



e-ISSN:2582 - 7219



INTERNATIONAL JOURNAL OF MULTIDISCIPLINARY RESEARCH IN SCIENCE, ENGINEERING AND TECHNOLOGY

Volume 5, Issue 1, January 2022



INTERNATIONAL
STANDARD
SERIAL
NUMBER
INDIA

Impact Factor: 5.928



9710 583 466



9710 583 466



ijmrset@gmail.com



www.ijmrset.com



Offence of Outraging the Modesty of Women in India

Dipika Jamatia

LLM, NET Cleared in 2019, Department of Business Law, National Law Institute University, Bhopal, India

ABSTRACT: Chapter XVI of the Indian legal code deals with offences touching the shape below the aforementioned Chapter, Sections 349 to 374 square measure concerning offences committed victimisation criminal force and assault. Section 354 provides for Associate in Nursing offence that is committed against lady by victimisation assault or criminal force to outrage the modesty of girls. The offence below section 354 is alleged to be accepted if the subsequent necessities measure are present within the act committed:

Use of assault or criminal force against a lady. Intention to outrage the modesty of that lady. United Nations agency is taken into account as a lady below this section? Section 10 of IPC defines the term woman' as a feminine person of any age. Therefore, the offences below Section 354 are often committed against lady of all ages. The law (Section 354 IPC) makes it a special crime to use force against a lady, or maybe threaten to use force, if the intention is to 'outrage her modesty'. It treats it additional seriously than traditional and criminal force by permitting the police to form arrests for such crimes while not a warrant. The law doesn't make a case for what 'outraging modesty' suggests that. Courts sometimes build this determination by watching all circumstances close the incident. The Supreme Court stated 'modesty' as female decency and a virtue that girls possess as a result of their sex. The penalization is jail time of between one and 5 years at the side of a fine. Important: it's not enough that the victim's modesty is angry. It associates degree offence only if the suspect supposed or knew it to be probably that the acts in question would outrage the victim's modesty. Even amidst the covid-19 imprisonment, crimes against are reportedly increasing. Force has inflated manifold and a number of other atrocious crimes against ladies are being committed at identical pace. Therefore, the case with the security of ladies doesn't appear to possess modified abundant, despite a curfew being in situ. On the eighteenth of could, a 47-year-old man was reserved for allegedly molesting a young adult woman and simply 5 days previous, on the thirteenth of could, a case was registered below section 354 of the IPC against the father figure of a woman whom he allegedly abused. Therefore, instances of molestation or in alternative words, instances of a woman's modesty being incensed are being rumored ever additional.

KEYWORDS: offence, modesty, outraging, women, India, victim, molestation, abused, crime, law

I. INTRODUCTION

Section 354 of the IPC, 1860 deals with associate degree assault or criminal force to lady with associate degree intent to outrage her modesty. Until 2007, there was an excellent deal of ambiguity on what implanted a lady's modesty and diverse speculations regarding the definition of modesty of a girl were gift. Several cases were determined whereas not an exact definition of a woman's modesty.[1.2]

However, the Supreme Court in inside the case of Ramkripal v. State of Madhya Pradesh, printed modesty by giving birth down that the essence of a woman's modesty is her sex'. Therefore, associate degree crime against women that falls wanting penetration would represent an offence beneath section 354 of the IPC, increasing the reach of crimes falling beneath this section.

It had been extra command inside the judgement that the word modesty' is not to be understood with relation to a particular victim of associate degree act, but as associate degree attribute associated with female person who reflects a particular class. Therefore, modesty is regarding a female individual of any age with differing degrees of what would represent modesty at a given age of a female. These cluster of words can usually be substituted with molestation which suggests to force physical and usually sexual contact on someone and to make unwanted or improper sexual advances towards someone and a female of any age is misunderstood. Section 351 of the IPC, 1860 lays down what constitutes associate assault. The section states that:



Whoever makes any gesture, or any preparation intending or knowing it to be attainable that such gesture or preparation will cause someone gift to apprehend that he UN agency makes that gesture or preparation is on the brink of use criminal force to that person, is speculated to commit associate assault. Whereas section 350 defines criminal force as a result of the intentional use of force to cause injury, concern or annoyance to the person whom such force is used. It's to be noted here that existence of associate intention associated information is that the most ingredient for associate degree offence to be section 354 of the IPC. Therefore, if someone unknowingly or accidentally commits against the law which could be the extent of the section, he cannot be command liable. Moreover, absence of reaction or revenge from the victim is not a determinative to absolve the litigant of his liability. An extra section of the IPC, section 509 deals with words, gestures or acts speculated to insult the modesty of a woman. Offences of a less severe degree as compared with section 354 are often the extent of this section. This section is in addition commonly spoken as a result of the eve-teasing section' and finds its place to a lower place chapter XXII of the IPC that deals with offences of criminal intimidation, insult and annoyance.[3,4]

II. DISCUSSION

The foremost distinction on sections 509 and section 354 of the IPC is that, once associate act goes on the so much facet inflicting insult to the modesty of a woman, with a clear threat of physical hurt to the lady that in addition shocks the sense of modesty, such associate offence is addressed by section 354 and therefore, offences to a lower place section 354 are extra serious in nature as compared with those falling to a lower place section 509 of the IPC.[5,6]

Salient features:

Therefore, the salient choices of associate offence falling below Section 354 of the IPC, 1860 are as follows:

An act or omission ought to be committed against a woman.

The litigant ought to have abused or used criminal force against the victim.

There ought to be associate intention on the a part of the litigant to outrage the modesty of the woman or associate degree data that such associate act would outrage her modesty.

Absence of reaction or revenge from the victim is not a determiner to absolve the litigant of his liability.

A female of any age, at the side of associate are going to be slapped and such acts comprise the scope of this section. Although, the degree of modesty related to infant differs from the degree of modesty associate feminine possesses, the severity of the act and intention/knowledge of the litigant ought to lean the utmost thought and not the state of mind of the victim.[7,8]

A person committing associate offence below this section is accountable for associate imprisonment of either description for a quantity of one to five years, and is in addition in danger of pay a fine. The victim is entitled to compensation.

An offence below this section is cognoscible, non-bailable and triable by any court.

The essence of a woman's modesty is her sex.

Landmark Judgements:

State of Punjab v. Major Singh, AIR 1967 SC 63:

In this case, the suspect interfered with the epithelial duct of a seven and half month-old kid and was tried beneath section 354 of the IPC. The Patna and Haryana high courts command that the modesty of the victim couldn't be angry because the victim was of a young age. However, in associate degree attractiveness to the Supreme Court, the apex court command that data or intention on the part of the suspect is that the causal factor associate degreeed not the sentiments of the lady against whom such an act is committed. Moreover, wherever such associate degree intention or data has not been proved, the proof of the actual fact that the lady felt her modesty was angry doesn't represent associate degree offence, as associate degree intention or data on the part of the suspect is that the essential ingredient.



Therefore, the attractiveness was allowed and therefore the suspect was guilty by the Supreme Court and was awarded rigorous imprisonment for an amount of 2 years. A fine of rupees 1000/- was to be paid by the suspect. Out of that rupees 500/- was paid as a compensation to the kid.[9,10]

Ramkripal Singh v. State of Madhya Pradesh, AIR 2007 (crl.) SC 370

In this landmark case, the Supreme Court finally outlined modesty by egg laying down that the essence of a woman's modesty is her sex. The term modesty in respect to a girl was outlined as "Decorous in manner and conduct; not forward or lower; Shame-fast; religiously chaste". The suspect pleaded that he run a lighter penalty which he be lest command liable beneath section 354 for outraging a woman's modesty. However, as penetration had taken place, the Supreme Court command that it brought about rape. Solely acts that stop in need of penetration constitute the scope of section 354 of the IPC. Therefore, the attractiveness was pink-slipped.

Ram Pratap v. State of Rajasthan

Where the suspect allegedly entered the victim's house once she was alone and made her to lie on a cot and misbehaved along with her, however no preparation to commit rape was done, the suspect was command guilty beneath Section 354 of the IPC, 1860.

Critical analysis:

Section 354 makes Associate in Nursing assault or use of criminal force against a lady with Associate in Nursing intention to outrage her modesty a punishable offence. Moreover, the intention or information of the suspect is that the causal factor and also the state of mind of the victim.

In addition, it's to be noted here that Section 354 is gender-neutral Associate in Nursing even |a lady, a girl will outrage the modesty of another woman because the nomenclature of the section goes "whoever assaults or uses criminal force" the most ingredient of the offence is an intention to outrage a woman's modesty. Therefore, the circumstances of every case are taken into consideration to carry an individual liable beneath this section.[11]

Since, the state of mind of the victim isn't heeded a lot of importance, there are many instances of the section being victimised. Thus, wherever a person accidentally touched a woman's belly during a running bus and there was no such intention on the part of the suspect to outrage the woman's modesty, he was control not guilty'.

Therefore, these are often over that section 354 addresses offences against ladies that falls wanting rape and thus, grants protection against exploitation of ladies. Crime against ladies are increasing and laws protective ladies are crucial. It will so be over that this section serves its purpose right in granting protection to ladies against whom such indecent and immoral acts are committed.

III. RESULTS

For a woman, her self-respect and dignity have consistently been her topmost priority. Thus considering it under the Indian Penal Code (1860) Section 354 has been enacted to safeguard the dignity of the woman from disparaging remarks and other obnoxious assault which may either expressly or implicitly outrage her modesty.

According to Section 354:

Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years or with fine, or with both.[12]

Thus it has been made a non-bailable offence under the Criminal Law Amendment Act, 2013.

Provision of Punishment

2013 act 13 has substituted the punishment and fine provided underneath the aforesaid and Section 6 provides:



Shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.

The following essentials are sufficient to establish the offence:

From the side of an accused, section 354 requires basic knowledge on his part that his act is likely to cause harm to a woman's modesty.

The act on his behalf must be an outcome of the criminal force or an assault used by him.

The expression outrage the modesty is a sensitive term that has been reliant upon various understanding and interpretations since what constitutes an outrage to female modesty is nowhere defined thus what goes inside its ambit depends upon the facts of a case.

Modesty is defined as something lewd or scrupulously chaste as per the Oxford dictionary.

In general, the term modesty means the sexual dignity of a woman which is acquired by her since the time of her birth. The word outrage implies a physical act.[13]

Meaning of term modesty in the context of Section 354 of IPC

The Supreme Court defined modesty "as the essence of a woman's modesty is her sex. The culpable intention of the accused is the crux of the matter".

Examples- include demand for disrobing her, defamatory remarks, forcefully dragging her to commit sexual assault and not limited to voyeurism are acts that would come under the ambit of outraging the modesty of a female.

IV. CONCLUSIONS

Assault or criminal force to woman with intent to outrage her modesty.- Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, [shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine.] Outraging the modesty of a woman is an offence provided there is use of assault or criminal force with the intention for the purpose or knowing it likely that he will thereby outrage her modesty. The offence under this section is different from rape and is of less seriousness than the one under Section 376. Ingredients The section has two main ingredients: (i) Assault or use of criminal force to a woman. (ii) Intention of the actor or his knowledge that he would thereby commit this offence.

In ordinary language "modest" means freedom from conceit or vanity or propriety in dress, speech and conduct. The word "outrage" has affinity with extremely rude, violent, injurious or insulting act on one hand and it is connected with guilt, culpability, criminality and deviation from rectitude on the part of the person committing assault or using criminal force on a woman.[14]

REFERENCES

- 1) The Indian Evidence Act, 1872.
- 2) Laxmi v. Union of India, AIR 2014 SC 427.
- 3) Ravinder Singh v. State of Haryana, AIR 1975 SC 856.
- 4) Lalita Kumari v. Government of U.P., AIR 2013 SC 243.
- 5) Amit Kumar v. Joginder Singh, CRM-M-41761-2015 (O & M), 2019.
- 6) R.K. Tejas Motwani, Analysis of Section 354/355 of Indian Penal Code, SEMANTIC SCHOLAR, (last accessed on July 21, 2020, 8:22 a.m.), Available at: <https://www.semanticscholar.org/paper/Analysis-of-Section-354%2F355-of-Indian-Penal-Code-Motwani/cfeb7f7d78dc3656dcaedb269474c335b8d4e90>.
- 7) Vidyadharan v. State of Kerala, AIR 2004 SC 215.
- 8) Rupan Deol Bajaj v. Kanwar Pal Singh Gill, AIR 1996 SC 309.
- 9) Arnesh Kumar v. State of Bihar & Anr, AIR 2014 SC 273.
- 10) Ibid. 51 Mohinder Singh v. State, (2007) 1 SCR 1185.



- 11) Fatima Riswana v. State, Appeal (CrI.) 61-62 of 2005
- 12) Vishakha v. State of Rajasthan, AIR 1997 SC 3011.
- 13) P.S. A Pillai, Criminal Law (13th ed., LexisNexis, 2017).
- 14) State of Himachal Pradesh v. Prem Singh, AIR 2009 SC 1010.



INNO SPACE
SJIF Scientific Journal Impact Factor
Impact Factor:
5.928

ISSN

INTERNATIONAL
STANDARD
SERIAL
NUMBER
INDIA



INTERNATIONAL JOURNAL OF MULTIDISCIPLINARY RESEARCH IN SCIENCE, ENGINEERING AND TECHNOLOGY



9710 583 466



9710 583 466



ijmrset@gmail.com

www.ijmrset.com