

FALSE ACCUSATION AND MEN – PILLORIED INNOCENCE

Written by Desikan GV

Research Scholar, Alliance School of Law, Alliance University, Bengaluru, Karnataka, India

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ABSTRACT

Any person, irrespective of the gender, may be falsely indicted of spurious charges. However, there are certain charges that accuses only the men folks. Such charges correspond to grievous offences related to sexual violence and has the potential of ruining the accused's future, if convicted or if the case remains open for longer duration. In its introduction, this paper discusses various legal provisions that applies specifically against men and provides an overview of statistics related to false accusation in India. Considering the victim's view point as well, this paper discusses the flip side to establish a justification on the need for an unbiased view on the issue at hand. Referring to various instances of false accusations proven in the court of law, this paper provides the insights of various authors on the reasons behind false accusations. Intent based classification of the offence and an outline of subjective and objective gratifications are also discussed in this paper. Certain distinctive traits of habitual false accusers are explained in this paper. This paper spells out the hardship endured by those who are falsely accused of sexual violence and suggests measures in line with the 192nd Law Commission Report and recommendations of various other authors and experts to moving the system forward towards the standards and ideals. In the final part, the possible subjugation through out of court or out of police system settlements are discussed which is followed by a concluding note placing a request to the lawmakers for bringing in the necessary changes as advocated and referenced in this paper.

INTRODUCTION

Any form of complaint to cast an unlawful tortuous or Criminal liability on an innocent person is known as fabricated allegation or false accusation. Such allegations are characterized by an ulterior motive to subjugate the guiltless for an unlawful subjective or objective advantage. Any person irrespective of the gender may become a victim of false accusation, however, there are certain sections in the IPC and IT Act that may be in combination be used only against men. Section 304b (Dowry Death), Section 498a (Cruelty Against Women), Section 375 (Rape), Section 354 (Outrage the modesty of a woman), Section 354 (A) - Unwelcome advances, Section 354 (B) - Disrobing a woman, Section 354 (C) - Voyeurism and Section 354 (D) – Stalking are the relevant sections in the Indian Penal Code 1860 (IPC) that may be exploited by any amoral member of the women communities to intimidate the male folks and may even be used to subject them to unjust environment and treatment. Section 65 of the Information Technology Act 2000 in mish mash with Section 354 (D) of IPC impose criminal liability on men. Though the IT Act 2000 is gender neutral, but when combined with one of the aforementioned provisions of the IPC, turns out to be a weapon of treachery to victimize innocent men.

According to honourable Justice Subramonium Prasad, false accusations may destroy the life and harmony of the accused leaving him with limited or no career opportunitiesⁱ. Additionally, the judge pointed out that (i) After losing the respect and trust in the society the accused cannot face his own family and remains stigmatized for life (ii) Allegations under Section 376 of IPC cannot be made at the drop of a hat for settling personal scores as such allegations offscour the accused (iii) In addition to the foregoing challenges imposed on the accused, such fabricated allegations waste the valuable judicial and police time which subsequently results as an abuse to the process of law (iv) People who file such fabricated accusations of rape shall not be let go unpunished as it is saddening and alarming that the number of false rape accusations of offences under Section 354, 354A, 354B, 354C & 354D to arm-twist the accused to subjugate them for subjective or objective demands of the complainant has been increasingⁱⁱ.

In spite of various judicial pronouncements condemning false complaints and the courts expressing its concerns over misuse of female protective legal provisions, the number of false accusations concerning sexual assaults have been on the rise. As per the National Crime

Records Bureau (NCRB) statistics report, there was about 74% of rape cases resulted in acquittals out of which 40% of cases were filed by the girl's family as a result of the girl and boy eloping away and another 30% of the cases were filed by women who claim to have been in coitus due to reneged betrothalⁱⁱⁱ. On 26 April 2022, the Allahabad High Court imposed a fine of Rs.10,000/- on a woman from Prayagraj for filing a false rape complaint against her husband and stated that the fine was imposed as the complainant had abused the legal and judicial system in addition to wasting their time^{iv}. While false accusations are sometimes maneuvered to settle scores of casteism in India, similarly they are plotted to retaliate claims of racism in the United States, wherein white women falsely accuse African American men that often ends up in wrongful convictions^v. Some androcentric patrons even claim that the number of such dishonest indictment has increased after the enactment of The Criminal Law Amendment Act 2013, that broadened the scope of section 354 and 375 to include certain new offences. These patrons claim that these amended provisions were misused which is evident from the acquittal statistics which shows that the acquittal rate in rape cases during 2014 was 46% that shot up to 75% in 2013 and was expected to be at around 70% in 2014 as well^{vi}.

THE FLIP SIDE

According to Senior Advocate Aman Lekhi, the law allows prosecution against false indictment under 'penalties for perjury', however, the Courts doesn't routine such reprimands as it could create a sense of trepidation among the genuine victims^{vii}. Contradicting the androcentric patrons, Oxford philosopher Amia Srinivasan says that it is far rarer to be falsely accused of rape than the act of rape itself^{viii}. However, such prejudices, though sounds statistically sensible, yet fails to deter the androcentric patron's views as such perspectives preclude the principles of law and justice.

According to Geetika Mantri (2022), "Even among the so-called 'false' cases, there is a lot that the data does not say, including the factors that may lead sexual violence survivors to withdraw their complaints, turn hostile during investigation or trial, or settle outside court. However, that does not mean that the violence did not happen. In many cases, the case may fall through because the rape case has been filed by disapproving parents of an eloped couple"^{ix}. Looking from the other side, the Complainants too come under severe pressure, if they lack emotional

support and financial backing. Advocate Vrinda Grover who has been representing the victims of the Muzaffarnagar gangrape violence in 2013 has stated in an interview that, “The chargesheets were filed, and initially, they even got favourable outcomes from the courts. However, the recording of evidence by the fast-track courts did not commence. It is on record that one of the women is saying, “please record my evidence because I will not be able to withstand the pressure I am facing”. Eventually, she stopped being in touch with me and the next thing I knew was that she had turned hostile. We are in 2022 now; while one of the women passed away, out of the remaining six, only one has not yielded to the pressures she is facing. I had to relocate her for her safety and wellbeing. The final arguments are yet to conclude in the case. How can the data tell you what these women are facing? Should a sexual violence survivor put her life on the line so she can access redress?”^x.

In many of the sexual assault cases the real victims are often pressurized not just by the accused’s aide but also by the victims’ parents or other known family members, relatives or friends. The most commonly used phrases are, ‘avoid messing with these kind of people’, “why do you want to risk everyone’s life?”, ‘don’t throw mud on yourself’ and there are outsider’s versions of advises from accused’s angle such as ‘think about the wife, kids and family of the accused’. All these add up to the torment that the victim is already enduring and further weakens the victim’s resolve to justice. According to National Family Health Survey conducted in 2015-16, an estimated 99.1% of sex violence cases go unreported with the husband being the perpetrator in most of such cases^{xi}. It further adds that an average Indian women is 17 times prone to being sexually abused by their husband than by others^{xii}. Eliminating marital rape and assaults from the survey data, the reporting of sexual violence committed by others is still less at only about 15% of the probable total number of incidents^{xiii}.

Statistically, all the data suggest that the proportion of rape victims who are exposed to adversities and tribulation are much higher than that of those male exposed to false accusations. Also, it is an undeniable fact that the rape victims have to endure pain throughout their life which could be equal to or, in many cases, more than that they have endured during the act of violence, however, it shall not be a reason to disregard the entreaty for a gender neutral sex offences provisions or any such law to protect the men from being a victim of false accusation. There is no gadget to measure the pain that are subjective to every individual and that varies

from person to person. Therefore, any attempt to miniscule the grief of a falsely accused person to that of a rape victim is idiomatically comparing an apple to an orange. Both need solace, support, and safeguards to the maximum possible extent, as they are duly entitled to, as per the promises made by the society.

FABRICATED INDICTMENTS IN INDIA

A shocking revelation of the Delhi Commission for Women (DCW) based on statistics shooked the nation as it stated that 53.2% of the rape cases recorded in Delhi between April 2013 and July 2014 were found to be cases of false accusation^{xiv}. Out of the 2,753 complaints registered during this period, only 1,287 of them were found to be genuine and the remaining 1,464 were found to be indicted falsely^{xv}. The following are a few cases, the tip of the iceberg, in which men were falsely accused of sexual violence charges.

- *Indore girl booked for filing false gang rape case* - Following the complaint of kidnapping, gang-rape and attempt to murder, the Pardeshipura Police conducted an investigation and found that the claims made by the girl were baseless and inconsistent. The Police further filed a case under Section 182 of CrPC and Section 211 of IPC against the girl^{xvi}.
- *Vishnu Tiwari Vs. State of UP (CRIMINAL APPEAL No.-204 of 2021)* - Wrongfully Convicted of rape, the appellant Mr. Vishnu Tiwari spends 20 years in Jail before being acquitted by the Allahabad High Court. A case of wrongful conviction by the State, a matter broached by several Courts in their Judgements and observations and also by several legal activists^{xvii}.
- *MP woman falsely accused 4 of her neighbours of gang rape* - A 46-year-old woman in Madhya Pradesh and her 29-year-old son-in-law falsely accused 4 of their neighbours of gang rape, because the woman did not get along well with them. The investigation revealed that they made up the evidence to secure a conviction. They were sentenced to 10 years of imprisonment for fabricating the evidence through criminal conspiracy and six months of imprisonment for giving false information to a public servant^{xviii}.
- *UP's Ghaziabad woman files false 'rape of a minor' complaint against neighbour* – The woman had accused her neighbour of raping her minor daughter at night. The

accused identified as Rajat was arrested under IPC and POCSO act. The special court judge Shri. Mahendra Srivastava imposed a fine of Rs. 20,000/- after it was found out that rape allegation was false based on the evidence during the trial^{xix}.

- *FIR against a Woman from Maharashtra for lodging false gang-rape complaint against two men* – In a case out of the common, the Magistrate Court in Satara ordered the Police to file an FIR for perjury against a woman who filed false gang-rape complaint against two men. The woman had accused that she was raped at an isolated place in a car by the two men through a promise of a job^{xx}.
- *Father spends 3 years in jail against a false rape charge by his own daughter* – Induced by her uncle, a minor girl files false rape charge against her own father. The father got acquitted after spending 3 years in jail. The uncle who induced the charge was sentenced to 1-month imprisonment with a fine of Rs. 50,000/-. The father was given 50% of the fine amount as a compensation^{xxi}.
- *Mumbai court acquits 52-year-old man accused of raping minors* – Being afraid of the accused that he may inform her husband about her illicit relationship, the woman used her minor daughters to file a false complaint under POCSO. Having spent 2 years in prison, the 52-year-old man got acquitted after the truth was exposed^{xxii}.
- *Woman fakes gang-rape story to marry boyfriend* - A woman from Nagpur complained that she was raped by two persons at an isolated area in Nagpur. The police, after the due investigation, arrived at a conclusion that it was a made up story by the girl, which she had eventually accepted to, so that she can marry her boyfriend^{xxiii}.
- *Ayushi Bhatia Serial False Rape Case* – Popularly referred to as Ayushi Bhatia honey trapping scam, a 22 years old Delhi student confessed to her crime of accusing men of bogus sexual assault for extorting money. The recurring pattern of crime was identified. The girl used to meet people on dating apps, gyms, clubs, social media etc. Then call them for an in-person meeting, indulge in consensual intercourse followed by intimidation of a complaint of sexual violence until they succumb to her demands^{xxiv}.

Once accused with a rape charge, the impact such charge could have on the innocent's mental health, respect, repute and career is beyond recuperation as the irresolute impression that has fallen on the individual doesn't go away in a trice even after the accused being adjudged not

guilty and acquitted. Those who are falsely charged are social outcast forcing them to remain in consternation or commit suicide^{xxv}.

WHYS AND WHEREFORES

The sense and motivation behind false accusation has always remained and shall continue to remain a contentious subject matter for the cognoscenti particularly in the legal fraternity due to the dynamics of psychology or human behaviour surrounding them. According to De Zetter et al. (2017), the reasons behind false accusations may be distinctly categorized as for material gains, proving an alibi, personal or political vendetta, seeking attention, acquiring sympathy, relabeling consensual sex to rape to avoid being characterized as shameful, avoiding a feeling of regret after consensual sex due to sorrow, shame and disgust^{xxvi}. It could also be an underlying disturbed mental state that may include false memories associated with such incidents and may also be sexual hallucinations or pathologic lying^{xxvii}. Author Chris French (2010) state that an alleged sexual assault victim may happen to believe that they have been subjected to an assault in several ways like (i) recovery of memory through various memory recovery therapies (ii) perplexity of the victim's memory to assume someone else as the real rapist (iii) memory conformity due to the co-witness discussing their reminiscence of events^{xxviii}. According to Amanda Spake (1991), there have been a number of false accusations of sexual abuse made through facilitated communications in which trained people facilitate disabled or non-verbal person to express themselves^{xxix}. Interestingly there are complainants who responded that they didn't even know why they had falsely accused someone under sexual assault charges^{xxx}.

Research studies have revealed that about fifty percentage of false allegations of rape have been registered by someone other than the purported victim, usually a parent or an elder close relative^{xxxi}. It is unfortunate that sometimes the real victims are also misconstrued to false accusers. According to Author Sandra Newman (2017), there are certain traits that would differentiate the real victim and the false accusers. "Almost invariably, adult false accusers who persist in pursuing charges have a previous history of bizarre fabrications or criminal fraud. Indeed, they're often criminals whose family and friends are also criminals; broken people trapped in chaotic lives"^{xxxii}.

The purpose of false accusation is to attain subjective or objective gratification. Personal and political reasons surrounding financial or other material benefits fall under objective gratification. Non-financial intentions that are related to the psychiatric conditions of the complainant are considered to be for subjective gratification. The purpose behind the complainant's action leading to false accusation could be for subjective gratification, objective gratification or for both. These are just like a person's intention to make quick and huge money to marry a particular woman. The intention to make quick and huge money is objective gratification while the underlying interest to marry a particular woman is subjective gratification. There may be another classification on the basis of addiction or obsession in which the addictions are usually objective and the obsessions are commonly subjective. The tendency of addiction underlying a false accusation by and large associate the purpose to objective gratification, whereas, obsession driven accusations are generally associated with subjective gratification. The most important of all is the sense of gratification which a human mind always prefers to achieve instantly. The term 'instant' is yet another subjective connotation that varies from person to person and time to time depending on the chemical composition of the brain^{xxxiii}.

THE HARDSHIP

For those who are mentally prepared to inflict a false accusation of rape, it is a cinch as the system is prejudiced favouring the complainant. However, a mere allegation of rape ruins the state and stature of the innocent person's life through disproportionate media attention and propaganda even before the individual's guilt is proven in a competent court of law. The penultimate among the various atrocities against the accused is the media trial where the participants become the judge, jury and the executor through self-proclamation of instinctive wisdom and under the disguise of investigative journalism. The court of public opinion readily stands prepared to convict the person even if there exist an iota of doubt. Exoneration too doesn't change this opinion in a shake or two but rather remains a reserved label to be pasted again whenever that iota of doubt resurfaces.

Just like a victim of a sexual assault or violence face Post Traumatic Stress Disorder (PTSD), the innocent being charged of a sexual assault too suffer traumatic stress and the duration of

such stress depends on the trial period as the post incident livelihood of that person depends on the duration of the trial and acquittal. Longer the duration of the trial, longer the incarceration and longer shall be the traumatic stress to be endured by the individual. Only a few of the Courts, recognizing the hardships endured by the innocent, and following the well-established principle ‘*ubi jus ibi remedium*’, dispensed compensation against the right that the individual was deprived of due to false accusation. Though there are provisions to claim certain remedies and benefits under Civil and Criminal provision available to the exonerated individual such as the malicious prosecution, criminal defamation and perjury, not all the falsely accused person have the time and money to file a suit. Only a few of the falsely accused person get these remedies, that too only if the Courts recognize the hardship and order remedies itself. Until exoneration, the message that was disseminated across the board, during every moment of the trial, including the society and the international community is utterly miscomprehended and proselytized. According to Dhruv Dikshit (2015), along with facing chaotic consequences, the individuals who are innocent and are not in conflict with law are portrayed as ignoble perpetrator. This knocks out the existence of men who respect women and law. Clubbing all the men together, it eventually rebrands them as misogynists and chauvinists^{xxxiv}.

In a false rape case, ordering proceedings against a woman, justice Virender Bhat noted that, “men implicated in rape cases undergo humiliation, disgrace and mental agony.... This is a classic example of how men are being implicated in rape cases to settle personal scores. This is a perfect illustration of total misuse of rape laws.....these women, who turn out to be the tormentors, and not the victims, should be punished under the appropriate provisions of law”^{xxxv}. According to Samantha Brooks and Neil Greenberg (2021), “The psychological impact on those wrongfully accused appears to be vast, severe and long-lasting..... The impact of wrongful accusation is frequently complex and long-lasting, with participants reporting negative impacts on their self-identity, reputation, psychological and physical health, relationships with others, attitudes towards the justice system, finances and adjusting to life after their convictions were overturned. These problems appeared to compound each other and exacerbate the psychological difficulties experienced by the wrongfully accused. Negative impacts on family members were also reported, with those close to the wrongfully accused also experiencing stigma and psychological difficulties. For those who were wrongfully imprisoned, traumatic experiences during their incarceration exacerbated the psychological

difficulties they faced^{xxxvi}. The public perceptions about those who are wrongfully accused are generally negative, but it is surprising that the public perceptions about those exonerated were also negative and was not different from the perceptions of actual offenders^{xxxvii}.

THE WAY FORWARD

The 192nd Law Commission Report dealt with the prevention of vexatious litigation which essentially covers the aspects of false accusations of sexual offences. The report emphasized that approaching the courts customarily and without reasonable ground should be deterred through the prevention of vexatious litigation. In *Ramrameshwari Devi Vs. Nirmala Devi*, the Supreme Court stated that, “In order to curb uncalled for and frivolous litigation, the courts have to ensure that there is no incentive or motive for uncalled for litigation. It is a matter of common experience that courts’ otherwise scarce and valuable time is consumed or more appropriately wasted in a large number of uncalled for cases^{xxxviii}. It can be argued that cases like the one stated above could have been avoided had the Central Government implemented the Vexatious Litigants Act as recommended by the 192nd Law Commission Report. The report also noted that the State of Tamil Nadu and Maharashtra already has such acts implemented. The Madras Vexatious Litigation (Prevention) Act, 1949, was replaced by the Tamil Nadu Adaptation of Laws Order, 1969 and the State of Maharashtra has implemented the Maharashtra Vexatious Litigation (Prevention) Act 1971. In spite of many far-sighted legal provisions concerning false accusations, there has been exorbitant surge in the number of false accusations and vexatious litigations in the Courts. Hence there is a necessity to bring in a special and effective legislation to deal with fabricated litigations as recommended by the Law Commission of India in its 192nd report.

Presently, there are no legal restraints against malicious and spurious accusations. The available options such as pressing libel, slander and other civil or criminal defamation charges in falsified cases are also not possible during the pendency of a criminal proceeding. Even if the falsely accused person initiate a legal proceeding against the dishonest accuser, the charges than can be pressed against the accuser, the complainant, are for embarrassment, mental anguish, loss of revenue and ability to earn and loss of reputation^{xxxix}. The need of the hour is

a correct monetary compensation for the humiliation and other damages to the subjective emotional components that are impalpable. If a criminal law against false accusers could turn out to be dreadful for the real victims, then ignoring the hardships of the innocents accused of rape charges shall remain an exhibition of imprudence^{x1}.

CONCLUSION

The agenda behind false accusation is to depict a negative picture of the person and defame him for personal advantages. Protection of the complainant's identity is law and so shall the identity of the accused be protected until proven guilty. This move may act as a deterrent against those who intend to file false allegations impulsively or to use such protective provisions to intimate and extort objective benefits. Sexual assault being a non-compoundable offence, any attempt by the complainant to withdraw the case shall not be allowed and should be carefully reviewed so as to ensure victim protection and for avoidance of an out of court or police station settlement between the parties. The law is clear that no sexual assault case shall be settled out of court or police station as these are considered as an offence against the society and are instituted by the Government against the accused. Therefore, once a sexual assault or violence case is registered with the police department or in a police station, then such complaints shall be disposed off only by a competent court of law with the judgement convicting or acquitting the accused. In this real world, there are humpty number of cases that are pending trial and action due to various reasons such as hostile victims, hostile witness, ignorance on the part of the victim or her family, pressurized victims etc. These may just be a reason quoted underlying an out of court negotiation which the Courts and the Police department should be wary of.

The abuse of legal protection, provided as a safeguard against sexual exploitation, by unscrupulous women are detrimental to the interest with which these provisions were enacted. Just like crime has no religion, cast, creed, race etc., it doesn't have gender too. The law and the legal system shall ensure flawless and responsible investigations before sentencing a man for accusations related to sexual violence or abuse. Lost money can be earned or restored through compensation. But the trust, belief, reputation, emotion, relationship, time and peace

that are lost or damaged due to false accusation cannot be restored by any law or a system in the World. To ensure justice, it is for the lawmakers to consider and bring in suitable amendments, to the existing provisions or to enact new legislations as may be suitable and as recommended by the elite agencies and authors including those referenced and pointed out in this paper.

ENDNOTES

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^{xxxvii} Id. at 36.

^{xxxviii} Ramrameshwari Devi & Ors Vs. Nirmala Devi & Ors., CIVIL APPEAL NOS. 4912-4913 OF 2011.

^{xxxix} Armaan Rizvi, *The legal conundrum of making laws against false rape charges in India*, IPLEADERS (Aug 16, 2022 02:25 PM), <https://blog.ipleaders.in/legal-conundrum-making-laws-false-rape-charges-india/>.

^{xl} Id. at 39.