibit child marriage, making the age of consent uniformly as 18 would throw up several other issues and although it’s stand on the issue of marital rape was “pragmatic” since marriage, being a social institution, is the bedrock of the society and ought to be protected. The affidavit mentions stringency of the law on prohibiting child marriage but waters it down by saying: “It is a fact that child marriages do take place in India. The social, economic and educational development in the country is still uneven and child marriages are taking place” [26].

This nonchalant approach towards child marriage and more so towards the sexual relations within it are expressed by a certain silence in the Prohibition of Child Marriage Act, 2006 (PCM Act). Although the Act seeks to prohibit the solemnization of marriages of girl below the age of 18 years and boys below the age of 21 years, it is only voidable and not *void-ab-initio*. It prescribes penalties for the solemnization, promotion, and allowing of child marriages. The Act is, however, silent on sexual relations in a child marriage. It extends legitimacy to children born of child marriages thus indirectly acknowledging sexual intercourse within a child marriage [27].

However, a positive development in this area has been the enactment of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act). The Protection of Children from Sexual Offences Act, 2012 (POCSO Act), was enacted to protect children from offences of sexual assault, sexual harassment and pornography and to provide a child-friendly system for the trial of these offences. Under the POCSO Act, the term “child” has been defined to mean “any person below the age of eighteen years” [28]. The Act does not recognize sexual autonomy of children in any form. Children can also be held liable for committing sexual offences under the Act. As a result, sexual interactions or intimacies among or with children below the age of 18 years constitute an offence. This note examines the implications of the POCSO Act on child marriages. The marital rape exception has not been grafted into the POCSO Act under which an act of sexual intercourse with a person under eighteen is an offence irrespective of the gender or age of the victim or the accused. Further, one of the grounds of aggravated penetrative sexual assault is penetrative sexual assault by “a relative of the child through blood or adoption or marriage or guardianship or in foster care or having a domestic relationship with a parent of the child or who is living in the same or shared household with the child commits penetrative sexual assault on such child”. This is punishable with a fine and a minimum term of 10 years imprisonment which may extend to life imprisonment. It is clear that under the POCSO Act, a spouse of a person below the age of 18 years can be prosecuted. Irrespective of whether the marriage has been contracted voluntarily, a person having sexual contact with a person less than 18 years can be punished. Further, it is now mandatory for those who have information about the commission of a sexual offence to report it to the local police. Now, the real step forward is taken by Section 42A of the POSCO Act which was introduced by the Criminal Law Amendment Act, 2013. This provision states:

“42A. Act not in derogation of any other law—The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of its inconsistency.”

The above provision essentially implies that in case of conflict between the provisions of the POCSO Act and any other law, the former will override. Owing to Section 42A of the POCSO Act, the exception under the IPC will not apply. Thus, in all cases of child marriage where the bride or groom is

below 18 years of age, a charge of aggravated penetrative sexual assault can lie against them under the POCSO Act [29].

This provision also raises the question over the futility of having an exception clause in IPC as it is only contradictory to an overriding law and will create confusions. Also, although the POSCO Act solves the problem of child sexual assault within marriage, the problem of marital rape of majors still persists. One of the reasons or rather the major reason why a child marriage is prohibited is because sexual intercourse and reproduction can have adverse effects on the health of a minor girl. But marital rape has an effect on the reproductive rights and health of major women too.

In ancient India, the need for both protection and control of wife originated out of a sense of necessity for the protection of one's progeny and as such, the lineage. Procreation was considered the most important cause for marriage and hence, one should unite with one's wife [30]. Procreating sons was obligatory for her, not a matter of choice. The husband wielded complete rights and control over her reproductive potential. The Manusmriti states, "Of the seed and the womb, the seed is superior." It is the duty of the husband to procreate progeny on the wife's person which has nothing to do with the welfare of the wife, but merely a fulfillment of religious and social obligation [31].

The importance of the right to self sexual determination of women is increasingly being recognized as crucial to women's rights. In 2012, High Commissioner for Human Rights Navi Pillay stated that:

"Violations of women's human rights are often linked to their sexuality and reproductive role. (...) In many countries, married women may not refuse to have sexual relations with their husbands, and often have no say in whether they use contraception. (...) Ensuring that women have full autonomy over their bodies is the first crucial step towards achieving substantive equality between women and men. Personal issues—such as when, how and with whom they choose to have sex, and when, how and with whom they choose to have children are at the heart of living a life in dignity" [32].

### *Suggestions*

Article 2 (g) of the Convention on The Elimination of all Forms of Discrimination Against Women (which India has ratified) states:

"State parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of

eliminating discrimination against women and to this end, undertake:...(g) To repeal all national penal provisions which constitute discrimination against women" [33].

It is high time that the contradictory provision of Exception 2 to Section 375, IPC 1860 be repealed for its blatant discrimination against women and children and the expressed freedom given to men with respect to their right over their wives.

The implications of the provisions reach the practice of child marriage India and re-assert the need for strict prohibition of the act. While it is recognized that it is a far reaching practice with a lot of lives affected by it, steps need to be taken to curb this evil from growing any further. POSCO Act is a great step ahead in the direction of saving children from sexual abuse at the hand of the spouse but it needs to be made known to a large number of people. Awareness about the Act is of prime concern and must be first priority in curbing sexual assault against married minors who do not know about the law other than IPC.

Article 16(2) of the Convention on the elimination of all forms of discrimination against women states:

"The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages and official registry compulsory" [34].

If India makes a law in consonance with this article it will become extremely easy in regulating marriages and the application of the laws. To prohibit expressly and completely the practice of child marriage in India and to make registrations compulsory will help in curbing and eventually rooting out the ancient practice.

Putting all the suggestions and implications aside, and keeping a clear view of the raw problems and the solutions with the social customs and the law, it is ever so increasingly emphasized that there is a need for a Uniform Civil Code. It is an answer to all the issues in the country. It is obvious that it is a very difficult proposal to apply. The customary and personal laws of the country do not allow for a uniform code without upsetting a few ideologies. However, that is more political than social in nature. If the needs of the people are kept in the forefront, a uniform civil code will bring a lot of lives out of the shadows of abuse. This is the ideal system. The ideal system is difficult to achieve. However, it does not mean that it must not be tried to be achieved. Political difficulty and inconvenience needs to be replaced by

a will to change the system, and eventually the ideal will become a reality.

### Conclusion

It is evident that the exemption provision of Section 375 does not only legalize rape in marriage but also raises contradictions relating to laws for women and child rights. It is a loophole as regards domestic violence, it is nod to sexual relations with minors, it is an implied consent to child marriage and it plays a role in the oppression of the reproductive rights of women. The provision has far-reaching effects and takes the development of women's rights several steps back with its legislative endurance. Moving in step with the world in the quest for freedom of women from oppression, by legislating in accordance with the conventions we have ratified and learning from the laws of other countries, India must endeavor to achieve a system where a woman does not have to live in fear every step of the way; not in the outside world and especially not in her own home.

### References

1. Exception 2, section 375, Indian Penal Code, 1860 (as amended by Criminal Law (Amendment) Act, 2013).
  2. Section 375, Indian Penal Code, 1860 (as amended by Criminal Law (Amendment) Act, 2013).
- '375. Rape.—A man is said to commit "rape" if he—
- (a). penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or
  - (b). inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or
  - (c). manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or
  - (d). applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person.
- under the circumstances falling under any of the following seven descriptions:—

Firstly: Against her will.

Secondly: Without her consent.

Thirdly: With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

Fourthly: With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly: With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly: With or without her consent when she is under eighteen years of age.

Seventhly: When she is unable to communicate consent.

Explanation 1: For the purposes of this section, "vagina" shall also include labia majora.

Explanation 2: Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act.

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception 1: A medical procedure or intervention shall not constitute rape.

Exception 2.—Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape'.

3. Section 3, Prohibition of Child Marriage Act, 2006.
4. Section 375, Indian Penal Code, 1860 (as amended by Criminal Law (Amendment) Act, 2013).
5. 'Gender Relations in Early India', Vinita Chandra, Rawat Publications, New Delhi, ed. 1, 2010, pg 75-76.
6. Id, pg. 77.
7. Id, pg. 78.
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  16. Section 498-A, Indian Penal Code, 1860  
 "498A. Husband or relative of husband of a woman subjecting her to cruelty.— Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.  
 Explanation.- For the purposes of this section, "cruelty" means-  
 (a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or  
 (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand".
  17. [http://www.salon.com/2014/05/15/marital\\_rape\\_is\\_officially\\_legal\\_in\\_india\\_partner/](http://www.salon.com/2014/05/15/marital_rape_is_officially_legal_in_india_partner/), 11.09.2014.
  18. <http://timesofindia.indiatimes.com/city/mumbai/Court-grants-man-divorce-over-wifes-demand-for-excessive-sex/articleshow/41352524.cms>, 3.09.2014.
  19. The Protection of Women from Domestic Violence Act, 2005.
  20. Ibid.
  21. Indian Penal Code (45 of 1860), Section 376(1).
  22. Ibid.
  23. Indian Penal Code (45 of 1860), Section 376A.
  24. Indian Penal Code (45 of 1860), Exception to Section 375.
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