

Kishan Lal Vs. State of Hariyana

[1982 SC 1252]

“One socially sensitized Judge is a far greater Armour against gender outrage than long clauses of section of the law containing all the protection therein.”

State of karnataka V. G. Narayan Murthy

1998 Cri. L. J. 2481 (Kant.)

“ It is necessary for the Courts to appreciate the trauma, which a victim of any age, under-goes in these situations when one has to virtually relive the horrifying incident and in the background of emotional struggle the very serious limitations when it comes to the question of describing before the Court as to what happened. It virtually means that the victim has to almost re-enact the incident, particularly while facing cross examination which is one of the most traumatic aspect, even in cases where due to passage of time, victim has to some extent recovered.”

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“This is, therefore, not a category of case where Courts are to look for elaborate picturesque and computer like precise description of every gory detail of the incident. Even if the evidence is sufficient to convey to the Court that sexual abuse of a particular type had taken place, that should be more than sufficient. - - - Again the trial judges will have to show more interest in avoiding ‘failure of justice’ situations. They are not to function as mute helpless spectators, when prosecutions are sabotaged, we expect them to actively prevent such disasters.”

State of Punjab v. Gurmit Singh(1996) 2 SCC 384

“There has been lately a lot of criticism of the treatment of the victims of sexual assault in the Court, during their cross examination. The provisions of Evidence Act, regarding relevancy of facts, notwithstanding, some defence counsels adopt the strategy of continual questioning of the prosecutrix as to the details of the rape. The victim is required to repeat again and again the details of the rape instead not so much as to bring out the facts on record or to test her credibility but to test her story for inconsistencies with a view to attempt to twist the interpretation of events given by her, so as to make them appear inconsistent with her allegations.

State of Punjab v. Gurmit Singh(1996) 2 SCC 384

“The Court therefore should not sit as silent spectator, while the victim of crime is being cross- examined by the defense, the Court must effectively control recording of evidence in the court, while every latitude should be given to the accused to test the veracity of the prosecutrix and the credibility of her version through cross examination, the Court must also ensure that cross examination is not made a means of harassment and causing humiliation to the victims of crimes.

A victim of rape, it must be remembered, has already undergone a traumatic experience and if she is made to repeat again and again, in unfamiliar surroundings what she had been subjected to, she may be too ashamed and even nervous or confused to speak and her silence or a confused stray sentence may be wrongly interpreted as “discrepancies and contradictions” in her evidence.

State of Punjab v. Gurmit Singh

(1996) 2 SCC 384

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Even in cases, where there is some acceptable material on the record to show that the victim was habituated to sexual intercourse, no such inference like the victim being a girl, of “loose moral character” is permissible to be drawn from that circumstance alone.

Even if the prosecutrix, in a given case, has been promiscuous in her sexual behaviour earlier, she has a right to refuse to submit herself to sexual intercourse to anyone and everyone because she is not a vulnerable object or prey for being sexually assaulted by anyone and everyone. No stigma, like the one as cast in the present case should be cast against such a witness by the courts, for after all it is the accused and not the victim of sex crime who is on trial in the court.

Lillu @ Rajesh and Anr vs. State of Haryana

MANU/SC/0369/2013

The conviction U/S 376 IPC was recorded on the medical evidence of the doctor, who has conducted two finger per vagina test, showed that hymen was completely torn. The doctor stated the possibility of prosecutrix being habitual to sexual intercourse cannot be ruled out. Apex Court held that sole testimony of prosecutrix itself is enough to record a conviction, when her evidence is read in its totality and found to be worth of reliance. As prosecutrix was a minor, the question as to whether she was habituated to sexual activities or not, was held to be immaterial to determine the issue of consent. It was further held that even if the victim was previously accustomed to sexual intercourse, it cannot be the determinative question.

Lillu @ Rajesh and Anr vs. State of Haryana MANU/SC/0369/2013

According to apex court, even if the victim had lost her virginity earlier, it can certainly not give a license to any other person to rape her. The apex court held that “Undoubtedly the two finger test and its interpretation violates the right of rape survivors to privacy, physical and mental integrity and dignity.” Medical procedures should not be carried out in a manner that constitute cruel, inhuman or degrading treatment.....

Kundulubala Subramanyam

Vs.

State of Andhra Pradesh

[(1993) 2 SCC 684]

“If the laws are not enough to combat this social evil, the role of Courts assumes greater importance and it is expected that the Courts should deal with such cases in a more realistic manner and not allow the criminals to escape on account of procedural technicalities or insignificant lacunae in the evidence.”

Jaikumar Vs. State of Madhya Pradesh

[(1999) 5 SCC 1]

“Law Courts exists for society and ought to rise up to the occasion to do needful in the matter and as such ought to act in the matter so as to sub-serve the basic requirements of the society.”

Hardwara Bhoginbhai Hirjibhai

Vs.

State of Gujarat

[(1983) 3 SCC 1073]

“Human goodness has limits. Human depravity has none. However, the need of the hour is not exasperation or helplessness, but to evolve the law so as to make it more sensitive and responsive to the demands of time in order to resolve the basic problems.”