



**Equality, Justice and Harmony**

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# GEMS OF JUDGMENTS

## PROMOTING LEGAL TERRORISM

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*"Rise of Men's Rights Activists is not an accident; we are born to counter the falsehood and misinformation of feminists and to stop false accusations against Innocent. When Legal Terrorism becomes Law, resistance becomes our duty; we are made not Born as Men's Rights Activists" – Rudolph Dsouza*

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**Summary:** The term "*Gems of Judgments*" covers a broad range of Judgments of High Courts and the Supreme Court of India, where they openly support Legal Terrorism and Women. Most of the Indian law is governed by a British-made colonial legal system, but Indian bureaucrats copied only bad laws and sections and kept them as it is even after some laws were drafted in the 1850s. It is not what law we follow, but the mentality of Judges is of the Stone age. Indian Judiciary has an institutional grudge against men when it comes a case of young women because of the lobby of feminists. There is systematic suppression of atrocities, harassment, false cases, and violent acts committed by women on men. National Crime Records Bureau (NCRB) is counting and collecting crimes on Women only, which is used by feminists to claim and lobby the government to make laws and force the judiciary to give judgments in favor of Women only. It is said in the West men don't report violence against them because of shame, but in India, Men cannot report crimes against them because there is no such law nor authority to take their complaints.

**Key Findings:** Majority of the men are ashamed to come forward to report such daily abuse at the hands of their wives. Most of the time, when a matter reaches the court, Law and Judges think men are criminals by default. Man is guilty because of his gender, not because of the crime. Most of the cases on men ends in acquittal after decades of harassment and get settled after paying huge amount of ransom to women. Especially in false rape cases, once money is paid to the woman, she has no problem to withdraw the complaint. That shows all these cases are filed with one motive, to make money by harassing Men. Judges

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are behind this Legal Crime syndicate, they are so influenced by feminists that even in most of the cases men are acquitted but no false complainant woman is charged for misusing law or legal resources, instead, she gets handsome money for filing cases on men. News report of Judgments we collected reveal that most women used their gender to get away with the crime they committed; as Judges are lenient towards young women, they are rewarded for filing false cases, which encourage women to file more and more cases. Law always portrays women as ABLA NARI (Victim/Innocent) so most of the judgments come in favor of young women.

**Methodology:** Information for this report was sourced from various secondary sources and various news publications which are listed in the Reference List with source after every news report. This report is not a comprehensive review of the available literature but provides a broad overview of the topic. It is an effort to highlight the plight of Men who are neglected by World Organizations, Government bodies and the Judiciary. Even the survey data, study institutes and Media is not ready to publish such abusive one-sided judgments or orders on harassment and killings of Men.

**Introduction:** MyNation analysis of statistics on Gems of Judgments shows the double standard of Judges. The same law is interpreted as per their wish and convenience, terming Man as criminal or guilty. Indian law is so biased if women die or commits suicide within seven years of marriage, even if her husband is thousands of miles away, police will arrest him and start

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investigating. But if a man commits suicide, leaving a death note blaming his wife or her parents, Police will not arrest or do anything against them. If a Woman dies even by accident, news media reports the death as tragic and highlight it on the main page of main stream media. Media trial starts even before police start investigating, and media will blindly blame the woman husband and his family for her death. In India it is often assumed that the women are ABLA NARI, the victim, and men are the perpetrator/abuser. But the evidence collected by MyNation demonstrates that this is a false predomination promoted by feminists and women's organizations.

This is not the end of the story, and the ultimate one comes from Indian courts. The same law is interpreted based on gender. Judgments always comes in Women favor, for example, Adultery is not a crime for a Married woman; she can bring home her lover and make love with him in her husband's bed, the husband has no right to stop her, if he stops her, that is cruelty; but for a man it is a Crime.

We are not telling this for the sake of this article, but we have News and Judgments to prove our claim. This is one example, the tip of an iceberg; there are plenty of gems we have collected as follows.

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### **PREFACE**

In the world, India had a great respect for its rich culture and heritage. India had cultivated cultural diversity and upheld the institution of marriage as the most sacrosanct in all its cultures, regions and religions. But it was an image of yester years. In the last few decades, generation after generation ended up with worst marital relationship issues than never before. The matrimony disputes which should have been resolved within the family by elders and community, who has been living around with the couple and who are witnesses to the relationship turning soar and who can understand the gravity of crime, are legally terrorized to stay away by introducing legal litigation for dispute resolution. The involvement of Indian Judicial system for marital dispute resolution has increased by few thousand times than it used to be earlier.

Indian Judiciary have a huge inclination towards far west liberal mindset and has never appreciated enough the conservative outlook of India's rich culture and heritage and instead abused it citing it as a patriarchal society. Taking this newly introduced legal litigation as an opportunity, courts started misusing its power ruining the civic fabric of the society and destroying the pious institution of marriage, to win its interests of liberal mindset. In most of the cases, it was clearly observed that the pans did not weigh the same for WOMAN and MAN in the courts and are swayed away towards WOMAN.

The predilection of Indian judiciary towards women, covering up their crimes as rights and justifying these biased acts as steps towards a progressive India, in the disguise of alleging the nation as a dangerous patriarchal society is causing grave imbalance of Justice and leading the nation towards a civil war. The unjustified bias by legal fraternity towards women who are committing

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heinous crimes of Husband Murders, cheating and living an adulterous life is making the issue worse. The nation that once believed, village level administration for civil disputes as the best remedy, is now ripped by the ultra-urban liberal mindsets of the far west sitting in the apex courts of the metropolitan cities, far away from the true cultural fabric of Indian society.

Adultery and cheating in marriages are considered very serious crimes in conservative India and the judicial system is expected to provide justice to the affected parties. A nation like India can be run by imbibing great values into the society collectively with proper justice and fear of the courts. Contrary to this, the Indian judicial system has been criticized for its unjustified biasedness towards women in these crimes. The system often tends to overlook the fact that women too can be perpetrators and overlooks the rights of men who are victims of cheating and adultery.

One of the major reasons for this bias is justified, by falsely alleging that the Indian society is still largely patriarchal and women are often considered submissive and weaker than men. This mindset is reflected in the Indian judicial system where women are often seen as victims who need protection and men as perpetrators who need punishment. This leads to a skewed interpretation of laws and results in an unequal application of justice.

Moreover, the Indian judicial system lost its focus to prioritize the protection of the family over the rights of individuals. In cases of adultery and cheating in marriages, the system often tries to reconcile the parties involved, even if it means ignoring the rights of one of the parties. This often results in men being forced to tolerate infidelity and being denied the right to seek justice for the wrongs done to them.

This unjustified biasedness towards women even when committing

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heinous crimes like husband murders, killing own children, cheating and adultery are often dealt with less intensity and at times courts have gone to the extent of boosting those crimes as needed in the patriarchal society. But, the very same legal fraternity wants the man to stick to his moral obligation to maintain and provide financially to the woman who cheated, tortured, harassed and humiliated and had taken away all the bliss in his life. Judgement after judgement are lowering the standards of the bar to an unacceptable levels of biasedness towards women crime. Husband, the actual victim losing all the moral respect, humiliated and being financially broken is legally extorted to maintain wife, and compelled to accept her infidelity.

Suddenly the New Indian Judiciary found women sexual preferences and choices outside marriage while legally extorting all what she can from within the marriage. The social customs are made a joke of. A man working in army can be prosecuted for discipline if he has his sexual preferences outside marriage but the very same discipline does not find a stand when women sexual choices outside marriage are exposed. IPC sections of 497 being stricken off should have recommended for new safety nets to protect the institution of marriage still. Adultery made as a ground for divorce but it's a failure if courts can't deliver justice sooner and make the framework better every day to facilitate better justice.

Another factor that contributes to the biasedness is the lack of evidence and witnesses in cases of adultery and cheating in marriages. In many cases, these crimes take place in private and there is a lack of witnesses or concrete evidence that can be submitted to prosecute efficiently. This makes it difficult for men to prove that they have been cheated on, and their rights are often ignored. On the other hand, women who have been cheated on have an easier time proving their case as the evidence of their suffering is more tangible to courts.

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Indian Judicial system has the core responsibility of upholding the value system of the nation and with one-sided judgements favouring women who are caught in these crimes. Judicial system is boosting women crimes of adultery as sexual choice and right to have it outside marriage, and is protecting her from crimes of multiple sexual partners at the same time, having improper care of self and family, not obliging the responsibility of family ties but are provided with maintenance extorting poor Husbands who lost family relationship and humiliated.

### BIASED STAND OF INDIAN JUDICIAL SYSTEM AT APEX COURTS

	WOMAN	MAN
<b>Sexuality</b>	It is her choice and right to be sexually independent outside marriage.	Outside marriage sexual choice even with consent is bound to disciplinary action. Domestic Abuse on his wife.
<b>Adultery</b>	Adultery by women is not her crime. But a crime of society, if she has to take husband consent.	Adultery by man is a domestic abuse to his wife. Sexually harassing her. Heinous crime.
<b>Residence</b>	Woman can live with her lover while extorting her rights from marriage.	Man can't stay away from his home. He need to provide and maintain in all ways his wife and children.
<b>Financial Support</b>	Woman if found in adulterous relation or cheating is still eligible for all financial support from poor ailing Husband and	Man does not get any financial support to walk away from marriage to his sexual choice. He is extorted with alimony to

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	he must provide losing everything in his life.	wife and support for children in this marriage.
<b>Rape</b>	Women can never be filed with a rape case even if they had spiked and forced sexual intercourse on man. India in this regard don't want to be on par with liberal WEST. A woman can file RAPE on the man she had sexual intercourse if she wanted to legally extort him. So, both ways HER interests are upheld and safeguarded.	Man if had a consensual intercourse but later relationship turned soar can be accused of RAPE. Man can't file RAPE on woman if he is RAPED forcibly or spiked. Man consent has no importance, it is always consent of woman in India and till her stand change.
<b>POCSO</b>	Women who had sexually assaulted minor children are rarely arrested and prosecuted in par with the POCSO act. Very lame approach is followed on women and boy victims are shamed.	Men who had sexually assaulted minor children are immediately arrested and prosecuted as per the POCSO act. Evidence or cross examination of girl child is not required in most cases.
<b>Compound Crimes</b>	Women crimes are always compounded without much thought leading to high number of false cases to extort.	Men can't have any gain and compounding cases of Men victims is not allowed easily. Man must prove the crime.
<b>Spouse Murders</b>	Rise in spouse murders has been multiple folds in the recent past. These heinous offences are never sentenced	In many instances, men are sentenced to life or death even if he is the only living parent and the incident must have

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	with life or death sentence for women.	happened in fit of rage.
<b>Filicides</b>	Mothers killing own children is not seen as a crime and seen as defending her helplessness.	Men killing own children are considered monstrous and always resulted in capital punishment.
<b>Suicides</b>	Women suicides are always considered as abetted.	Men suicides even with suicide letters are not abetted.
<b>Relationship Cheating</b>	Woman cheating in the relation is not domestic violence to Man.	Man cheating in a relation is domestic violence to woman.
<b>Financial Cheating</b>	Wife can't be prosecuted for financially cheating Husband.	Husband if tortured woman for money is considered as dowry harassment and more.
<b>Modesty Outrage</b>	Woman if questioned in public or suspected of fidelity is outrage of modesty by husband.	Man does not have any modesty. Husband/Man modesty can never be outraged by wife/Woman.
<b>Criminal Breach of Trust</b>	Woman cannot breach trust of a man criminally, it is the responsibility of man to provide her with Stridhan.	Man if does not return articles of woman or return money taken from her is criminal breach of trust and trailable.

In conclusion, the Indian judicial system has shown unacceptable biased approach towards women in cases of adultery and cheating in marriages. The patriarchal mindset and the lack of evidence and witnesses make it difficult for men to prove their case, and their rights are often ignored. The judicial system

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must strive to provide **equal justice** to both men and women and should not be influenced by liberal social expectations.

The rights of both men and women must be protected and respected equally.

1. There should be NO FAULT DIVORCE allowed in the country for both Husband and Wife as they have equal right to choose their sexual life anytime of their choice.
2. Laws related to legally extorting Husband to maintain must end. It must be the responsibility of the Government to raise awareness for both to be financially independent be and responsible as a prudent citizen contributing to economy.
3. Government must have schemes to address the concerns of vagrancy and the obligation of same standards as in marriage must be discarded in totality.
4. Child support must be shared proportionately and parental alienation must be eradicated from the nation. Children must be assets of the nation not of the custodial parent.

*"It is not only in India, but similar trend can be found in every country, rise of feminism has resulted in famine of humanity. Feminism is the only way to destroy Any Family, Society, Religion or God. Feminism is all about Glorifying itself, its own rights, Freedom and Liberation. Which has no faith in anything, Humanity, Society, Equality, Religion or God. Europe and west Marriage has no value which is backbone of every Society, Population is in decline, there are more crimes and murders all linked to toxic feminism."*

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### **MAN IS NOT OWNER OF WIFE'S SEXUALITY: JUSTICE CHANDRACHUD**

**“SHE CAN MAKE HER OWN SEXUAL CHOICES”**

Justice D.Y. Chandrachud held that a married woman can make her own sexual choices. By marrying, she has not consented to refrain from sexual relations outside marriage without the permission of her husband. A husband is not the owner of his wife's sexuality. To be human involves the ability to fulfil sexual desires in the pursuit of happiness, Justice Chandrachud said.

Human sexuality is an essential aspect of identity. Choices in matters of sexuality are reflective of the human desire for expression. Sexuality cannot be construed purely as a physiological attribute. It links up with the human desire to be intimate with a person of one's choice. Sharing of physical intimacy is a reflection of choice.

Autonomy in matters of sexuality is intrinsic to a dignified human existence. Human dignity both recognises and protects the autonomy of the individual in making sexual choices, Justice Chandrachud held. Section 497 denuded woman of the ability to make fundamental choices by postulating that it is only the man in a marital relationship who can consent to his spouse having sexual intercourse with another. Far from being an equal partner in an equal relationship, Section 497 subjugated a married woman entirely to the will of her spouse, he wrote.

“The ability to make choices within marriage and on every aspect concerning it is a facet of human liberty and dignity which the Constitution protects,” Justice Chandrachud observed. In criminalising adultery, the legislature has imposed its imprimatur on the control by a man over the sexuality of his wife.

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Reference: <https://www.hindustantimes.com/india/married-woman-can-live-with-her-lover-court/story-wvR68crUBOqSGD5kysqPaJ.html>

*"Ethics and culture, which are primary sources of LAW are defeated in this article. This article in an attempt to correct a legally misunderstood point, that Husband consent is needed for Wife to be with another but not the other way around and has gone to the lows of civilised world of keeping sexuality outside of marriage/relationship/partnership/live-ins. This radical thinking must be condemned with stern voice. This is a land of Values that shows the way of living to the world and this nomadic sexual pleasures being put on privilege list of pursuit of happiness is raising the Question of current standards of living.*

*For both genders, it must be educated to avoid being with multiple partners at the same time and to be mostly in relation with a person for life."*



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### **MARRIED WOMAN CAN LIVE WITH HER LOVER: COURT**

**“IT IS IMPROPER TO PASS AN ORDER TO HAND OVER ANY UNWILLING MARRIED WOMAN TO HER HUSBAND WITH WHOM SHE DOES NOT WANT TO STAY” SAYS RAJASTHAN HIGH COURT.**

Can a married woman lawfully live with her lover against the will of her husband? The Rajasthan High Court says yes.

In a judgment on Wednesday, the court allowed a married woman, Manju, to live with her lover, Suresh. “It is improper to pass an order to hand over any unwilling married woman to her husband with whom she does not want to stay,” said justices GS Mishra and KC Sharma. The court also said that nobody should consider an adult woman as a consumer product.

While dismissing a habeas corpus petition filed by Manju’s husband, the court came down hard on the misuse of habeas corpus petitions by people who want to thrust their will upon adult women without their consent. The court said the husband was free to approach the family court for divorce.

Commenting on the judgment, senior Supreme Court advocate and noted women’s rights activist Indira Jaising said, “Though it sounds strange, I am in complete agreement with the high court.”

"At the end of the day an adult woman has a right to decide whom she wants to live with. She can't be forced to go with her husband against her will," Jaising said.

In this case, Jaising said, it is clear that the woman was prepared for divorce. She also felt that Manju’s husband had abused the habeas corpus petition because

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such petitions were generally filed when somebody is actually missing.

Asked whether it amounted to adultery, Jaising clarified that the woman could not be prosecuted for this offence under the law. As for the other man, she said, "it seems he is ready to face that".

National Commission for Women Chairperson Girija Vyas said that although it seemed like an important judgment, she could not comment on it since she had not seen it yet.

Manoj Chaudhry, the counsel for Manju and Suresh, had earlier rejected as baseless the allegations that Manju had been kept in illegal confinement by Suresh. He said that the duo had been living together by their free will and that the relationship had begun even before Manju had got married.

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Reference: <https://www.hindustantimes.com/india/married-woman-can-live-with-her-lover-court/story-wvR68crUBOqSGD5kysqPaJ.html>

*"Married woman should be allowed to walk out of marriage with NO FAULT, NO TIES ATTACHED divorce and so must be married man. But in many scenarios it is not the same for woman and man. Indian judiciary takes biased side of woman and allows her adultery & cheating while being in a marriage with a man. Married man is legally extorted to provide all means for her even in adultery.*

*Basically the pious relation is being turned into contract and children out of wedlock to be cut into halves when they part away. Institutions meant to protect these core concerns of living standards are in search of useless merits and destroying the cultural fabric."*

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### **HUSBAND CAN BE JAILED FOR AFFAIR, RULES HC**

**HUSBAND CAN BE JAILED FOR AFFAIR, RULES HC SENTENCES A MAN TO SIX MONTHS JAIL FOR SUBJECTING HIS WIFE TO MENTAL CRUELTY**

If a man's extramarital affair causes serious discord between married couple, then he can be convicted. If a man's extramarital affair causes serious discord between married couple, then he can be convicted. If an extramarital relationship of a man causes serious domestic discord between the married couple, then he can be convicted for causing mental cruelty to his wife under Section 498A of the Indian Penal Code (IPC) and sentenced to imprisonment, the Madras High Court has said.

Justice D. Bharatha Chakravarthy gave this ruling while confirming the conviction of Nakkeeran, alias Jeroan Pandi by a trial court in Tiruvannamalai district in November 2011. The judge, however, reduced the quantum of jail term from two years to six months of rigorous imprisonment.

Though it was argued on behalf of the convict that the Supreme Court in K.V. Prakash Babu versus State of Karnataka (2016), had held that extramarital relationship per se would not amount to subjecting wife to mental cruelty, the judge said the verdict must be read in its entirety.

#### **PREVIOUS JUDGMENT**

In that judgment, the top court held that solely because a person was involved in an extra marital relationship and there was some suspicion in the mind of the wife, it could not be regarded as mental cruelty to attract the offence of abetment of suicide under Section 306 of the IPC.

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In the same decision, the Supreme Court had said the concept of mental cruelty depends on the social strata of the people involved, their individualistic perception and their level of endurance and sensitivity. The court said it would be difficult to generalise but it could be appreciated based on facts of individual case.

Taking a cue from those observations, Justice Chakravarthy said in the case before him, it had been proven through prosecution witnesses that the convict indeed had an extramarital relationship. The police had produced the birth certificate of a child born out of this relationship.

### ‘AFFECTED MENTAL HEALTH’

“Therefore, the court cannot close its eyes to the hard evidence and the facts of this case. The extramarital relationship has caused such an effect on the mental health of PW1 (wife) that it resulted in serious domestic discord, forcing her to leave her matrimonial home. “Considering all the factors cumulatively, I hold that the action of the accused in having extramarital relationship which has caused grave mental trauma and affected the mental health of PW1 would certainly amount to cruelty to her under Section 498A of IPC,” the judge concluded.

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Reference: <https://www.thehindu.com/news/national/tamil-nadu/husband-can-be-jailed-for-affair-rules-hc/article38346831.ece>

*"These very courts upheld WOMEN adultery citing her sexual freedom and being unacceptably biased to women. And for men being jailed for affair for being with his preferred sexual partner. How is this fair thought process? What is this country stepping into??? An ultra-liberal mindset to Women's sexual preferences but a barbaric conservative mindset to punish Men's sexual choices!!! People must address these unwanted biased approaches."*

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### **BOMBAY HC REFUSES TO DENY 'ADULTEROUS' WIFE MAINTENANCE**

MUMBAI: OBSERVING THAT AN ESTRANGED WIFE HAD THE RIGHT TO LIVE A SIMILAR LIFESTYLE AS HER HUSBAND, BOMBAY HIGH COURT RECENTLY SET ASIDE A SESSIONS COURT ORDER THAT REFUSED A WOMAN MAINTENANCE AS SHE HAD LIVED IN ADULTERY.

"The court should take note that it should not be a case that one spouse lives in a life of comfort and luxury while the other lives in deprivation. The order of the sessions court is unreasonable..." said Justice Prakash Naik in his June 28 order. The couple married in January 2007. In January 2020, the wife filed a domestic violence complaint against the husband and his family. A magistrate in August 2021 directed Rs. 75,000 per month interim maintenance and Rs. 35,000 rent from the date of filing till disposal of complaint. The sessions court in December 2021 set it aside. The wife's advocate Ali Kashif Khan said the husband sent his friend to her and against whom she filed an FIR for rape. He said the husband's father owns a popular restaurant and they live luxuriously. The husband's advocate said she was indulging in adultery with his friend, the FIR was false and he cannot be compelled to pay maintenance. Justice Naik, considering the family income and status of parties, said Rs. 38,000 earned by the wife was not sufficient to maintain herself. "Hence, interim maintenance of Rs. 75,000 per month is necessary," he said. As she resides separately, she has a right to alternate accommodation or rent.

Justice Naik noted that in the FIR and in her statement before a magistrate, the wife admitted she was in a live-in relationship with the accused. The session judge therefore said she loses her right to maintenance in view of section 125 (4) of Criminal Procedure Code that disentitles a woman living in adultery. Khan

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argued that the section conveys present continuous tense and even if the wife had lived in adultery in the past, the husband cannot refuse maintenance. Justice Naik said the question was whether the sessions judge's interpretation would debar a woman "assuming if she was in adultery in the past".

He said while the wife's DV complaint was pending, the sessions judge gave "premature findings" of no domestic violence, that she was in a live-in relationship and was earning.

He considered electronic evidence of "adulterous" videos and photographs to conclude that she was not entitled to live a similar status as her husband.

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Reference: <https://timesofindia.indiatimes.com/city/mumbai/bombay-hc-refuses-to-deny-adulterous-wife-maintenance/articleshow/93548848.cms>

*Moral obligations can only be attracted when the relationship is morally respected. A woman in adultery is understood to find another partner and has broken the moral obligation of marriage. Still, H being extorted for her maintenance and that to similar to his lifestyle is very biased towards woman. Principles of natural justice are defeated.*

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### **UNMARRIED INDIAN GIRLS DON'T INDULGE IN CARNAL ACTIVITIES JUST FOR FUN: MADHYA PRADESH HC**

JUSTICE SUBODH ABHYANKAR OF THE INDORE BENCH OF THE HIGH COURT WAS HEARING A BAIL PLEA WHERE THE ACCUSED HAS BEEN BEHIND BARS SINCE JUNE 4 ON ATTEMPT OF RAPE ON PRETEXT OF MARRIAGE.

The Madhya Pradesh High Court, while rejecting the bail plea of a man accused of rape, observed: "India is a conservative society, it has not yet reached such level of civilization where unmarried girls, regardless of their religion, indulge in carnal activities with boys just for the fun of it." Justice Subodh Abhyankar of the Indore bench of the High Court was hearing a bail plea where the accused has been behind bars since June 4 on attempt of rape on pretext of marriage. A First Information Report (FIR) was registered in the case under Section 376 (Rape) and Section 366 (Kidnapping, abducting or inducing woman to compel her marriage) of the Indian Penal Code and various provisions of the Protection of Children from Sexual Offences (POCSO) Act at Mahakal police station of Ujjain district. The court, while hearing the case, pointed out that it does not find it to be a fit case for grant of bail. The court observed, "India is a conservative society, it has not yet reached such level (advance or lower) of civilization where unmarried girls, regardless of their religion, indulge in carnal activities with boys just for the fun of it, unless the same is backed by some future promise/assurance of marriage and to prove her point, it is not necessary every time for a victim to try to commit suicide as in the present case."

The court remarked that the prosecutrix has tried to commit suicide which apparently shows that she was serious about the relationship and it cannot be said that she entered into the relationship only for enjoyment. In such circumstances, this court is not inclined to allow the present bail application.

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The court concluded that a boy who is entering into a physical relationship with a 'lass' must realize that his actions have consequences and should be ready to face the same as it is the girl who is always at the receiving end because it is she who runs the risk of being pregnant and also her ignominy in the society, if her relationship is disclosed.

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Reference: <https://indianexpress.com/article/india/unmarried-indian-girls-dont-indulge-in-carnal-activities-just-for-fun-madhya-pradesh-hc-7454236/>

*Indian judiciary has erred to be updated with the current trends of lifestyles and ways of living. On a liberal note, in many instances where women are involved in adultery they supported her sexual freedom outside marriage, upheld disobeying marital obligations. But when it comes to conflicts of relationships turned sore, they paint and generalize women as goddess of virtues. This is posing grave risk to the societal living and men in general.*



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### **INDIAN YOUTH LIBERATE LOVE AND SEX FROM WEDLOCK: SURVEY**

ABOUT 72 PERCENT OF THESE RESPONDENTS HAD THEIR FIRST EXPERIENCE DURING THEIR TEENS AND AS MANY AS 11 PERCENT BEFORE THE AGE OF 12.

NEW DELHI: India, the land of world-renowned love treatise Kamasutra, seems to be finally coming of age on sexual matters after centuries in the closet.

More than half of the respondents in a nationwide survey of Indian men and women have admitted to biting the forbidden apple outside wedlock, pointing at a sexual reawakening of sorts.

The Week-TN Sofres Mode survey, published in the latest issue of The Week magazine, found 53 percent unmarried people in the main cities revealing they had premarital sex, and not always with partners they would marry.

About 72 percent of these respondents had their first experience during their teens and as many as 11 percent before the age of 12.

The survey took a sample of 516 unmarried men and women between 18 and 30 years, in New Delhi, Mumbai, Chennai, Kolkata, Hyderabad and Bangalore.

The sexual liberation is at its highest in Kolkata (69 percent) and least in Chennai (46 percent) with half the respondents in Mumbai and New Delhi admitting to premarital sex. But they start the earliest in Mumbai.

What turns them on?

In Kolkata, it is a friendly person with a modern outlook. In New Delhi, it is a

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strong personality. Hyderabad youth lust least for intelligence, and in Chennai, partners go for shared interests before plunging into physical intimacy.

In general, 49 percent of all youth are attracted to physical attributes, 60 percent to social stature, 19 percent to affluence, and 15 percent to career prospects. Most of these youth wish the largely inhibited Indian society were more free and open about sex. Sixty-three percent say Indians should be sexually liberated.

Contrastingly, 71 percent of them don't approve of their children having premarital sex, and 64 percent will not even marry a person who is not a virgin.

Amid a strident cry for cultural nationalism and traditional mores, these statistics may raise quite a few eyebrows.

The poll attributes the "renaissance" in the once-conservative society to the media explosion of the early 90s, followed by the advent of Internet and lately, SMS (Short Messaging Services on mobile phones) -- all abetting intimate and uninhibited interaction between boys and girls.

Films, magazines and ramp modelling are also accessories to the newfound promiscuity.

Premarital sex is more rampant among college students, especially in management, engineering, and medical, legal and catering where girls and boys interact for longer durations, the survey observes.

Some 45 percent of these respondents reached an orgasm in their first encounter. Home is the most common venue for the first experience, the respondents revealed, though youth in southern Indian cities preferred public places.

The poll has also gathered data post loss of virginity. Some 29 percent felt "happy

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and contented", 28 percent a sense of companionship, nine percent a sense of conquest, and 24 percent were ridden by guilt.

The guilt of premarital sex was highest in Hyderabad, India's fastest growing IT hotspot, with 50 percent saying they were so depressed afterwards that they did not repeat the act. It is, however, mostly women who feel guiltier.

Though it is a late awakening for Indians after the prolonged "dark ages" that followed the penning of Kamasutra, the world's first sex manual, the country still lags behind the West by a couple of decades, says the survey.

While the East is in the phase of a coy "Yes", the West is trying a firm "No" to premarital sex, says a report by Jo Kettlewell in an inset.

A counter-revolution in the U.S. has had 54 percent youth saying they would like to remain celibate till their wedding night as it was "healthy, spiritually cleansing, politically sound" and most importantly -- in.

"No Sex" has replaced the motto of safe sex and books extolling the virtues of virginity are becoming more and more popular in the West.

*Western world is learning the values of being in honest relationships and improving standards of living with a greater ethical index while Indian younger generations are being pushed towards materialistic relationships, one night stands and multiple partners. Consensual Sex turning into False Rape threats are common as the relations sore for want of more lustful and materialistic lives...*

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### **A CROSS-SECTIONAL STUDY TO ASSESS THE PRE-MARITAL SEXUAL PRACTICES AMONG PANJAB UNIVERSITY STUDENTS, CHANDIGARH, INDIA**

**BACKGROUND:** IN INDIA, PREMARITAL PARTNERSHIPS WHETHER INVOLVING SEX OR NOT ARE WIDELY UNACCEPTABLE. VARIOUS STUDIES IN INDIA HAVE REPORTED HEIGHTENED PREMARITAL SEXUAL ACTIVITIES AMONG YOUNGSTERS.

**OBJECTIVE:** The objective of the study was to assess the involvement of youth in premarital sexual practices studying at Panjab University.

#### **METHODS:**

The cross-sectional study was conducted at Panjab University situated in Chandigarh, India between February and August 2020. Purposive sampling was used to recruit students. Data was collected using a pre-tested, semi-structured, self-administered questionnaire. The nature of the data was quantitative and was analyzed through SPSS version 20.

#### **RESULTS:**

A total of 211 (female/male: 51.7%/48.3%, mean age: 22.5 years) respondents were enrolled. Prevalence of premarital sex was 68.7% with an average age of sexual debut 18.5 years. 62.1% of respondents were practicing unprotected sex. 91% of respondents were involved in vaginal sex, 61.4% in oral sex, 29% in online sex, and 19.3% in anal sex. 66.8% of respondents were involved in the habit of masturbation. In students having a positive premarital sexual background, 78.2% of respondents had sexting, 38.8% had friends with benefits, 33.9% had one-night stands, 4.8% had a threesome and 2.3% had gay sex. Out of all the respondents involved in premarital sexual practices, 86.9% were satisfied with sexual life.

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### **CONCLUSION:**

There is a need to empower the younger population involved in risky sexual behavior by accelerating their sexual and reproductive rights education to propagate safe sexual behavior in premarital sexual practices.

### **INTRODUCTION:**

The 'Sex' topic is taboo for discussion in India's traditional communities in any age group regardless of their educational status. In conservative culture, premarital sex (PMS) is strictly forbidden in both genders and those who are indulging are secretly engaged in these acts. <sup>1</sup> However, a comprehensive understanding of PMS behavior in India is relatively scarce, as sexuality remains a sensitive issue. <sup>2</sup> According to statistics, the reported rate of the students who are involved in PMS practices in different regions of India ranges from 8-15%. <sup>3</sup>

According to WHO, “\_Sexual health is a state of physical, mental, and social well-being in relation to sexuality. It requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination, and violence.”

In India, the prevalence of PMS practices in Tamil Nadu was 35%, in Puducherry it was 31%, in Andhra Pradesh it was 23% and in Pune, it was 16-18%. <sup>4567811</sup> Rapid economic developments, urbanization, widespread media attention, porn videos, X-rated products, drug abuse, sexually active peers, family dysfunction are considered to be risk factors for the initiation of early sexual activity among young people. Younger people are engaging in premarital sexual behavior at an alarming rate, but they are mostly unprotected. It is high time for physicians and society to acknowledge that premarital sexual practice is a reality. When dealing with such difficulties, they must be compassionate and nonjudgmental. Separate units/desks may be established to handle adolescent sexual health inquiries. The physicians should have a counsellor in place for such budding adults.

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the physicians may be accompanied by an intern of similar age as an adolescent to ease them in being free and frank. Within this context, our study aimed to assess the pre-marital sexual practices among Panjab University students.

### **METHODOLOGY:**

The cross-sectional study was designed to assess the premarital sexual practices among Panjab University students situated in Union Territory Chandigarh, India. The data was collected through quantitative data collection instruments. For this purpose, the sample size obtained was 400 initially but it was constricted to 211 due to the COVID-19 Pandemic in March 2020. The study was approved by institutional ethics committee.

A purposive sampling technique was employed. The study was conducted on the both North and South campus of the University from February 2020 to August 2020. The data collection was done online through a digital platform in the form of Google forms. The distribution of the forms was independent of genders. Informed consent was taken from the participants.

Initially, a pilot study (offline) was performed on 20 students of the University. After analyzing the results, a modified pro forma was prepared. The students were introduced to the main objectives of the study and reassured that personal information would be kept confidential.

The study used premarital sexual practice as the dependent variable and socio-demographic (age, sex, and marital status) and socio-economic variables as independent variables.

The collected quantitative data were entered into a computer and analyzed using SPSS version 20.0. During the process of analysis, frequencies and percentages of different variables were determined.

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### **RESULTS:**

The total number of participants in this study was 211. Out of which 109 were female, 102 were male and nobody was transgender.

Participants were divided into three age categories, most of them in the 21-25 age groups, with a total of 165 (56.9%). A total of 145 (68.7%) respondents was involved in coitus, of which 69 (63.3%) were females and 76 (74.5%) were males. The mean age at sexual debut was 18.5 years. Ninety (62.1%) respondents had coitus without condoms, of which 44 (63.8%) were females and 46 (60.5%) were males. The reasons they specified behind it were: did not have condoms which account for 51 (56.7%) respondents, enjoying it in 47 (52.2%) and forced in 04 (4.4%) respondents. Respondents were involved in various sexual activities like vaginal sex, oral sex, online sex, and anal sex (Table 1). One hundred forty-one (66.8%) respondents were involved in masturbation, of which 42 (38.5%) were female respondents and 99 (97%) were male respondents. Most of the respondents were often masturbating once a week while the least number of respondents was masturbating more than once a day, further details are illustrated in Table 2. Perceptions regarding anal/oral sex among respondents showed that 134 (63.5%) respondents thought that it was acceptable behavior, 43 (20.4%) respondents personally found it unacceptable but they would not mind if others were involved in such activities and 04 (1.8%) respondents thought that oral was acceptable but not anal and those who thought it should be banned.

Distribution of respondents according to frequency to masturbate While having coitus with someone, 99 (46.9%) respondents believed that love was very important, 40 (19%) respondents thought that it was somewhat important while only 09 (4.3%) respondents believed that love was unimportant. One hundred thirty-six (64.5%) respondents would reveal the correct number of sexual partners they had to their partners followed by 06 (2.8%) respondents would tell

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a higher number of partners than they had while 56 (26.5%) respondents did not give any comment on it. Among all the respondents, 66 (31.3%) respondents had no partner, 60 (28.4%) had only one partner, 62 (29.4%) had 2-5 sexual partners and 11 (5.2%) had more than 10 sexual partners. When respondents were asked about what they had done sexually, most of the respondents did sexting followed by making friends with benefits, one-night stand and gay sex Figure 1. The adjectives that best describe the attitude of respondents towards coitus were adventurous for 103 (48.8%) respondents, self-confidence for 66 (31.3%), kinky for 50 (23.7%), and uncomfortable for 10 (4.7%).

To keep themselves sexually stimulated, respondents had viewed pornography online, watched x/xx/xxx rated movies, received nude pictures of someone, taking nude pictures of themselves, etc. Figure 2. The longest duration respondents had gone without coitus since coming to university was for a few months which accounts for 73 (50.3%) respondents followed by a few years for 35 (24.1%). Two hundred three (96.2%) respondents had shaved/waxed their pubic area, of which 105 (96.3%) were females and 98 (96.1%) were males. The main reasons for having coitus were falling in love which accounted for 149 (70.6%), willing to do it in 141 (66.6%), peer pressure/alcohol/drugs in 16 (7.6%) and for money in 02 (0.9%). When respondents were asked about their satisfaction with sexual life, most respondents were satisfied Table 3. About 144 (68.2%) respondents would discuss with their partners to get satisfied, 57 (27%) would watch pornography, 47 (22.3%) would go online and 06 (2.8%) would read erotic books.

### **DISCUSSION:**

The prevalence of premarital sexual practices among study participants was 68.7% with the mean age of 18.5 years at first sexual intercourse. When this was compared to the similar study conducted by Mukherjee \_et al\_. 4 in Tamil Nadu, the prevalence of premarital sexual practices was found almost half which was

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35.6% with an average age of 21 years (SD = 2.68) at first sexual intercourse. Also, the prevalence of unprotected sex in this study was 62.1%. In our study, 62.1% of respondents had practiced unsafe/unprotected sex (intercourse without a condom) which was very similar to the study conducted by Sharma \_et al\_. 9 in Chandigarh (2021) and also to the study conducted by Chihurumnanya \_et al\_. 7 in Nigeria (2016), it was reported that 29.6% of respondents had unprotected sex which was very low in comparison to our study. In the current study, the prevalence of participants involved in different sexual activities like the oral, anal and online sexual experience was 61.4%, 19.3% and 29%, respectively. When this was compared to the same study conducted by Mukherjee \_et al\_. 4 in Tamil Nadu, the prevalence was found i.e., 9.1%, 4.5% and 4.9%, respectively, which was very low in comparison.

It was found, in the current study that 66.8% of the respondents were involved in the habit of masturbation. Out of which, 97% were male respondents and 38.5% were female respondents which conclude that the number of men engaged in masturbation is almost three times that of the women. When it was again compared to the same study conducted by Mukherjee \_et al\_. 4 in Tamil Nadu, the results reported were the same i.e., the number of male respondents involved in masturbation was about three times more than those of female respondents. When the number of sexual partner's respondents had in their lifetime were analysed it was found that 31.3% of respondents had only one partner in their life time while 40.3% respondents had two or more than two partners in their lifetime. When these results were compared with the study conducted by Tololu \_et al\_. 6 in Southeast Ethiopia, it was found quite higher i.e., 44.8% of respondents had only one partner in their lifetime while 54.2% respondents had two or more than two partners in their lifetime. In the analysis of this study, it was found that out of all the respondents the reasons for having sex with someone, 70.6% were in love, 66.8% were having a desire to do it, 7.6% had it under pressure and 1.4% were forced to do it. When it was compared to a similar

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study conducted by Chihurumnanya \_et al\_. 7 in Nigeria it was found that 43.5% had sex due to love, 15.7% were having sexual desire, 18.5% had it under pressure and 6.5% were forced to do it.

### **CONCLUSION**

The prevalence of premarital sexual practices among Panjab University students was very high in comparison to national and regional studies. More than half of the respondents were practicing unprotected sex. This reflected the risky sexual behaviors of students; therefore, it is concluded that the critical importance of safe sex behavior and appropriate sex education among youth can no longer be ignored. To handle adolescent sexual health queries, separate units/desks may be developed. The government and healthcare institutions must pay close attention that people follow safe sex behavior, and physicians must be followed by a counsellor for such developing individuals in specific facilities.

### **Reference:**

[https://journals.lww.com/jfmmpc/Fulltext/2022/08000/A\\_cross\\_sectional\\_study\\_to\\_assess\\_the\\_pre\\_marital.80.asp](https://journals.lww.com/jfmmpc/Fulltext/2022/08000/A_cross_sectional_study_to_assess_the_pre_marital.80.asp)

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### **WOMAN CAN'T BE COMPELLED TO WORK JUST BECAUSE SHE IS EDUCATED: BOMBAY HIGH COURT**

OUR SOCIETY HAS NOT YET ACCEPTED THAT THE WOMAN OF THE HOUSEHOLD SHOULD CONTRIBUTE (FINANCIALLY). IT IS A WOMAN'S CHOICE TO WORK. SHE CANNOT BE COMPELLED TO GO TO WORK. JUST BECAUSE SHE IS A GRADUATE, DOES NOT MEAN SHE CANNOT SIT AT HOME," JUSTICE DANGRE, SAID

In his plea filed through advocate Ajinkya Udane, the man also alleged that his estranged wife had a steady source of income at present, but that she had hidden this fact from the court.

A woman cannot be compelled to work for a living, merely because she is educated, the Bombay High Court observed, while hearing a man's plea against a court order directing him to pay maintenance to his estranged wife. A single bench of Justice Bharati Dangre was hearing a revision application filed by the man challenging an order of the family court in Pune.

During the hearing on Friday, the court said that a woman had the "choice to either work or stay at home" even if she was qualified and had an educational degree.

Our society has not yet accepted that the woman of the household should contribute (financially). It is a woman's choice to work. She cannot be compelled to go to work. Just because she is a graduate, does not mean she cannot sit at home," Justice Dangre said.

Today I am a judge of this court. Tomorrow, suppose I may sit at home. Will you then say I am qualified to be a judge and shouldn't sit at home?" she said.

The man's counsel argued that the family court had "unfairly" directed his client to pay maintenance, since his estranged wife was a graduate and had the capability to work and make a living. In his plea filed through advocate Ajinkya

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Udane, the man also alleged that his estranged wife had a steady source of income at present, but that she had hidden this fact from the court.

The petitioner challenged the family court's order that directed him to pay Rs 5,000 each month to the wife and Rs 7,000 towards the maintenance of his 13-year-old daughter, who currently lives with her. The high court will hear the matter further next week.

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Reference: <https://economictimes.indiatimes.com/news/india/woman-cant-be-compelled-to-work-just-because-she-is-educated-bombay-high-court/articleshow/92145235.cms?from=mdr>

*Currently every parents want to give equal education to each children irrespective of gender, even poor parents also have great inclined towards educating their children. This is to make sure children can earn their livelihood without any support, and they can also pursue as good parents and good citizens. However Indian laws is so biased, that it motivates a capable woman to become a lifelong parasite on men.*

*Judges taking their life as an example to compare to common man's life, when common man life situation is entirely different. Judges think just because man is married it's his duty to pay educated, capable women even marriage lasted only few days. Without counting women contribution to the marriage. In India marriage become a business and Legal prostitution with the blessings from judiciary if women want to make money she can trap a man marry and divorce in few hours siting Dowry or domestic violence and get lifelong easy money without any efforts or investment.*

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### **WIFE PAYING MAINTENANCE TO ABLE-BODIED HUSBAND WILL PROMOTE IDLENESS: KARNATAKA HC**

THE JUDGE TOLD THE PETITIONER — AN UNEMPLOYED HUSBAND WHO SOUGHT MAINTENANCE FROM HIS WIFE — THAT IT WAS “BETTER TO WEAR OUT THAN RUST OUT”

The Karnataka High Court has ruled that able-bodied husbands cannot seek maintenance from their wives as it would promote idleness.

“Merely because Section 24 of Hindu Marriage Act is gender neutral for grant of maintenance would be promoting idleness notwithstanding the fact that the husband has no impediment or handicap to earn.” said Justice M. Nagaprasanna.

The bench maintained a family court ruling awarding the wife maintenance of Rs. 10,000 and litigation costs of Rs. 25,000 and rejecting the husband’s appeal for monthly maintenance of Rs. 2,00,000 and litigation costs of Rs. 30,000 from the wife.

The husband’s contention was that he had lost his job at the onset of the COVID-19 pandemic and has been unemployed since, so he deserved the maintenance from his working wife, rather than him having to pay her. The wife had sought restitution of conjugal rights after the husband filed for divorce.

“It cannot be assumed that he is unable to generate money just because he lost his work at the beginning of COVID-19. Therefore, it is indisputable that the husband has opted to live a leisurely lifestyle by asking the wife for maintenance based on his own behavior.”

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The judge added that it was “better to wear out than rust out”. “The husband cannot afford to incapacitate himself and sustain an application under Section 24 of the Act to claim maintenance from the hands of the husband. This would be an anathema to the spirit of Section 24 of the Act. Therefore, the husband cannot seek any maintenance unless he would demonstrate such disability either physical or mental which incapacitates him from earning money by finding a job for himself. It is in fact the duty of an able-bodied husband to maintain himself, the wife and the child, if any,” observed the court.

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Reference: <https://www.thehindu.com/news/national/karnataka/wife-paying-maintenance-to-able-bodied-husband-will-promote-idleness-karnataka-hc/article66427063.ece>

*While Indian constitution advocates for the equality for all irrespective of their gender, race, caste, religion. However, women centric laws such as IPC 498a and CrPC 125, which are one sided and biased are just abuse for the humanity. While the judges are always eager to provide maintenance to a wife even if husband is jobless and handicapped, but they are not ready to provide any relief to any jobless and homeless husband, even when his wife is earning well. This biased and one-way approach will surely end of the institution of marriage.*

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### **HUSBAND MAY 'BEG, BORROW OR STEAL' TO MAINTAIN WIFE AND CHILD, SAYS PUNJAB & HARYANA HIGH COURT IN A VERDICT**

HUSBAND MAY 'BEG, BORROW OR STEAL' TO MAINTAIN WIFE AND CHILD, SAYS PUNJAB & HARYANA HIGH COURT IN A VERDICT HUSBAND MAY 'BEG, BORROW OR STEAL' TO MAINTAIN WIFE AND CHILD, SAYS PUNJAB & HARYANA HIGH COURT IN A VERDICT PUNJAB AND HARYANA HIGH COURT

The remark “the first and foremost duty of the husband is to maintain the wife and child” and for this “he may beg, borrow or steal”, has once again found its place in a recent Punjab and Haryana High Court order in a maintenance case, media has reported.

The remark is seen quoted in a recent order delivered by Justice HS Madaan while dismissing plea of a man challenging a family court order jailing him for not paying maintenance to his wife.

As per the report, the remark was made in an order delivered by Justice Jitendra Chauhan in a 2013 order in Sunita Kumar Vs Rita case. The family court, in the present case, sentenced the man to jail for 12 months for not paying arrears of maintenance allowance amounting to Rs 91,000 to his wife.

The man approached the high court against the family court order contending that he could only be sentenced for one month in jail. The bench, rejecting the argument, referred to the earlier judgement which had held that court is open to order sentence up to a maximum of one month for each month of default committed by the person ordered to pay maintenance.

The court order had said that the purpose of sending a person to jail is not to wipe

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out the liability which the person has refused to discharge and that monthly allowance is paid in order to enable the wife and child to provide essential economic necessities. “Neither the neglected wife nor the neglected child can live without funds for purchasing food and the essential articles to enable them to survive. The first and foremost duty of the husband is to maintain the wife and the child. He may beg, borrow or steal.” remarked the order.

As per the report, the High Court, referring to the said judgement, dismissed the petition.

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Reference: <https://swarajyamag.com/insta/husband-may-beg-borrow-or-steal-to-maintain-wife-and-child-says-punjab-haryana-high-court-in-a-verdict>

*It is clear that maintenance law is one sided, and being used to harass and jail a husband by a wife. Even when husband is unable to pay maintenance because of no source of income, he is sent to jail. There are many husband suicides because of misuse of the maintenance law.*



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### **MAN MUST EARN EVEN BY PHYSICAL LABOUR TO GIVE MAINTENANCE TO WIFE, KIDS: SUPREME COURT**

THE SUPREME COURT HAS SAID A HUSBAND IS REQUIRED TO EARN MONEY “EVEN BY PHYSICAL LABOUR” TO MEET HIS SACROSANCT DUTY TO PROVIDE FINANCIAL SUPPORT TO THE ESTRANGED WIFE, MINOR CHILDREN AND COULDN’T AVOID HIS OBLIGATION.

A bench of Justices Dinesh Maheshwari and Bela M Trivedi said provision for maintenance under CrPC Sec 125 is a measure of social justice that was specially enacted to protect women and children and refused to accept plea of a husband who submitted he had no source of income as his party business has now been closed.

“The respondent (husband) being an able bodied, he is obliged to earn by legitimate means and maintain his wife and the minor child. Having regard to the evidence of the appellant-wife before the family court, and having regard to the other evidence on record, the court has no hesitation in holding that though the respondent had sufficient source of income and was able-bodied, had failed and neglected to maintain the appellant,” it said.

The Supreme Court directed a man to pay maintenance of Rs 10,000 per month to his wife and Rs 6,000 to his minor son.

The bench said the Section 125 of CrPC was conceived to ameliorate the agony, anguish and financial suffering of a woman who is required to leave the matrimonial home, so that some suitable arrangements could be made to enable her to sustain herself and the children. It pulled up a family court to deny maintenance to the woman and her children after she left the matrimonial home

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and started living separately and said that the court was not alive to the objects and reasons, and the spirit of the provisions under Section 125 of the code.

“The family court had disregarded the basic canon of law that it is the sacrosanct duty of the husband to provide financial support to the wife and to the minor children. The husband is required to earn money even by physical labour, if he is an able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute. In Chaturbhuj vs Sita case, it has been held that the object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy and destitution of a deserted wife, by providing her food, clothing, and shelter by a speedy remedy,” the bench said.

The bench also disapproved the Punjab and Haryana high court passing order in a very casual manner by upholding “such an erroneous and perverse order of family court”. The court passed the order in favour of the wife who approached the apex court and was fighting a legal battle for maintenance for around a decade after she left her matrimonial home in 2010.

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Reference: <https://timesofindia.indiatimes.com/india/man-must-earn-even-by-physical-labour-to-give-maintenance-to-wife-kids-supreme-court/articleshow/94668616.cms>

*Courts are very much biased to advise a husband to pay maintenance to wife and children at any cost. However, the same court will never suggest a wife to earn on her own and not to be parasite on husband. This maintenance law has not made any women like great women examples of Smt Indira Gandhi, Kalpana Chawla, etc, but it is only preparing an army of parasitic women, which is dangerous for the society.*

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### **FAILED LIVE-IN RELATIONSHIP**

#### **IS IT RAPE OR BREACH OF PROMISE?**

Live-in relationships, which carry far less legal weight compared to marriage, have now gained social acceptance. A look at the medley of cases before the Supreme Court tells us about an emerging trend of women slapping rape charges against men in soured/failed live-in relationships. The commonest of allegations in the FIRs is that the man obtained her consent for sexual relationship through false promise of marriage.

Rape is defined under Section 375 of Indian Penal Code and the fourthly clause of the provision applies to live-in relationships. It states – A man is said to commit “rape” who has sexual intercourse with a woman 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 law-fully married.

In a live-in relationship, it would be naive to assume that the man and woman consent to and indulge in sex believing themselves to be husband and wife. When a woman consents for sexual intercourse, her consent has to be in sync with Section 90 of the IPC, which states that the consent has to be without any kind of fear or misconception. A reading of Supreme Court judgments would help distinguish between consensual sex in a live-in relationship and rape.

In *Punjab vs Gurmit Singh* 1996 (2) SCC 384, the SC had said, “Rape is not merely a physical assault – it is often destructive of the whole personality of the victim. A murderer destroys the physical body of his victim, a rapist degrades the very soul of the helpless female.” A stringent view, which could hardly be germane to

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sex between live-in partners.

In Gurmit judgment, the SC sensitized the courts to attach special sanctity to rape survivors' testimonies and accept them as evidence, even in the absence of corroboration, if not blemished by major contradictions. In the next 25 years, the SC zealously maintained its sensitivity towards sexually assaulted women. But, it also noticed an emerging trend of women filing rape charges against men in a failed live-in relationship.

In Uday vs Karnataka 2003 (4) SCC 46, the SC traced a large number of judgments relating to the issue of lovers failing to culminate their intimate physical relationships into marriages, which in many cases resulted in filing of rape charges against the men.

It said, "...the consensus of judicial opinion is in favour of the view that the consent given by the prosecutrix (complainant woman) to sexual intercourse with a person with whom she is deeply in love on a promise that he would marry her on a later date, cannot be said to be given under a misconception of fact."

"A false promise is not a fact within the meaning of the IPC. We are inclined to agree with this view, but we must add that there is no straitjacket formula for determining whether consent given by the prosecutrix to sexual intercourse is voluntary, or whether it is given under a misconception of fact," it had said.

The SC had said, "It usually happens in such cases, when two young persons are madly in love, that they promise to each other several times that come what may, they will get married... In such circumstances the promise loses all significance, particularly when they are overcome with emotions and passion and find themselves in situations and circumstances where they, in a weak moment, succumb to the temptation of having sexual relationships."

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In Indra Sarma judgment of November 26, 2013, the SC had said, “live-in-relationship is purely an arrangement between the parties unlike a legal marriage. Once a party to a live-in- relationship determines that he/she does not wish to live in such a relationship, that relationship comes to an end.”

A significant elaboration on distinction between sexual assault and consensual sex among live-in partners came from SC in Dhruvaram Muralidhar Sonar judgment on November 22, 2018. It had said: “there is a clear distinction between rape and consensual sex. The court, in such cases, must very carefully examine whether the man had actually wanted to marry the victim or had mala fide motives and had made a false promise to this effect only to satisfy his lust, as the latter falls within the ambit of cheating or deception.”

“There is also a distinction between mere breach of a promise and not fulfilling a false promise. If the accused has not made the promise with the sole intention to seduce the prosecutrix to indulge in sexual acts, such an act would not amount to rape,” the SC had said.

“There may be a case where the prosecutrix agrees to have sexual intercourse on account of her love and passion for the accused and not solely on account of the misconception created by accused, or where an accused, on account of circumstances which he could not have foreseen or which were beyond his control, was unable to marry her despite having every intention to do. Such cases must be treated differently...The acknowledged consensual physical relationship between the parties would not constitute an offence under Section 376 of the IPC,” it had said.

The men often get prosecuted for rape for failing to keep the promise of marriage in a live-in relationship. What remedy does a man have when the woman, who lived with him and promised to marry, resiles and marries another man?

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In England, Scotland, Australia and most European jurisdictions, breach of promise to marry is not an offence. In the US, some States permit filing of suits by the aggrieved party for claiming damages, which is limited to recovering the gifts exchanged between parties pursuant to an agreement for marriage.

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Reference: <https://timesofindia.indiatimes.com/blogs/legallythinking/failed-live-in-relationship-is-it-rape-or-breach-of-promise/?source=app&frmapp=yes>

*Failed live-in or failed affair is always being turned as rape. When a man and woman indulge into it, they understand what is the meaning of sex, however whenever this relationship become bitter, it is called as rape and kidnapping. Only the male is being sent to jail, a woman has never been sent to jail on breaking the promise of marriage or breaking the live-in relation. This shows how biased is our law and society. Probably it has become crime to be a man.*



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### **MAN IGNORES RS 12,000 MAINTENANCE ORDER, NOW TO PAY RS 2 LAKH/MONTH**

A MAN'S CAVALIER DISREGARD FOR COURT ORDERS TO PAY MAINTENANCE TO HIS WIFE AND CHILDREN HAS PROVED COSTLY FOR HIM, AS THE GUJARAT HIGH COURT ON MONDAY INCREASED THE MAINTENANCE AMOUNT FROM RS 6,000 PER MONTH TO RS 1 LAKH PER MONTH.

Upon hearing that the man did not obey court orders, Justice Samir Dave increased the maintenance amount stipulated earlier by a family court in Surat. Now he will have to also pay Rs 50,000 per month to each of his two children; the Surat court had set Rs 3,000 per month for each child.

The case involved a Surat-based couple. In March 2017, the woman approached the family court demanding maintenance from her husband for herself and two children. She stated that the husband had deserted her a year ago.

She demanded Rs 3 lakh per month and Rs 1 lakh for each of the children in maintenance claiming that her husband is in the diamond business, owns a factory, and earns Rs 25 lakh per month. The husband rejected these claims and told the court that he was involved in diamond job work and not as rich as his wife claimed he was. On the woman's allegations of harassment and desertion without any reason, the husband told the court that he was ready to take her back and had instituted proceedings for the restitution of conjugal rights.

In November 2019, the family court fixed the maintenance amount estimating the husband's income to be between Rs 40,000 and Rs 50,000 per month. This happened in the absence of any proof of income. While the woman approached the high court for enhancement of the maintenance amount to her original

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demand, the husband challenged the maintenance order. In February 2021, the high court directed the man to pay Rs 3.25 lakh because he allegedly did not pay anything to his wife and children.

On Monday, the woman's advocate Rajendra Jadhav informed the court that the husband had not paid any amount and had also disregarded the high court's directions issued in February 2021. The lawyer complained that the husband did not appear before the family court and alleged that he is influential enough to avoid court warrants.

After hearing this, Justice Dave said: "This is not done." He increased the maintenance amount, making the arrears from March 2017 from Rs 7.92 lakh to Rs 1.32 crore.

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Reference: <https://timesofindia.indiatimes.com/city/ahmedabad/gujarat-he-ignored-rs-6000-order-now-to-pay-rs-1-lakh/articleshow/94164005.cms>

*This shows the court always thinks that women are always an abla, whatever she says is 100 % truth, without listening to husband, court has assumed he is rich as per claimed by wife, and increased the maintenance amount. Instead, court has not asked women to earn, and not to become parasite on husband.*

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### **EVEN BY PHYSICAL LABOUR": SUPREME COURT SAYS HUSBAND'S DUTY TO FINANCIALLY SUPPORT FAMILY**

THE BENCH SAID THAT THE "ERRANT RESPONDENT HAD ALSO GONE TO THE EXTENT OF QUESTIONING HER CHASTITY" ALLEGING THAT HIS MINOR KID WAS NOT HIS BIOLOGICAL SON.

The Supreme Court on Wednesday said that it is the sacrosanct duty of the husband to provide financial support to the wife and minor children even by earning through physical labour if he is able-bodied, except on the legally permissible grounds under the law.

The top court said Section 125 of CrPC was conceived to ameliorate the agony, anguish and financial suffering of a woman who is required to leave the matrimonial home so that some suitable arrangements could be made to enable her to sustain herself and the children.

A bench of justices Dinesh Maheshwari and Bela M Trivedi made the observations while directing an "errant" husband, who had questioned the chastity of his estranged wife and had sought a DNA test of their son, to pay maintenance of Rs 10,000 per month to her, over and above the maintenance allowance of Rs 6,000 granted by the family court for the child.

"It is the sacrosanct duty of the husband to provide financial support to the wife and minor children. The husband is required to earn money even by physical labour, if he is able-bodied, and could not avoid his obligation, except on the legally permissible grounds mentioned in the statute", the bench said.

The bench allowed the appeal of the wife against the high court order, which had

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upheld the family court order dismissing her plea for grant of maintenance but had allowed the financial support for her minor son.

"The respondent (husband) being able-bodied, he is obliged to earn by legitimate means and maintain his wife and the minor child. Having regard to the evidence of the appellant-wife before the Family Court, and having regard to the other evidence on record, the court has no hesitation in holding that though the respondent had a sufficient source of income and was able-bodied, had failed and neglected to maintain the appellants", it said.

It rejected the submission of the husband made through his advocate Dushyant Parashar that he has no source of income as his business has now been closed and the wife has moved out of the matrimonial home on her own.

It added that the Family Court, in the instant case, had not only overlooked and disregarded the settled legal position but had proceeded with the proceedings in an absolutely "pervert manner".

"The very fact that the right of the respondent (husband) to cross-examine the witnesses of the appellant-original applicant (wife) was closed, as he had failed to appear before the Family Court despite the issuance of warrants, clearly established that he had no regards for his own family nor had any regards for the court or the law", it said. The top court said that the allegations made by the wife in her evidence before the court had remained unchallenged and, therefore, there was no reason for the Family Court to disbelieve her version, and to believe the oral submissions made by the counsel appearing for the husband, which had no basis.

"In absence of any evidence on record adduced by the respondent disputing the evidence adduced by the appellant, the Family Court could not have passed the

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order believing the oral submissions of the counsel for the respondent", it said.

The top court stated that the wife had clearly said how she was harassed and subjected to cruelty by her husband that had constrained her to leave the matrimonial home along with her children and as to how he had failed and neglected to maintain her and her children. "She had also proved by producing documentary evidence that her father had paid money to the respondent from time to time to help the respondent for his business", it said.

The bench said that the "errant respondent had also gone to the extent of questioning her chastity" alleging that his minor kid was not his biological son.

"There was nothing on record to substantiate such baseless allegations. His application for a DNA test was also rejected by the Family Court. "Of course, the Family Court granted the Maintenance petition so far as the appellant no.2-son was concerned, nonetheless had thoroughly misdirected itself by not granting the maintenance to the appellant-wife", it added. Referring to the order of the Family Court in the instant case, the bench said that such an "erroneous and perverse order" was unfortunately confirmed by the High Court by passing a "very perfunctory" impugned order. "The High Court, without assigning any reasons, passed the impugned order in a very casual manner.

"This court would have remanded the matter back to the High Court for considering it afresh, however considering the fact that the matter has been pending before this court since the last four years, and remanding it back would further delay the proceedings, this Court deemed it proper to pass this order", it said.

The couple got married on December 7, 1991 and have two children- a daughter (now major) and the minor son.

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The wife had filed a plea in the trial court that she was subjected to cruelty and physical and mental torture, as a result she had to leave her matrimonial home.

It was also alleged by the wife that there were dowry demands of Rs 1 crore from her father and even her husband questioned her chastity. The husband had denied the allegations about the dowry demand and harassment and according to him, she had left her matrimonial home along with children without any reason.

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Reference: <https://www.ndtv.com/india-news/even-by-physical-labour-supreme-court-says-husbands-duty-to-financially-support-family-3386638>



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### **ADULTERY NO LONGER A CRIMINAL OFFENCE IN INDIA**

INDIA'S TOP COURT HAS RULED ADULTERY IS NO LONGER A CRIME STRIKING DOWN A 158-YEAR-OLD COLONIAL-ERA LAW WHICH IT SAID TREATED WOMEN AS MALE PROPERTY.

Previously any man who had sex with a married woman, without the permission of her husband, had committed a crime.

A petitioner had challenged the law saying it was arbitrary and discriminated against men and women. It is not clear how many men have been prosecuted under the law - there is no data available.

This is the second colonial-era law struck down by India's Supreme Court this month - it also overturned a 157-year-old law which effectively criminalised gay sex in India.

While reading out the judgement on adultery, Chief Justice Dipak Misra said that while it could be grounds for civil issues like divorce, "it cannot be a criminal offence".

#### **WHO CHALLENGED THE LAW?**

Last August, Joseph Shine, a 41-year-old Indian businessman living in Italy, petitioned the Supreme Court to strike down the law. He argued that it discriminated against men by only holding them liable for extra-marital relationships, while treating women like objects.

"Married women are not a special case for the purpose of prosecution for

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adultery. They are not in any way situated differently than men," his petition said. The law, Mr. Shine said, also "indirectly discriminates against women by holding an erroneous presumption that women are the property of men".

In his 45-page petition, Mr. Shine liberally quotes from American poet Ralph Waldo Emerson, women rights activist Mary Wollstonecraft and former UN Secretary General Kofi Annan on gender equality and the rights of women.

India marriage Image source, EPA Image caption, Previous pleas were dismissed by the court in the interests of "stability of marriages"

However, India's ruling BJP government had opposed the petition, insisting that adultery should remain a criminal offence.

"Diluting adultery laws will impact the sanctity of marriages. Making adultery legal will hurt marriage bonds," a government counsel told the court, adding that "Indian ethos gives paramount importance to the institution and sanctity of marriage".

### **WHAT DID THE ADULTERY LAW SAY?**

The law dictated that the woman could not be punished as an abettor. Instead, the man was considered to be a seducer.

It also did not allow women to file a complaint against an adulterous husband.

A man accused of adultery could be sent to a prison for a maximum of five years, made to pay a fine, or both.

And although there is no information on actual convictions under the law,

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Kaleeswaram Raj, a lawyer for the petitioner, said the adultery law was "often misused" by husbands during matrimonial disputes such as divorce, or civil cases relating to wives receiving maintenance.

"Men would often file criminal complaints against suspected or imagined men who they would allege were having affairs with their wives. These charges could never be proved, but ended up smearing the reputations of their estranged or divorced partners," he told the BBC. Ten laws that India should scrap Why India needs to get rid of its sedition law Interestingly, Indian folklore and epics are full of stories about extra-marital love. Most love poems in Sanskrit, according to scholar J Moussaief Masson, are "about illicit love".

But Manusmriti, an ancient Hindu text, says: "If men persist in seeking intimate contact with other men's wives, the king should brand them with punishments that inspire terror and banish them".

### **WHAT DID THE JUDGES SAY?**

All five Supreme Court judges hearing the case said the law was archaic, arbitrary and unconstitutional.

"Husband is not the master of wife. Women should be treated with equality along with men," Chief Justice Misra said.

Judge Rohinton Nariman said that "ancient notions of man being perpetrator and woman being victim no longer hold good".

Justice DY Chandrachud said the law "perpetuates subordinate status of women, denies dignity, sexual autonomy, is based on gender stereotypes".

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He said the law sought to "control sexuality of woman (and) hits the autonomy and dignity of woman".

Critics have called the law "staggeringly sexist", "'crudely anti-woman'", and "'violative of the right to equality'".

"The legal system should not regulate whom one sleeps with," wrote Rashmi Kalia, who teaches law.

The main concern, according to the respected journal Economic and Political Weekly, is "not whether the expectations of fidelity in a marriage are right or wrong, or whether adultery denotes sexual freedom."

"It is whether the state can and should monitor a relationship between adults that is too complex, sensitive and individual for it to be capable of doing in a just manner," the journal wrote in a recent editorial.

### **WHERE ELSE IS ADULTERY A CRIMINAL OFFENCE?**

Adultery is considered illegal in 21 American states, including New York, although surveys show that while most Americans disapprove of adultery, they don't think of it as a crime.

"The criminal statutes remain in force for largely symbolic reasons, and there isn't enough enforcement risk for anyone to incur the political costs of repealing them," Deborah Rhode, a professor of law at Stanford University and the author of *Adultery: Infidelity and the Law* told the BBC.

Adultery is prohibited in Sharia or Islamic Law, so it is a criminal offence in Islamic countries such as Iran, Saudi Arabia, Afghanistan, Pakistan, Bangladesh

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and Somalia.

Taiwan punishes adultery by up to a year in prison and it is also deemed a crime in Indonesia. In fact, Indonesia is drafting laws that prohibit all consensual sex outside the institution of marriage. In 2015, South Korea's Supreme Court struck down a similar law where a man could be sent to prison for two years or less for adultery. The court said the law violated self-determination and privacy.

More than 60 countries around the world had done away with laws that made adultery a crime, according to Indian lawyer Kaleeswaram Raj.

In the UK, adultery is not a criminal offence and like many other countries, one of the main reasons given for divorce.

Couples cannot use adultery as a ground for divorce if they lived together as a couple for six months after the infidelity was known about.

### **HAVE THERE BEEN PREVIOUS CHALLENGES TO THE LAW?**

In 1954, the law was first challenged by a petitioner asking why women cannot be punished for the offence, and that such "exemption was discriminatory".

Critics have called the law "violative of right to equality" The Supreme Court rejected the plea.

Since then, the top court has rejected similar pleas, including the constitutional validity of the law, at least twice - 1985 and 1988.

"The stability of marriage is not an ideal to be scorned," a judge said in 1985. A married woman had approached the court, demanding the right to file a

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complaint of adultery against her husband's unmarried lover.

The court, rather patronisingly, described the plea as a "crusade by a woman against a woman".

It said the law was about punishing the "outsider" who "breaks into the matrimonial home" and "violates its sanctity".

Two different panels on law reforms in 1971 and 2003 recommended that women should also be prosecuted for the offence.

"The society abhors marital infidelity. Therefore, there is no good reason for not meting out similar treatment to the wife who has sexual intercourse with a married man," the 2003 panel, led by a judge, said. In 2011, the top court, hearing another plea, said the law was facing criticism for "showing a strong gender bias, it makes the position of a married woman almost as a property of her husband".

### **WHAT HAS THE REACTION BEEN TO THE LATEST RULING?**

Many Indians were not even aware the law existed. However, after Thursday's ruling, people have been largely supportive of the verdict.

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Reference: <https://www.bbc.com/news/world-asia-india-45404927>

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### **HUSBAND CAN BE JAILED FOR AFFAIR, RULES HC**

#### **SENTENCES A MAN TO SIX MONTHS JAIL FOR SUBJECTING HIS WIFE TO MENTAL CRUELTY**

If a man's extramarital affair causes serious discord between married couple, then he can be convicted. If a man's extramarital affair causes serious discord between married couple, then he can be convicted. If an extramarital relationship of a man causes serious domestic discord between the married couple, then he can be convicted for causing mental cruelty to his wife under Section 498A of the Indian Penal Code (IPC) and sentenced to imprisonment, the Madras High Court has said.

Justice D. Bharatha Chakravarthy gave this ruling while confirming the conviction of Nakkeeran, alias Jeroan Pandi by a trial court in Tiruvannamalai district in November 2011. The judge, however, reduced the quantum of jail term from two years to six months of rigorous imprisonment.

Though it was argued on behalf of the convict that the Supreme Court in K.V. Prakash Babu versus State of Karnataka (2016), had held that extramarital relationship per se would not amount to subjecting wife to mental cruelty, the judge said the verdict must be read in its entirety.

#### **PREVIOUS JUDGMENT**

In that judgment, the top court held that solely because a person was involved in an extra marital relationship and there was some suspicion in the mind of the wife, it could not be regarded as mental cruelty to attract the offence of abetment of suicide under Section 306 of the IPC.

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In the same decision, the Supreme Court had said the concept of mental cruelty depends on the social strata of the people involved, their individualistic perception and their level of endurance and sensitivity. The court said it would be difficult to generalize but it could be appreciated based on facts of individual case.

Taking a cue from those observations, Justice Chakravarthy said in the case before him, it had been proven through prosecution witnesses that the convict indeed had an extramarital relationship. The police had produced the birth certificate of a child born out of this relationship.

### ‘AFFECTED MENTAL HEALTH’

“Therefore, the court cannot close its eyes to the hard evidence and the facts of this case. The extramarital relationship has caused such an effect on the mental health of PW1 (wife) that it resulted in serious domestic discord, forcing her to leave her matrimonial home.

“Considering all the factors cumulatively, I hold that the action of the accused in having extramarital relationship which has caused grave mental trauma and affected the mental health of PW1 would certainly amount to cruelty to her under Section 498A of IPC,” the judge concluded.

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Reference” <https://www.thehindu.com/news/national/tamil-nadu/husband-can-be-jailed-for-affair-rules-hc/article38346831.ece>

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### **MAN GETS THREE MONTHS IN JAIL FOR EXTRAMARITAL AFFAIR IN VADODARA**

EVEN HAVING EXTRA-MARITAL AFFAIR AMOUNTS TO MENTAL HARASSMENT. A COURT OF JUDICIAL MAGISTRATE FIRST CLASS IN VADODARA HAS SENTENCED A MAN TO THREE MONTHS OF SIMPLE IMPRISONMENT FOR HAVING AN EXTRA-MARITAL AFFAIR. THE COURT SAID THAT THE AFFAIR CAUSED MENTAL HARASSMENT TO THE WIFE OF THE MAN.

Yogesh Patel and his two family members were booked under IPC section 498 (K) for harassing Patel's wife Ekta who had filed the complaint at Gorwa police station in 2017. The complainant said that Patel and his family members used to harass her and even beat her over domestic chores. Patel used to even threaten to divorce her.

The complainant further claimed that after their child was born, Patel got into an extra-marital affair with another woman. And he used to mentally and physically harass the complainant while his parents supported him. She said that Patel used to work in a garment showroom where he met the other woman.

She added that when she confronted her husband and asked him about his affair, he picked a fight with her. The complainant also said that she was pressured to divorce Patel.

Patel's lawyer argued in the court that he (Patel) was not involved in an affair with any other woman. After cross-examination of witnesses and evidence, the court accepted the complainant's case that Patel was having an extra-marital affair with a woman and it was responsible for their constant fights.

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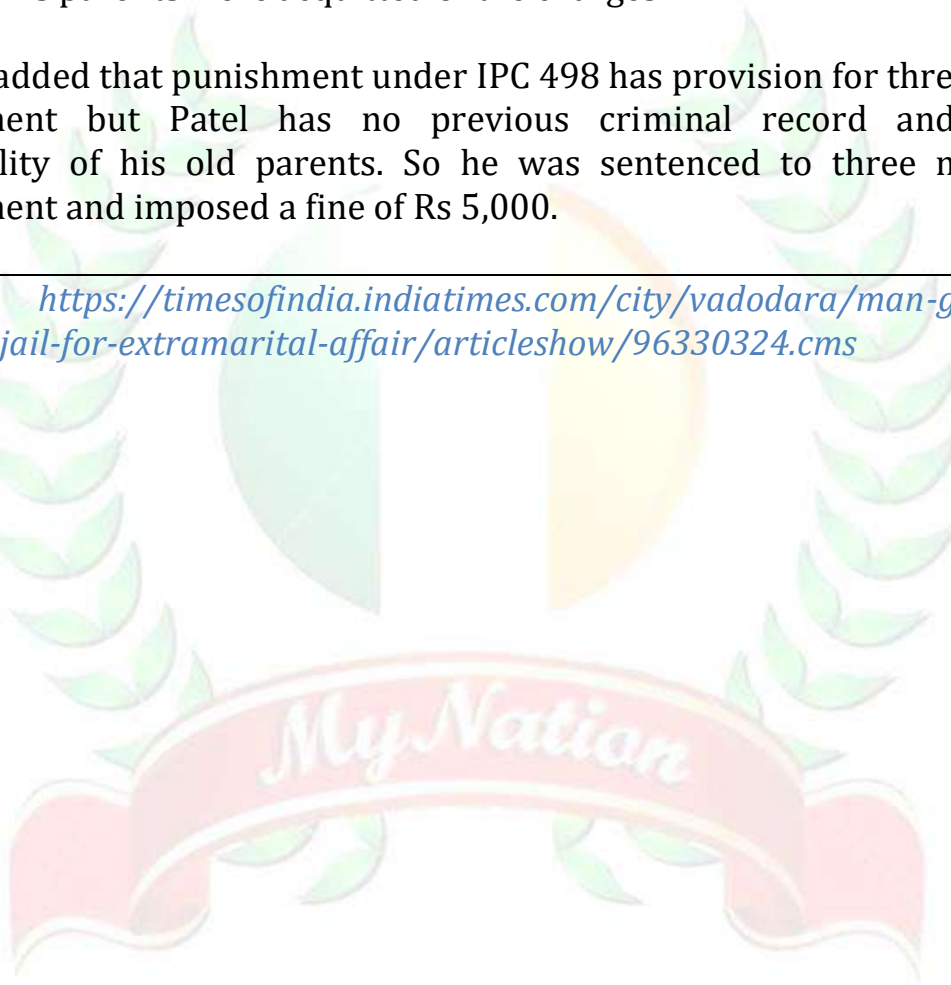
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The court said that physical harassment of complainant was not proven during the trial but mentally harassing a woman was an offence. Patel was convicted under IPC 498 (K) for mentally harassing his wife by having an extra-marital affair. And his parents were acquitted of the charges.

The court added that punishment under IPC 498 has provision for three years of imprisonment but Patel has no previous criminal record and he has responsibility of his old parents. So he was sentenced to three months of imprisonment and imposed a fine of Rs 5,000.

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Reference: <https://timesofindia.indiatimes.com/city/vadodara/man-gets-three-months-in-jail-for-extramarital-affair/articleshow/96330324.cms>



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### **UTTARAKHAND: RAPE VICTIM TURNS HOSTILE, MAN STILL GETS LIFE TERM**

THE TEENAGER TOLD THE COURT THAT THE ACCUSED WAS "FALSELY IMPLICATED" IN THE RAPE CASE BY THEIR NEIGHBOURS DUE TO PERSONAL ANIMOSITY.

DEHRADUN: A fast track court in Udham Singh Nagar sentenced a 29-year-old man to life imprisonment for raping a 17-year-old girl though she and a bunch of witnesses turned hostile.

The court convicted the man disregarding the fact that the girl went back on events leading to the assault.

Additional sessions judge Rina Negi in her order on Tuesday also slapped the guilty with a fine of Rs 65,000. The court further ordered the state government to pay a compensation of Rs 2 lakh to the teenager.

The girl's mother had lodged a police complaint on June 5, 2020 stating that the accused had raped her daughter on several occasions by plying her alcoholic ex-husband with booze.

The first incident took place on April 20 that year. He violated my daughter and also captured the act on his mobile phone. Later, he threatened my daughter, saying he will upload the video on social media, and raped her several other times," the complainant said. An FIR was registered under sections 457 (house trespass), 376 (rape), 506 (criminal intimidation) of IPC and Pocso Act. The police arrested the culprit on August 31 and submitted a charge sheet on September 11 the same year. The prosecution produced as many as six witnesses, including the minor, her mother, the doctor who had examined the girl, principal of the school

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where she was studying and two police officials. However, in a twisted turn of events, the girl and even her mother turned hostile and refuted the allegations in court, despite recording a statement before the magistrate that she was raped several times and the accused's family were mounting pressure on them to withdraw the case.

The teenager told the court that the accused was "falsely implicated" in the rape case by their neighbours due to personal animosity. Two witnesses were produced by the defence and, interestingly, one of them was the girl's father while the other was a woman from the neighbourhood. Both of them said that no such incident had taken place as claimed. The prosecution then produced the medical report of the girl and the age certificate issued by the school. In her statement, Dr Shalini Ranjan said that the woman along with her daughter came to the hospital to get the girl's medical examination done.

The report established that the girl was raped. The court asked the defence, "If the assault had not occurred, why did the woman take her daughter to hospital. It seems that the woman changed her statement under pressure." The court, citing the case of Girish Khatri v/s Uttarakhand 2013, said that the statements of hostile witnesses can be thrown out. (The victim's identity has not been revealed to protect her privacy as per Supreme Court directives on cases related to sexual assault)

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Reference: <https://timesofindia.indiatimes.com/city/dehradun/uttarakhand-rape-victim-turns-hostile-man-still-gets-life-term/articleshow/95898243.cms>

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### **WIDOW ELIGIBLE FOR FAMILY PENSION EVEN IF SHE'S CONVICTED OF MURDER: PUNJAB HIGH COURT**

IN AN UNUSUAL JUDGMENT, THE PUNJAB AND HARYANA HIGH COURT RECENTLY SAID THAT A WIDOW WOULD BE ELIGIBLE FOR FAMILY PENSION EVEN IF SHE IS CONVICTED OF MURDER.

In an interesting judgement on family pension, the Punjab and Haryana High court on January 25 said that a widow is eligible for family pension even if she is convicted of murder. "The purpose behind Rule 4-A (a) of Family Pension Rules, 1964 is to debar the family members, as such, from getting the family pension if they are involved in committing the murder or abetting the murder of the government employee on the old fable that 'one cannot kill the goose which lays the golden eggs'," the court said. advertisement.

The court observed that family pension is a welfare scheme which was launched to provide financial help to the family in the event of a government employee's death.

Family Pension Rules, 1964 say if a person eligible to receive the family pension is charged with the offence of murdering the government employee or abetting in the commission of such an offence, the claim of such a person or any other eligible family member shall remain suspended till the conclusion of the criminal proceedings instituted against them.

The rules say that if found guilty, such a person shall be debarred from receiving the family pension.

The court while deciding the family pension case of Baljeet Kaur, who along with

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a co-accused was involved in a murder and was convicted on November 19, 2011, observed that the suspension of family pension citing bad conduct was wrong.

"This provision has been wrongly applied to the facts and circumstances of the case, this impugned order deserves to and is quashed," the court said.

The petitioner Baljeet Kaur, who belongs to Haryana's Ambala, had told the court that her husband Tarsem Singh was a Haryana government employee who passed away in 2008 while in service. In 2009, she was booked for a murder and later convicted in 2011.

Baljeet Kaur was getting the family pension till 2011 but the Haryana government stopped the pension immediately after her conviction citing the bad conduct as mentioned in the Pension Rules.

The Punjab and Haryana High Court while setting aside the Haryana government order has directed the concerned department to release petitioner's family pension within a month along with the arrears.

"It is directed that family pension of the petitioner be finalised within 30 days and arrears of the family pension be also paid to her from the death of her husband within the aforesaid period," the court said.

The wife is entitled to a family pension under CCS (Pension) Rules, 1972 after her husband's death. The widow of a government servant is also eligible to receive the family pension even after remarriage.

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Reference: <https://www.indiatoday.in/india/story/high-court-says-wife-eligible-for-family-pension-even-if-she-murders-husband-1764462-2021-01-31>

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### **FILING FALSE CASES AGAINST HUSBAND IS CRUELTY": P&H HIGH COURT**

THE COURT GRANTS DIVORCE TO MAN. 10 LAKH AS PERMANENT ALIMONY TO WIFE

The PUNJAB AND HARYANA HIGH COURT recently decreed a divorce plea filed by a man after holding that the act of the wife of filing false and frivolous cases against her husband amounted to cruelty.

However, keeping in view the requirements of the wife, the bench of JUSTICE RITU BAHRI AND JUSTICE NIDHI GUPTA further granted PERMANENT ALIMONY OF RS. 10 LAKH to the wife as a full and final settlement of all disputes between the parties.

"Before parting, though we have held that the acts of the respondent-wife amount to cruelty against the appellant-husband, we are, however, NOT OBLIVIOUS TO HER REQUIREMENTS. It has come on record that the APPELLANT HAS BEEN PAYING INTERIM MAINTENANCE UNDER SECTION 125 CRPC AT RS.2500/- PER MONTH, AND RS.3000 PER MONTH was granted by the trial court under section 24 of the HMA. In these circumstances, WE CONSIDER IT JUST TO DIRECT THAT THE HUSBAND SHALL PAY TO THE WIFE A SUM OF INR 10,00,000/- (RUPEES TEN LAKHS ONLY) AS ONE-TIME PERMANENT ALIMONY AS FULL AND FINAL SETTLEMENT OF ALL DISPUTES BETWEEN THE PARTIES" the Court ordered (emphasis supplied).

#### **THE CASE IN BRIEF**

The Husband/appellant moved a petition under SECTION 13 OF THE HINDU

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MARRIAGE ACT, 1955 before the family court seeking dissolution of his marriage with the respondent/wife on the ground of cruelty. The same was dismissed by the ADDITIONAL DISTRICT JUDGE, TARN TARAN in May 2017. Challenging the same, he moved to the High Court.

He submitted that he got married to the respondent/wife in the year 2009-2010. No child was born out of their wedlock and since the very beginning, his wife did not want to live in the matrimonial house along with his parents and wished to live separately.

It was further his case that his wife did not perform her matrimonial duties and would pick up quarrels on trifling matters and would insult his parents and that she had a "venom-oozing tongue". She even threatened to involve the appellant and his family members in a false dowry case.

It was also stated that in October 2013, the father of the respondent took her away and she took all her belongings and gold ornaments with her and never came back. Thereafter, she filed a case against him and his family members under Sections 406, 498-A, and 120-B IPC, however, they all were acquitted later on.

On the other hand, the wife alleged that she was ill-treated and beaten up by her in-laws for more dowry articles and when she was left with no alternative but to register the above said FIR against them, she filed a case against them. She further stated that she was thrown out of the matrimonial home in October 2013.

### **HIGH COURT'S OBSERVATIONS**

At the outset, the Court took note of the fact that the appellant-husband and his family members had been acquitted in the case filed against them by the wife of the appellant. The Court also noted that the Trial Court had returned very

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categorical findings holding that the wife entirely failed to prove its case.

In view of this, the Court further remarked thus:

"In our view, once criminal litigation is initiated between the parties it leads to a point of no return. And if it is a false case filed by the wife merely to harass and humiliate the husband and his family, then the resultant bitterness rarely leaves any room or reason for reconciliation"

Further, the Court also took note of landmark rulings of the Supreme Court to note that if the wife files a false complaint against her spouse, it amounts to cruelty and is sufficient ground for divorce.

Thus, holding that the wife's act amounted to cruelty, the Court went ahead to note of the fact that the parties have been living separately since October 2013, and their conduct of the parties evidence that there are irreconcilable differences between them, rendering the marriage, a mere legal fiction. Consequently, the appeal was allowed.

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Reference: <https://www.livelaw.in/news-updates/filing-false-cases-husband-cruelty-ph-high-court-grants-divorce-10lakh-permanent-alimony-wife-212962>  
CASE TITLE - *Joginder Singh v. Rajwinder Kaur* FAO-M-12 of 2017(O&M)

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### **WIFE CAN FILE FOR MAINTENANCE U/S 125 CRPC EVEN AFTER RECEIVING ALIMONY IF UNABLE TO MAINTAIN HERSELF OR CHILDREN: P&H HC**

THE PUNJAB AND HARYANA HIGH COURT HAS OBSERVED THAT A WIFE CAN FILE A PLEA FOR MAINTENANCE UNDER SECTION 125 OF THE CRPC, NOTWITHSTANDING THE FACT THAT SHE ALREADY RECEIVED A LUMP SUM PAYMENT BY WAY OF ALIMONY FROM HER HUSBAND.

The case involved a couple who got married in 1983. After a matrimonial dispute between the two, they started living separately in 1993. By way of a written compromise made in 1993, the husband deposited Rs.3 lac in favour of his wife and two children as full and final alimony settlement regarding their past, present and future claims of maintenance.

In 2007, however, the wife filed a plea under Section 125 for maintenance, which was eventually ruled in her favour in 2016 by the Additional Sessions Judge, Pathankot, by which ruling the wife was granted maintenance at the rate of Rs.15,000 per month.

Aggrieved by this, the husband filed the present petition under Section 482 CrPC. for quashing of the judgment of the Additional Sessions Judge, Pathankot.

The petitioner-husband argued that the wife's plea under Section 125 could not be allowed. It was a misuse of the process of law; since the matter was already settled between the parties, by way of a written compromise which was complied with by the petitioner.

The respondent wife, on the other hand, submitted that she was only earning Rs.

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17,000 until her retirement in 2018, and that it was not possible for her to provide for expenses including accommodation, electricity, water and conveyance, additionally, since she was burdened with the expenses of her two children – both being college students.

The single bench of JUSTICE AMARJOT BHATTI, while holding that the plea under Section 125 was maintainable, despite the settlement in 1993, said that:

“It cannot be disputed that it was not possible for a lady and her two children to survive in a meagre amount of Rs. 3 lacs ... it is not possible to survive in a meagre salary of Rs. 17,000 and to bear the responsibility of her two children who were going in professional colleges. She was to look-after their daily expenditure, food, clothing, transportation, medical expenditure as and when required and other social obligations. Therefore, she was justified in filing the petition under Section 125 CrPC.”

Accordingly, Justice Bhatti found no justification for interfering with the order of the Additional Sessions Judge, Pathankot, providing for maintenance amount of Rs. 15,000 per month to the wife. CASE TITLE: Sunil Sachdeva v. Rashmi and Another CITATION: CRM-M-5732 of 2017 (O&M)

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Reference: <https://www.livelaw.in/news-updates/wife-can-file-for-maintenance-125-crpc-alimony-maintain-herself-her-children-punjab-haryana-hc-218309>

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### **80 PER CENT OF ALL DOWRY CASES IN INDIA END IN ACQUITTAL**

INDIA'S ANTI-DOWRY LAWS ARE BEING MISUSED, OFTEN RESULTING IN THE ACQUITTAL OF ACCUSED ONCE THE COURTS HAVE PERUSED THE MATTER, SAYS A LAW OFFICER AT PUNJAB AND HARYANA HIGH COURT.

#### **UNDERSTANDING INDIA'S ANTI-DOWRY LAWS:**

-Under the DOWRY PROHIBITION ACT OF 1961, both giving and accepting dowry in India is an offence. The punishment for violating the law is 5 years' imprisonment + Rs 15,000 (\$ 300 AUD) fine or the value of the dowry given, whichever is more.

- IN 1983, Sections 304B and 498A of the Indian Penal Code (IPC) were enacted to make it easier for an Indian wife to seek redressal for harassment by the husband's family.

-Section 304B of the IPC relates to dowry deaths, or the death of a woman in the initial seven years of marriage as a result of a dowry demand by her husband or his family/relatives.

-Section 498A of the IPC, popularly known as the anti-dowry law, prohibits cruelty by husband or his relatives towards a woman of the kind that might harm her or force her to commit suicide or relates to a demand for money or property. This amendment allows IMMEDIATE ARREST and jailing of a woman's spouse and her in-laws in the case of harassment or cruelty.

- The offence of cruelty under this Section is non-compoundable. In other words, it cannot be withdrawn by the petitioner and is also non-bailable. This means a

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mere complaint results in a mandatory arrest, and it is then a matter of discretion of the COURT to grant or refuse bail.

### **HOW THE LAW IS BEING "MISUSED"**

While many women have taken recourse to the law to get justice and freedom from violent marriages, India's Supreme Court noted in July 2017 that the law is being increasingly "misused by some disgruntled wives" to frame their husbands and his relatives.

**Dowry:** The big issue that has Indian-Australian community divided Quoting the National Crime Records Bureau's (NCRB) data, the bench said that nearly 200,000 people were arrested over dowry offences in 2012, but only 14.4% of the accused were convicted. "We are conscious of the object for which the provision was brought into the statute.... At the same time, violation of human rights of (the) innocent cannot be brushed aside," the bench had said. To this effect, the Supreme Court of India had ordered the formation of family welfare committee in every district, to probe the veracity of complaints filed under Section 498A.

The judges ordered the police "not to automatically arrest" an accused, but to go through a "nine-point checklist" to "satisfy themselves about the necessity for arrest".

And in cases where arrests are made, a magistrate must approve further detention of the accused, the court had ruled.

**'Male victims'** want their voices heard at the dowry abuse inquiry In line with the ruling, the latest figures released by the NCRB indicate that while the number of cases registered under Section 498A is increasing each year, the conviction rate

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is falling.

In the last 11 years between 2006-2016, for every case that resulted in a conviction, five other cases resulted in an acquittal and one case was withdrawn with the net result being that only one out of every seven cases resulted in a conviction-National Crime Records Bureau.

The stats also show the number of pending cases at the end of 2016 is more than twice the number of pending cases at the end of 2006.

At the end of 2006, 206000 cases were pending and this number increased to 515000 cases by the end of 2016, an increase of more than 150% in 11 years.

However, some of these directives were partially rolled back by the Supreme Court in September earlier this year, advocating for balancing interests of both the sides in dowry harassment cases.

Modifying its own judgement given out in 2017, the apex court did away with the requirement of a family welfare committee and restored the powers of the police to act on complaints of dowry harassment under Section 498A. "There should be gender justice for women as dowry has a chilling effect on marriage on one hand, and on the other hand, there is right to life and personal liberty of the man," the bench said while reserving the verdict in September 2018. Though the bench acknowledged that the misuse of the provision is leading to "social unrest", it however said, that the Court cannot fill in legislative gaps.

### **WHAT THE LEGAL EXPERTS SAY ABOUT INDIA'S ANTI-DOWRY LAWS:**

Former Additional Advocate General of Punjab and Haryana High Court, Rajinder Goyal told SBS PUNJABI that due to the misuse of the law at the initial stages, the

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vast majority of people accused under dowry-related cases end up being acquitted by the courts.

"In India almost, I can say that after the case is put to trial in 498A, 80 per cent is the acquittal rate. That means, it is found that the case is not proved. In such a situation, the investigating officer who registered the case and who investigated the case should be held responsible for FALSE CASES."

"In many cases, not only the groom but his brothers, married sisters and elderly parents are also arrested, based on a mere complaint."

Mr. Goyal further said that legal provisions must be made to implicate the complainant if after the investigation it is discovered that she was misusing the law, to deter other women from filing false cases. "If after investigation it is found that it is a false case, then the complainant should also be burdened with a heavy cost, and a case should also be registered against her for giving false information. "Secondly, the case must be registered against both parties, whether they are giving or receiving the dowry.

"Once this is implemented, then it will be easier to prevent the implication of innocent persons, who are harassed and humiliated by some women to settle personal scores."

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Reference: <https://www.sbs.com.au/language/punjabi/en/article/80-per-cent-of-all-dowry-cases-in-india-end-in-acquittal/aets82803>

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### **MARRIED WOMAN LIVING IN WITH ANOTHER MAN FOR 15 YEARS CAN CLAIM MAINTAINANCE**

THE BOMBAY HIGH COURT RECENTLY HELD THAT A MARRIED WOMAN WHO HAD BEEN IN A “LIVE-IN” RELATIONSHIP WITH ANOTHER MAN FOR OVER 15 YEARS IS ENTITLED TO MAINTENANCE FROM HIM UNDER THE SPECIAL ANTI-DOMESTIC VIOLENCE LAW.

MUMBAI: The Bombay high court recently held that a married woman who had been in a “live-in” relationship with another man for over 15 years is entitled to maintenance from him under the special anti-domestic violence law.

Justice Bharati Dangre struck down a sessions court order that had rejected the woman’s plea for maintenance.

The woman had claimed that she had lived with the man for a decade and half, shared household expenses with him and even her children from her previous marriage used to call him “father”.

Justice Dangre held that there existed a domestic relationship in the nature of a marriage between the couple.

“From the facts of this case, it can be seen that the couple has held themselves to the world as husband and wife. Not only that, there was an economic exchange between them and they were carrying out the said business of trading (in vegetables). It is her categorical statement that he had, in fact, helped her raise the children and share household expenses,” said the judge. The court pointed to the woman’s statement that she had shared money received for her daughter’s wedding expenses with the man and now she was left with no funds to look after herself.

The judge said it would have to consider the fact that the Domestic Violence

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(DV) Act enacted in 2005 was a benovelent law for protecting women from violence.

“The term ‘abuse’ for which the protection can be sought has been construed to be operating on a wide compass to include physical and economic abuse. Taking into consideration the purpose of the enactment, the provisions contained in the enactment are to be liberally construed to achieve the object of ensuring the welfare of a woman for whom the Act is intended to grant certain protection in certain situations,” said Justice Dangre.

In her application, the woman said that she had married a man around 20 years ago who left her. She had two sons and a daughter from the marriage. In 1994, she met a vegetable trader and started living with him along with her children. After 15 years of the relationship, she left him following a dispute and in 2012 lodged a complaint under the DV Act seeking maintenance. The magistrate's court held that she was entitled to maintenance but the sessions court overturned the order. She filed an appeal in high court.

The woman's lawyers said that she had lived in a “shared household” with the man for 15 years.

The man's lawyers opposed the plea saying “merely living together under a shared household is not the only test of determining whether the relationship between the couple was in the nature of marriage”.

The court rejected the man's contention and relied on witnesses who had stated that the couple had lived together for a long time and the woman was known as the man's wife.

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Reference: <https://timesofindia.indiatimes.com/city/mumbai/married-woman-living-in-with-another-man-for-15-yrs-can-claim-maintenance/articleshow/63931410.cms>

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### **NO SELF-RESPECTING WOMAN WOULD NORMALLY CONCOCT A STORY OF RAPE**

The Court noted that violent crimes against women and children are on the rise, and therefore, courts should not show any leniency to persons booked for such crimes.

Justice Mohan Lal denied bail to a man who has been in jail since June 2021 for raping the 10-year-old daughter of his neighbour. In its order, the Court said that no woman would put her character at risk by falsely implicating a man for raping her own minor daughter.

"...rape is the most hated crime in the society which leaves a scar upon the most cherished personality of a victim, and, therefore, no self-respecting woman would normally concoct a story of rape," the order stated.

The Bench added that leniency in matters involving sexual offences is not only undesirable, but is also against public interest.

"Courts cannot lose sight of the fact that crime of violence upon women and minor children are on increase and therefore the perpetrators of the crime must be dealt with iron hands...Showing leniency in such matters would be really a case of misplaced sympathy. The act of accused is not only shocking, but outrageous in contours. Granting of bail to him would lead to the danger of the course of justice being thwarted..."

Such an act leaves an indelible scar on the victim's dignity, chastity, honour and reputation in society, and granting the accused bail would shake the confidence of

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the people at large, the judge opined.

This is how Judges are promoting False cases and False narrative terming every Indian women is SATI SAVITRI, even statistics says 74% of Rape cases are false, and in one Judgment (Ref: <https://mynation.net/docs/408-2019/>) false rape case was quashed as Women was staying with man or having sex for 8 years then she filed Rape case. this shows, No self-respecting Indian women will sleep with a Man for decades and cry rape. but majority judges what women says is right. no questions asked, whatever she utter is Gospel truth. that's how judges promoting false cases.

### **WILL OPEN FLOODGATES IF PERJURY FILED FOR EVERY FALSE STATEMENT MADE IN COURT: KERALA HIGH COURT**

The Kerala High Court recently forced a man to withdraw a complaint filed by him against his wife who made a false claim before a family court that she is not a doctor in order to claim interim maintenance under Section 125 of the Code of Criminal Procedure (CrPC).

A division bench of Justices Alexander Thomas and CS Sudha said that proceedings for perjury (making false statement to court) cannot be initiated on all statements and arguments before the Court as it will open a floodgate of litigation.

“As held in Chandrapal Singh (Supra), day-in and day-out averments are made by the parties to the case, some of which are accepted and some others are rejected. If in all such cases, proceedings for perjury are to be filed, not only will that open up floodgates of litigation, but it would also be an abuse of the process of the court and the courts will not have time for any other matter apart from considering such

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issues. Therefore, in these circumstances, we hold that this is not a fit case in which the proceedings under Section 340 CrPC ought to have been initiated. In the result, the appeal is allowed. The complainant in annexure A3 complaint is directed to withdraw the complaint,” the Court said.

Thereafter, the estranged husband filed a petition contending that his wife denied her employment status during the cross-examination and hence, committed the offence under Section 191 (giving false evidence) of Indian Penal Code (IPC), punishable under Section 193 of IPC.

The family court accepted the arguments of the estranged husband and directed him to lodge a complaint against his wife under Section 340 of CrPC before the jurisdictional Magistrate

This prompted the wife to move the present appeal before the High Court.

The High Court after referring to various precedents said that courts are not bound to make a complaint in a routine manner regarding the commission of an offence on false statements or averments and such a course should be adopted only if the interest of justice requires the same and not in every case.

In the present case, the family court did not arrive at a conclusion that it is expedient in the interest of justice that an enquiry should be made into the alleged offense.

The Court said that proceedings against false statements cannot be initiated on all statements and averments before the courts as it will open up a floodgate of litigation.

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“Acceptance or rejection of evidence by itself is not a sufficient yardstick to dub the one rejected as false. Falsity can be alleged when truth stands out glaringly and to the knowledge of the person who is making the false statement. Day in and day out in courts averments made by one set of witnesses are accepted and the counter-averments are rejected. If in all such cases complaints under Section 199 IPC are to be filed, not only there will open up floodgates of litigation but, it would unquestionably be an abuse of the process of the Court.” Court noted.

This show much support Women has from Judiciary, even she file false statement, claims she is right, Man should not counter her claim or expose her. Agree judiciary is blind but not to this extent that even someone prove all the claims are false still judge support and threatn or force man to withdraw his proofs or case.

This is not empowering Women but Pampering them, even they file false case support them, this shows hold of feminism on Indian Judiciary or Judges are Henpecked.

If women produce false documents, or fake statements, no court or judge dare to question her, if Man prove her wrong thats abuse of process of law, and that open flood gates of litigations. this is false narative by Judges to defend their claim.

This shows In India whatever women do is right, she file a false case, she produce a false documents still she is Victim, Man should not counter prove he is not guilty because as per Indian Judiciary thats contempt of court.

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### **HUSBAND HAS MORAL AND LEGAL LIABILITY TO MAINTAIN WIFE EVEN IF HE IS A PROFESSIONAL BEGGAR**

The Punjab & Haryana High Court recently observed that a husband has a moral and legal liability to maintain his wife who is unable to maintain herself, even if he is a professional beggar [Sandeep v. Suman].

Justice HS Madaan dismissed a revision plea filed by the husband against an order directing him to pay maintenance to his wife. The Court noted in its order,

“Of course a husband has got a moral and legal liability to maintain his wife unable to maintain herself, even if he is a professional bagger. The respondent/husband could not establish on record that petitioner wife (herein respondent) has got any means of earning or is possessed of sufficient property.”

The Court noted that the husband is an able-bodied person and that nowadays, even a manual labourer manages to earn ₹500 or more per day. Further, keeping in view the trend of rising prices, the maintenance awarded cannot be said to be on higher side, the Court ruled.

The wife had preferred a divorce petition and an application under Section 24 of the Hindu Marriage Act 1955, seeking maintenance from her husband at ₹15,000 per month and litigation expenses of ₹11,000 pending the outcome of the divorce case.

The trial court awarded maintenance at ₹5,000 per month to the respondent-wife during the pendency of the divorce case. It also directed the husband to pay a lump sum of ₹5,500 to his wife as litigation expenses along with ₹500 per hearing on getting marked her presence before the court.

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Aggrieved by this order, the husband moved the High Court.

The High Court was of the view that the husband in no way established on record that his wife has any means of earning in order to maintain herself.

This is another encouragement not only make women is a Burdon, but no law, no court, no judge tell her, as she wanted divorce, mau be she found other man/lover as Adultery is not crime for women but its husband duty to pay her.

No law in the world give such pampering judgments in favoring women than india. Most western laws see whats the contribution of a Women in the marriage, if she has not contributed anything she will not get anything if divorced. than india.

Some court give order to man that BEG BORROW or STEAL BUT PAY WIFE, and this judgment also in tone says same.

No one question Women whats her responsibilities in marriage, she enjoy husband money, lavish life style, enjoy sex with husband and with lovers but when she was divorce its husband responsibility to pay her.

### **INDIA'S FAMILY LAWS ARE DISCRIMINATORY. THAT'S WHY JUDGES SHOULDN'T BE 'NEUTRAL' ON GENDER.**

Can a woman-centric legal doctrine be termed 'biased' and lacking a 'neutral' perspective?

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This article is written in the context of the UN declared 16-day campaign to end gender-based violence which started on November 25 and ends on December 10, 2021 – Human Rights Day.

Several feminist theorists have argued that the instrumental characterisation of law as a tool for the potential transformation of society is far too simplistic. They hold that law is a crude and limited device and is circumscribed by the dominant ideologies of the society in which it is produced.

Existing beliefs and assumptions shape the context of a legal provision. Even when changes are successfully made on a doctrinal level, they can and will fail if judges or others charged with the application of new laws revert to interpretations that merely replicate old results.

The impact of dominant ideologies on the shape and content of law and the legal process makes the idea of ‘progress’ through legal reforms problematic. Since legal, moral and social codes are determined by hegemonic claims of patriarchy, an exploration into the notion of justice and fairness to women can be embarked upon only after piercing the veil of ‘neutrality’, ‘impartiality’ and ‘formal equality’.

When we examine women’s rights, it becomes imperative to address the doctrinal concern – whether a woman-centric legal doctrine can be termed ‘biased’ and lacking a ‘neutral’ perspective? Can the lens of feminism or concern for women’s rights be labelled as ‘biased’?

When we examine the development of law we realise that due to the demands

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raised by the women's movement, women were added into the 'Law' project, particularly after women started claiming their rights as citizens, within an overarching patriarchal system. The demand by the women's movement was for equality. Right to vote, right to education, practice various professions etc. were hard won battles for Western women. Influenced by these struggles, the Indian Constitution guarantees equality under Article 14 and non-discrimination under Article 15. Equality, along with liberty and freedom, form the pillars of our constitution to protect women. The right to vote, equality of opportunities for education and employment, equal pay for equal work etc. fall within this notion of formal equality.

But when we examine the domestic sphere under the matrimonial laws, this notion of equality becomes detrimental to women. Since men and women within the marriage are not equal, the same yardstick of equality cannot be applied. Equality can only be between equals. If the norm of equality is applied between un-equals it will lead to greater disparity. But this distinction has not been clearly made within matrimonial laws. This is most glaring when we examine the Hindu Marriage Act of 1955, enacted soon after the Constitution came into effect.

### **AN UNEQUAL MARRIAGE**

Women's status and role within marriage differ a great deal from that of men. The man is the breadwinner and his contribution can be measured in economic terms. The woman is the homemaker and assumes a subordinate status within

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marriage. She is the repository of cultural norms of the family and community. However, there is no recognition of this unequal status between the spouses within matrimonial laws. While seeking divorce, both men and women have to frame their petitions on the same stipulated grounds – adultery, desertion and cruelty. But the incidents of cruelty which men plead while seeking divorce vary a great deal to the incidents of cruelty on which women base their plea for divorce. It is like comparing oranges and apples.

Let us examine some of the issues that come up before our courts in divorce litigation.

Not preparing meals on time, not making tea when the husband returns from work (even though the wife too may be an earning member), refusal to have sex, terminating pregnancy, not covering her head in the presence of in-laws or in public, refusal to wear sindoor or a mangal sutra, the symbols of marriage, demand for setting up a separate residence away from the joint family, filing a case under Section 498A of the Indian Penal Code (related to dowry) etc. are pleaded as instances of cruelty by husbands while seeking divorce.

The grounds on which women base their petitions for divorce are vastly different. They are based on the issue of basic survival – throwing her out of the matrimonial residence, constant demands for dowry or insults to her parents for their incapacity to pay more dowry, refusal to provide maintenance, snatching away and refusing to give access to her ornaments and valuables which constitute her stridhan, preventing her from seeking gainful employment or taking away her salary, aspersions on her moral character,

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acute physical, sexual or emotional abuse, denying custody or access to the children, etc. are grounds on which the woman bases her petition for divorce. Within the patriarchal social structure and patrilineal residence, in most cases, the woman leaves her natal family and comes to reside in her husband's home, where until recently her right to residence was not even recognised. When the wife is sent to her natal family for her child delivery, the husband could easily prevent her re-entry and then plead desertion. It took courts a long time to develop the theory of constructive desertion when the husband actively prevents his wife's re-entry. Hence we can see that even the ground of desertion plays out differently for men and women.

It was the husband's prerogative to decide the place of matrimonial residence and if the wife took employment at a far off place, the husband could file for restitution of conjugal rights, which courts would grant on the premise that the husband is the lord and master (pati parmeshwar), and it is the wife's sacred duty to obey him and reside at the place chosen by him as the matrimonial residence. This despite the fact that the Hindu Marriage Act had transformed Hindu marriages to contractual, civil unions in 1955.

### **THE MAINTENANCE PROBLEM**

The most disturbing feature of the Hindu Marriage Act is the right given to the husband to claim maintenance from the wife, based on the notion of equality. This was in 1955, when Hindu daughters were not given the right as coparceners in their natal family, there was great disparity between men and

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women in literacy, higher education and gainful employment.

Monogamy for men was just being introduced and had not yet become the norm. Yet it was deemed necessary to bring in equality between the spouses based on a liberal notion of formal equality and make women liable for paying maintenance to their husbands. The matrimonial laws governing other communities and even the Special Marriage Act did not have such a provision.

Yet maintenance, which is her basic right to survival, is framed in the context of the husband's economic power which is pitted against the woman's sexuality. It is like a sword of Damocles which hangs over her head even after her divorce while the man can contract a new marriage with absolute impunity. The recent trend in the courts is to impose on access to husbands even while they refuse to pay maintenance to their wife and children. Women view this attitude of the courts as a great injustice to them.

It has taken a long time for the courts to realise that the terms cruelty, desertion and adultery have different implications for the husband and the wife.

It has taken more than 60 years for us to realise this anomaly and move away from the notion of equality and demand gender specific legal provisions to protect women from domestic violence. Finally, the Protection of Women from Domestic Violence Act of 2005 grants this recognition by providing a detailed list of all acts that constitute cruelty to women. There is no reciprocal list which men can rely on, nor a reciprocal remedy.

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### **THE ADULTERY LAW, OR WOMEN'S BODIES AS PROPERTY**

This anomaly is even more stark when we examine the law on adultery under Section 497 of the IPC, which was finally stuck down by a Constitution bench in Joseph Shine vs Union of India on September 27, 2018.

Under Section 497 of the 158-year-old IPC, it was a crime against the husband if a man had sexual intercourse with his wife without his consent. A similar recourse was not given to women. Women could not be punished under this law. When this provision was challenged on the ground that it violated Article 14, the courts relied upon a paternalistic doctrine to save it from the premise of equality. It was viewed as a protectionist measure and a beneficial provision in favour of women. The harm caused to women was seldom recognised in legal discourses.

But examining it from a gender lens, it was obvious that it was premised on the notion that women are passive beings, incapable of making choices about their bodies or sexual desires. It presumed that after marriage, the woman's body belonged to her husband. Framed within the notion of sexual morality of the Victorian era, it viewed the problem to be between two men over sexual access to the body of the woman. Though the law criminalised only men, in essence it was anti-women as it treated women as chattels, and gave legal validity to the proprietary rights of the husband over the wife. Any man who had sexual intercourse with another man's wife, without his consent, was perceived to be violating the right of the husband to exclusive sexual access to his wife.

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While examining the constitutionality of this provision in Joseph Shine, the Centre had defended this provision using a deeply flawed argument that the section was essential to save the institution of marriage. “Diluting the adultery law will impact the sanctity of marriage. Making adultery legal will hurt marriage bonds,” the Centre had pleaded in an affidavit filed before the court. It failed to see that the provision does not ensure marital fidelity. It merely protected male privileges. When adultery with the consent or connivance of the husband is not an offence, the patriarchal notion of the dominion of the husband over the woman’s sexuality and bodily integrity gets reinforced.

In an extremely short-sighted manner, in 2003, the Justice V.S. Malimath Committee had recommended making the provision gender neutral premised on a flawed logic of equality. When marriage is constructed as a patriarchal institution, the woman does not have the corresponding control over her husband’s sexuality. Granting the husband additional powers to prosecute his wife for adultery would amount to adding salt to a festering wound. Justice Prabha Sridevan, former judge of the Madras high court, comments that that a law which is superficially equal kicks in injustice when it is put in action is something we have recognised too late.

On earlier occasions when this provision was challenged, the courts declined to strike down the section based on a paternalistic notion of protecting women (Yousuf Abdul Aziz vs State of Bombay 1954, Smt. Sowmithri Vishnu vs Union of India 1985 and V. Revathi vs Union of India 1988). These challenges were based on a two-way discrimination – the woman’s right to prosecute her husband and his lover for adultery and the husband’s right to prosecute his

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own adulterous wife.

Finally, on September 27, 2018, the five-judge Constitutional bench validated the feminist analysis of the section and struck it down. The bench observed that the parameters of fundamental rights should include the rights of women, and that individual dignity was important in a sanctified society. The court felt that the law was against women who had no opportunity to defend themselves in a situation where they were falsely linked to a man on mere suspicion, since a woman could not be made party to the case under Section 497 and had no locus standi. The then Chief Justice of India, Justice Dipak Misra, while reading out the judgment, said: “A husband is not the master of his wife. Legal subordination of one sex by another cannot be permitted.” Justice D. Y. Chandrachud held that a woman loses her voice and autonomy after entering marriage and autonomy is intrinsic to a dignified human existence. Section 497 denudes women from making choices and held that this provision is a relic of past. Justice Indu Malhotra held that Section 497 IPC is a clear violation of the fundamental rights granted in the Constitution, and there was no justification for the country continuing with this archaic provision.

While analysing why it took 158 years for this provision to be struck down, we stumble across the concept of a ‘reasonable man’ – a fictional notion which is often used to arrive at a conclusion about how common people would respond in a given situation. Here again there is a presumption that both men and women would respond in a similar manner and that there is no distinction in their perception between the genders. Questioning this premise of ‘reasonable man’, in an article titled, “In search of the ordinary woman”, Justice Sridevan

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discusses a case of sexual harassment which came up before the Madras high court:

“The Enquiry Officer found the delinquent officer guilty. But the High Court exonerating him and while doing so, made certain observations which indicate how the Ordinary Man gets constructed differently from the Ordinary Woman. “...The delinquent is leading a happy married life and there was no necessity for him to solicit sexual favours from anyone, much less the complainant ... The complainant lodged the said criminal complaint ... only to create documentary evidence in her favour so as to be used in the departmental proceedings which shows her motivated intention of achieving her illegal goal of throwing the delinquent officer from his official position.”

She comments, “Going by the judgment, the Ordinary Man is ordinarily faithful. The Ordinary Woman is ordinarily vengeful.”

### **A BIASED NEUTRALITY**

To conclude I bring back the original question with which I started, can the lens of feminism or concern for women’s rights be labelled as ‘biased’? The answer is provided by none other than Justice Chandrachud. At a roundtable organised by the O.P. Jindal Law School, titled, ‘Feminism in Practice: Feminist Lawyering and Feminist Judging’ in October, 2018, Justice Chandrachud commented: “As a judge you are giving effect to the essential values of the constitution and the basis of those values like equality, liberty, and fraternity which is the essence

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of the constitution. So in that sense when you apply feminist principles, one is doing nothing more than giving effect to the substance of equality in the constitution.”

Responding to a question, whether the constitution is feminist, Justice Chandrachud said, “Feminism is a lot about a disruption of social hierarchies, and that is what the Constitution intends to do. ***Transformation involves a disruption of the existing social structures.***”

As the number of women judges increases in all our courts, it is essential that they do not shy away from bringing in a women-centric jurisprudence with the fear that they will be implicated as ‘biased’ judges. While it is necessary to bring in a critical mass of women judges to protect women’s rights, it will become a failed project if they become apologists to patriarchal notions of ‘neutrality’, but are able to contribute substantially towards the evolution of feminist jurisprudence, deeply enshrined in the Constitutional values as per the roadmap that Justice Chandrachud has charted out.

Reference: <https://thewire.in/women/indias-family-laws-are-gender-blind-judges-shouldnt-be-afraid-to-question-them>

Above article is truth from horse mouth, written by a Bombay based feminist propagandist, who justify and defend Judges biased judgments. She also shamelessly admits judgments are biased towards Men, that’s what they call it Gender equality.

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In cases of child custody, woman is preferably given custody of the child, even child is a boy, even if both mother and father have similar qualifications, work profiles, and earn the same amount of salary. This is on account of the fact that several judges believe that a child will have a better upbringing with a mother rather than a father, and also have direction from their bosses, thereby creating a situation of gender bias.

The case of Km. Kranti Vs. Uttarakhand Sahkari Chini Mills Sanghi is a good example of gender bias. Judges refer Article 14 of Constitution of India when the matter is of Women, but Article 14 will not apply if matter is of a Man.

Similar controversy in the case of Smt. Manju Singh Vs. State of Uttarakhand (Writ Petition No. 14 (SS) of 2011). It is a clear case of “gender bias”. The Hon'ble Apex Court in a seminal decision in the case of Air India Vs. Nargesh Meerza reported in [AIR 1981 SC 1829] has also held “gender bias” to be violative of Article 14 of the Constitution of India.

The word ‘BIAS’ for a common man means inclination towards a person or a group which can be seen as unfair. It refers to favourable treatment for one towards the another. In the judicial sense, it would mean the judge passing an unfair verdict in favour of one party, typically women. In India there is systematic bias towards Men when matter is between Man and Women. SIMP' is slang word for a person (typically a man) who is desperate for the attention and affection of someone else (typically a woman). But here judge is passing order against man even he is not guilty not because he is not desperate for the attention but he has direction from the Top, no matter what women should be benefitted, should be favorable judgment or money as a reward for filling false case.

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## **Equality, Justice and Harmony**

We fight for Equality among gender, Justice to all and Family Harmony

These reports are exact copy of what is printed by news media, and posted here without any changes. Now it's up to the readers to decide what the truth is, as feminist's media shows and Government of India defend that all women are innocent victim of Men, even though she is a Villain / Criminal.

Soon there will be new law, sex with own wife is a crime to man, but married women having sex with lover is not. Feminists already started to call it Marital rape, instead Marital sex.

We collected above few Judgments news from the major news media houses published in English Language only, if we cover all the judgements favoring women and published in India's vernacular languages or from all other lower courts then count will be 10 times more than what we have collected. In this article we published around 10 Judgment news reports only and we have more than 1000 plus more news articles.

This is our effort to highlight how Indian Judiciary is contributing to destruction of the Society. Judges are not only influenced by feminist ideology but they have direction from the government who is silent on such society destroying judgments because it will not affect their business. They want to keep people busy family issues so they will not question failure of Politician election promises or administration. Judges are just pawn in the hands of Politicians who are under influence of Feminism.

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### **Domestic Violence: The Male Struggle to Survive and Mental Health**

(<https://mynation.net/voice/ssrn-3665274>)

### **BIAS BY BIRTH - DISCRIMINATION AGAINST MEN** (<https://mynation.net/voice/bias>)

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