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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

THE OFFENCE RELATING TO OUTRAGING THE MODESTY OF WOMEN IN INDIA

AURTHORED BY - AKHILESH KUMAR RAJAN

ABSTRACT

What is meant by modesty to be a woman's sexual dignity—the core of her "sex" modesty. Thousands of words—exactly what a woman's modesty is all about—were tried in courts for more than a century. Eventually, the court determined the woman's modesty after a great deal of effort, cases, etc. I'll be discussing "The offence of outraging the modesty of women in India" in this article. We can comprehend this idea through an introduction that explains what modesty means, how modest women should behave, what constitutes essential ingredients, etc., along with some examples. Next, we can examine the laws pertaining to this offense, such as section 10, 354, 354A, 354B, 354C, 354D, and 509 of the Indian Penal Code, 1860. Next, we can examine the rates of crimes involving outrage against modesty, following the author's argument. Finally, we can gain a more admirable understanding of this concept through a few high court and supreme court cases. Finally, provide a conclusion to wrap up the article.

INTRODUCTION

The trait of modesty is not trying to draw attention to yourself or brag to others about your skills.

Example: - Priti was expressing her appreciation for her friend, but she chooses not to acknowledge her or appears to believe that she is too significant for Priti. This is another example of a woman dressing and acting in a way that is meant to deter sexual interest, rather than to offend women's modesty. Women are born with a sexual dignity that is embodied in their modesty. There is no universally accepted formula for determining a woman's boundaries of sexual honour since modesty is a subjective concept that applies to all women. It is an attribute that women have because of their sexuality.

A physical act is what is meant by outrage. Regardless of a woman's age, occupation, or state of wakefulness or sleep, she always has the modesty to be outraged. Any contact with a woman's private area that is not acceptable to her without her consent can be considered a violation of her modesty.

However, there are a few necessary components:

- i. When determining if an accused person has offended a woman's modesty, the woman's response is crucial.
- ii. Accused have assaulted or used unlawful force against a woman in an effort to violate her modesty.

Stated differently, crimes against women that do not involve penetration—which is when they turn into rape—will fall under the definition of outraging a woman's modesty as specified in Section 354.

When that happens, it's rape. In the same ruling, the court decided that whether or not ejaculation occurred, penetration alone was sufficient to constitute rape. The main point of contention is the accused's culpable intention. Although the woman's response is highly significant, its absence is not always deciding.

Example: - A man could say or do anything to a woman, and as a result, she felt embarrassed about her sexuality. Man will then be accountable.

Sections Concerning the Offense of Overragging a Woman's Modesty

Some of the sections found in the Indian Penal Code, 1860 are Sections 10, 354, 354A, 354B, 354C, 354D, and 509.

1. The Indian Penal Code, 1860, Section 10 states:

The meaning of man and woman is discussed in this section. A man is any individual, regardless of age, and a woman is any individual, regardless of age.

Example: - In accordance with Section 354 of the law, a 2-year-old girl who experiences sexual harassment will be treated as a woman.

2. The Indian Penal Code, 1860, Section 354 states:

Whoever assaults or uses criminal force against a woman knows that she will be outraged by his actions, and he does so with that intent.

If a man violates this section, he faces a minimum one-year prison sentence, which may be extended to five years, as well as a fine.

The Indian Penal Code, 1860, Section 354 contains a few necessary components:

- i. It is appropriate to use force or assault.
- ii. On a woman, use assault or other unlawful force.
- iii. Attempt to outrage a woman's modesty by attacking her or using unlawful force against her.

The offense is cognizable and not subject to bail. Compounding is permitted, but only with the court's approval. Any magistrate with subject matter jurisdiction may try this.

Example: - In an attempt to insult B's modesty, A, the female employee's boss, pushes her in his direction and uses force against her. Therefore, A is subject to jail time and a fine under this section.

The 2013 Criminal Law (Amendment) Act states. In the Indian Penal Code, 1860, sections 354A, 354B, 354C, 354D, and 509 were added to explain disrobement, voyeurism, and other related topics.

The offender is held accountable under these particular sections, not ones that are analogous. The need to update the law in light of the new crimes, new society, and new generation. Therefore, new kinds of cases are found and new kinds of sections are inserted as time goes on.

3. The Indian Penal Code, 1860, Section 354A states:

Sexual harassment and its penalties are covered in this section. A man may engage in any of the following behaviors: entering into a physical contact, expressing unwanted sexual interest, demanding or requesting sexual favors, exposing a woman to pornography without her consent, or, finally, making sexually suggestive comments with the intention of offending the woman's modesty. He will be found guilty of the crime. Who is going to be punished for the offense of "making sexually colored remarks"—a fine, a year in jail, or both? A harsh three-year prison sentence, a fine, or both

may be imposed on anyone found guilty of any of the above offenses, with the exception of this one.

This offense is punishable by law and subject to bail. Any magistrate has the authority to try this offense-related case. It is not possible to compound this offense. This section specifies that anyone found guilty of this act faces consequences. It is not limited to any both private and public morals. It forces a woman to spend an increasing amount of time at home and raises the anxiety of being harassed.

Example: - A girl, six years old, is made to watch porn by a man. Thus, the man is held accountable under this section and may face a three-year prison sentence, a fine, or both. The girl is treated as a woman in this section.

4. The Indian Penal Code, 1860, Section 354B states:

This section discusses the intention to undress a woman. Any man who assaults, coerces, or aids and abets in such an act with the intent to strip the woman of her clothing or force her to be in her undies faces a minimum sentence of three years in prison, a maximum sentence of seven years, a fine, or both.

There are some necessary components:

- Assault or use of unlawful force against any woman, or
- For a woman to be forced to be nude or to be undressed, there must be aiding, assaulting, or using criminal force.
- Aid any of the actions listed above.

This section's offense is punishable by law, but it is not subject to bail. This section allows any magistrate to hear a case.

Example: - When a model is asked to undress for a photo shoot by a male photographer and she shows no interest, he uses unlawful force to force her to comply. As a result, he would be responsible under this clause.

5. The Indian Penal Code, 1860, Section 354C states:

Voyeurism offenses are discussed in this section. Any woman who engages in her private activity and expects that she won't be seen or observed by others, or by anyone acting on behalf of another, faces the possibility of imprisonment for up to three years if they watch or take intentional photos of women engaged in their private activities and do so on behalf of an offender or another person acting on their behalf. and be punished for a second or subsequent conviction, which carries a maximum sentence of seven years as well as a fine.

Explanation: - A private act is any act of sexual activity that is not typically done in public, such as observing someone in a setting where privacy is expected and the victim's breasts are exposed or only partially covered.

Explanation: - In cases where the victim consents to the photo being taken but not to its distribution to third parties. Anybody who distributes an image without permission is subject to liability under this section.

Under this section, an offense is cognizable upon initial conviction and subject to bail. At a second conviction, the offense will be cognizable and not subject to bail.

Example: - Someone takes a picture of a nude woman who has given him permission to share it with no one else. However, he forwarded those photos to his friend. Thus, he would be accountable in accordance with this clause.

6. The Indian Penal Code, 1860, Section 354D states:

Stalking is covered in this section.

If a man follows, contacts, or even makes an attempt to contact a woman with the intention of engaging in personal interaction, even after being aware that the woman has demonstrated a blatant lack of interest in him.

identify any electronic device that woman may be using, be it email or the internet. The offense of stalking will be deemed to have been committed.

Stalking has certain exceptions:

- If someone stalks a woman because they think they are being watched by the government, they are not committing the crime.
- if someone obeys every requirement or condition set forth by any law.
- if the stalking behaviour was appropriate, just, and fair.

Every person found guilty of stalking faces a maximum five-year prison sentence as well as a fine upon initial conviction. If the offense is committed again, there will be a five-year maximum sentence of imprisonment as well as a fine.

According to this section, the offense committed is cognizable and bailable upon first conviction. However, upon subsequent conviction, this offense is both cognizable and nonbailable under this section. Any court may hear a case that arises under this segment.

Example: - A, B's college classmate. B is not interested in A, but A is. Additionally, B makes it obvious that she is uninterested, but A follows her everywhere, which makes her fear B. Therefore, A will be accountable for this sec.

7. The Indian Penal Code, 1860, Section 509 states: -

This section addresses words, gestures, and actions meant to belittle a woman's modesty. When someone says or does something that could be interpreted as disrespecting a woman's modesty, and if a woman can see or hear those words, sounds, or objects, then that person has violated her right to privacy. After that, the offender faces a fine in addition to a term of simple imprisonment that can last up to three years.

There are certain necessary components: -

- Insult someone by speaking, gesturing, making noises, or displaying any object or any of them.
- Encroach on a woman's privacy.
- Intent to make fun of a woman's modesty.

This part can be challenged and is subject to bail. The magistrate will triage cases filed under this section. No compounding is allowed in this section.

Example: - The modesty of a female passenger on a bus is insulted by a gesture made by the driver.

He will therefore be held accountable in accordance with this section.

CASE: -

State of Punjab v. Major Singh 1966 SCR (2) 286

In this case, the question of whether the accused's act of injuring the minor's private area constituted an offense of outraging her modesty was raised. The court then decided that if the defendant has harmed someone or violated their privacy and thinks they acted with good intentions, they should be held accountable for their actions in the eyes of a reasonable person. If the accused feels that the act was performed in a way that makes him believe that he actually offended a woman's internal modesty in bad faith to be accountable.

CONCLUSION: -

Women are protected under these sections in situations other than rape. Every day, more and more cases of sexual harassment in India are being reported to the authorities. Therefore, it is the duty of the court to defend women against the accused by administering justice and punishment to them, as well as to protect men by enacting new laws that amend existing provisions. The 1860 Indian Penal Code lacks a clear definition of outrage regarding women's modesty.