

Shaping Justice: The Legacy of Mathura Rape Case on Indian Legal System

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Abstract

This paper examines the Mathura rape case, which represents a significant milestone in the advancement of women's rights in India. The case initially resulted in the accused being acquitted due to contentious interpretations of consent, which sparked extensive criticism and public outrage. This decision overturned the acquittal of the accused and voiced out new requirements for consent. It also called attention to institutional defects within the judicial system treating women. This research provides a broad view of how the Mathura case affected law making, which led to the promotion of women's rights along with their human dignity in India. The analysis includes legislative Acts, court judgments, research papers, and publications. The findings highlight the significance of the case in beginning a larger campaign for gender justice, demonstrating the crucial overlap between legislation and social change in promoting women's rights.

Keywords: Rape, Constitution, Dignity, Protest, Organization, Movement, Judgment, Consent

Introduction

"The day a woman can walk freely on the roads at night, that day we can say that India has achieved independence," Mahatma Gandhi.

During the ancient Greek-Roman period, women were not considered equal to men. Their rights and duties were restricted as compared to men. Men were the sole proprietors of women in decision-making process. Women were not supposed to participate in politics or fight for political rights. However, as the time changed, feminists began to advocate for equal rights in the 19th century through various movements. These movements led some advanced states to accept the role of women in society. However, some nations were under colonial rule or backward, and were unwilling to give women equal status in certain aspects. However, with passage of time, as role of women became more prominent in the socio-economic and political spheres of modern democratic societies, there was growing awareness and respect for women rights.

The pendulum swung and the 19th and most of the 20th centuries saw a flurry of law-making as well to help protect women's dignity and rights. India, though, first got on board with the idea of equal protection in 1950 when a new constitution was adopted which said, "The state shall not deny to any person equality before law or the equal protection of laws within the territory of India." Principally, Article 21 of Indian Constitution specifies that no one can be deprived from their life except according to the procedure set up by law. Everyone has the right to life, liberty and security of person. The right to life is the soul of the fundamental rights. The rest of the rights add quality to the life being referred to and rely upon the pre-existence of life itself for their operation. As human rights can just append to living creatures, one might expect the right to life itself to be in some primary sense, because the other rights don't have any value without it. But in the cases of rape, a victim has to face a lot of problems whether it is pre-trial or during trial. In addition, these are the totally violation of

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article 21 of the Constitution of India.² Rape is not just a physical assault but also a violation that deeply affects the victim's sense of self, autonomy, and personal integrity.³ The long-term effects on a person's mental and emotional well-being can be devastating, and the societal and personal repercussions can be profound.⁴

Since India lacked enough resources to maintain all things equally, whether it was the executive or judiciary, the government made certain changes to the Legislative Acts to avoid disparity among the classes. But that was not enough to protect the rights of women, particularly in cases of sexual assault. In 1960, the feminist movement began in Europe to advocate for equal participation of women on workplace and equal representation of women in political activities. Simultaneously, certain NGOs in India also initiated agitation against, advocating for changes in the laws pertaining to women.⁵ At the same time, the Supreme Court's ruling in the Mathura case instigated the people to start protesting against the government.

Facts of the Case

Mathura was the name of the allegedly raped girl. She became an orphan at a young age due to the death of her parents. Her brother looked after her and they both were working as labourers. At the working place, Mathura met her landlord's nephew, where they reached a mutual agreement to enter into matrimony. But her brother objected this and filed a complaint in police station against her lover of abducting his sister. So police summoned the victim to the police station at the night to give her statement on the complaint. She reported the police station at night along with her lover. Her brother and other family members were also approached the police station at the same time. Only two police constables named Tukaram and Ganpat were present at the Police station at that time. After general investigation, all were permitted to go back home. However, when they were leaving the place, Mathura was asked to stay behind while others were asked to wait outside. Mathura was then raped by both the constables. After that, assembled crowd waiting already at the gate threatened to burn the police post, then two accused policemen, Ganpat and Tukaram, reluctantly agreed to file a panchnama (legal recording of evidence).

The trial court acquitted the accused of the rape charge on the ground that Mathura was 'habituated to sexual intercourse,' her consent was voluntary; under the circumstances only sexual intercourse could be proved and not rape. However, the High Court set aside the judgment of the trial Court, and convicted the accused. The High court in this case has given the weightage to medical report that discloses the presence of semen on cloths of both parties. The court also ruled that the "passive submission" at a police station cannot amount to consent.⁶ However, in September 1979 the Supreme Court reversed the High Court ruling and again acquitted the accused policemen.

² Article 21 Constitution of India.

³ Francis Coralie Mullin v. The Administrator, Union Territory of Delhi, 1981 AIR 746.

⁴ Lalitha, K. (1980). "Rape- A Case Study of Rameeza Bee" Stree Shakti Sangathana, Paper presented at the National Conference on Perspective for women's liberation Movement in India, hosted by Forum Against Oppression of Women, Bombay.

⁵ Ghadiali, Rehana , *Women and Society in India*, Sage Publications, 1988.

⁶ Agnes Flavia, —*A Critical Review of Enactments on Violence against Women during the Decade 1980- 1989* Economic and Political Weekly, P. 10-30, 1992.

The Supreme Court's judgement in the Mathura case has received widespread criticism for being callous and leading to further abuse of sexual assault victims. The reasoning of the Court can be summarized in three points:

1. The Court reasoned when there were no external injuries on the person of Mathura it leads to a logical conclusion that here was no resistance by the accused when sexual intercourse took place. Which was kind of like saying, without evidence to prove the violence did or did not happen then it must have happened in a peaceful way, which also meant there was no such thing as coercion or assault.
2. The insinuation that resistance claims are probably bogus, directly contradicted by the next line that tells of a wrist being broken and clothing being ripped from the body, was tantamount to calling bullshit on everything this victim went through — not only undermining the reality of what she went through, but propagating this same disgusting idea that getting physically hurt is required for sexual assault to be considered legitimate.
3. The Supreme Court's ruling in the Mathura case exposed significant deficiencies in the judicial approach to sexual violence, particularly concerning victim treatment and consent interpretation. The decision incited widespread public outrage and became a catalyst for legal reform in India, underscoring the necessity for a more nuanced understanding of consent and the complexities surrounding victim experiences in sexual assault cases.

The Outcry and Societal Response to the Mathura Case

Mathura gang rape shocked the nation. Following the Supreme Court's ruling, common people including academicians, journalists, and feminists and others initiated protests. Until 1983, the judicial system lacked efficient laws and procedures that allowed a rape victim to prove her rape.⁷ Character, age, and consent of the victims led to the acquittal of majority of the accused. In *Banda v. AG*⁸, the clinical proof found no proof of sex nor of any actual wounds. This implied the clinical proof didn't authenticate the victim's proof, leaving the case altogether reliant on the victim's proof.⁹

For the first time in India's history, demonstrations on the issue of rape took place nationwide. On February 23, 1980, organizers called a public meeting at Camp Hall in the fort area of Mumbai, appealing to trade unions, women organizations¹⁰, democratic rights organizations, student organizations, lawyers, teachers, journalists, Dalit groups, and others to join in the demand for an immediate reopening of the Mathura case and for the amendment of the rape law.¹¹ This campaign led to the formation of hundreds of new women groups. Activists orchestrated widespread public gatherings, conducted aggressive poster campaigns, enacted powerful skits and street performances, amassed extensive signatures supporting their demands, and organized large rallies and demonstrations.¹² They also presented

⁷ Neera D. & Vibhuti P., *Indian Women-Change and Challenge in the International Decade, 1975-85*, Sangam Publications, 1990.

⁸Anita Heber “*Introducing the special issue on sexual violence in a Nordic context*” *Nordic Journal of Criminology*, Vol. 22 (1) 2021.

⁹ Ghosh S. K., “*Torture and Rape in Police Custody*”, Ashish Publishing House, 1983.

¹⁰ Patel, Vibhuti “*Women’s Liberation in India*”, *New Left Review*, No. 153, August, London, pp. 75-86. 1985

¹¹ Forum against Oppression of Women, “*Moving but not quite there*” pp. 1-25, 1990.

¹² Forum Against Oppression of Women (1985). Report of the National Conference on Perspective for

petitions to MLAs and the Prime Minister, significantly raising public awareness about the mistreatment endured by rape victims. Educated, middle-class, metropolitan women spearheaded this initiative, garnering subsequent support from political parties and mass organizations.

The call for amendments to the rape law addressed a comprehensive range of issues related to societal perceptions of sexuality. This included the assumptions held by both the legal system and civil society concerning women, the prior sexual history of rape victims, and various procedural aspects within the criminal justice system, such as the First Information Report, inquests, medical examinations, and the treatment of women in custody in India. Two influential booklets meticulously documented debates among feminists and democratic rights activists on issues such as gang rape, custodial rape, intra-family rape, and the burden of proof. The national conference titled "Perspectives for Women's Liberation Movement in India" was held in Bombay in November 1980¹³, where the proposed reforms became the focal point of intense controversy. After thorough deliberation, feminists concluded that the demands of women organizations should be as follows:

1. The investigation of sexual assault cases should be done at women residence or place of her choice. They should have the right to have a male family member, friend, or social worker present during questioning by law enforcement officers.
2. Proper facility should be provided to victims of rape if they need it, like they should be taken to protection and welfare department specifically designed for them.
3. To avoid any potential tampering, the magistrate should receive the medical report of a rape victim immediately, detailing the reasoning behind the findings.
4. Rape prosecutions must exclude a victim's previous sexual history from consideration. The focus should remain solely on the incident in question, not on the victim's past character. Previous character should be irrelevant in rape cases.
5. The police officers should be accountable for their actions if they refuse to register rape complaints. Section 375 of the Indian Penal Code should have a provision of consent as free and voluntary.

Reforming Criminal Justice: Key Changes Under the Criminal Law (Amendment) Act, 1983

After three years of heated debates among women groups, the media, and the Law Commission of India, the Indian parliament finally passed the Criminal Law Amendment Act (1983).¹⁴ The Indian Parliament amended the Indian Penal Code, the Code of Criminal Procedure, and the Indian Evidence Act to address the legal issues associated with sexual assault. Under this Act, disclosing the victim's name is considered a criminal offense. Even though this amendment maintains a definition of rape that is essentially identical to the previous one, it introduces several additional categories for the offense of sexual assault committed by individuals who are in dominating position. These categories include doctors, remand homes, jails, and police authorities who have women in their custody. The burden of proof lies on the person who is in a dominating position (accused). If a woman during the trial says that she did not give consent then the court shall presume that she has not given the

Women's Liberation Movement in India.

¹³ Patel, Vibhuti (1985). "Women's Liberation in India", *New Left Review*, No. 153, August, London, pp. 75-86.

¹⁴ The Criminal Law Amendment Act 1983 (46 of 1983).

consent. However, the authorities have not accepted the demand of activists that conjugal rape also be considered a criminal offense. Despite some limitations, the public discourse on the subject contributed to an increase in women self-confidence and a sense of fortitude.¹⁵

1. The Indian Penal Code has updated Section 375 by adding a new clause, renumbered as clause sixth. The previous clause was replaced with this new one. If the woman is either mentally incapacitated or intoxicated at the time of the incident, this clause disregards her consent to commit the crime of rape. This type of permission will not be considered to be a valid defence, and the accused shall be held responsible for the offense.
2. Parliament amended the Indian Penal Code by inserting Section 376B and Section 376D to include new types of offenses known as "custodial rape" and "gang rape" respectively. Section 376A of the Indian Penal Code criminalizes engaging in sexual activity with one's wife without first obtaining her consent during their separation. According to clause 1 of Section 376 of the Indian Penal Code, the minimum sentence for rape is seven years in jail, and under clause 2 of the same section, the sentence is on average ten years in prison.
3. Section 228A of the Indian Penal Code prohibits the disclosure of victim identities in rape cases under Sections 376, 376A to 376D.
4. The Evidence Act 1872 was amended by inserting the Section 114A. This places the burden of proof of innocence on the accused.
5. The parliament has also amended the provision regarding the trial of rape case. The proceeding of the rape case shall be conducted in camera, and the proceeding of the trial shall not be published in any of the ways except the court judgement.

From Controversy to Reform: The Mathura Case and its Impact on Indian Society

The 1983 amendment to the Indian Penal Code marked a significant moment in the evolution of legal provisions concerning sexual assault and the investigation procedures surrounding such crimes. This amendment was a response to the urgent need for legal reforms in light of societal and feminist movements advocating for greater protection of women rights.¹⁶ Despite the positive steps taken through the amendment such as the redefinition of rape and inclusion of harder punishment for offenders, these changes lacked the safeguards of dignity and rights for women. One of the core issues was that while the 1983 Amendment aimed to address some of the glaring inadequacies in the legal framework, it did not entirely shift the focus from a judicial system heavily reliant on procedural scrutiny to one centred on victim justice and support.¹⁷ The amendment marked the progress by expanding the definition of rape and making the evidence admissibility criteria more stringent, yet it remained inadequate in addressing the broader issue of victim protection and compensation.

There are hundreds of cases after that amendment which clearly show the lacuna in the system whether it was in substantive or procedural matters. The court has just delivered the judgment and never thought about the future of victims of rape as in the majority of the cases

¹⁵ Rao P.P., *"Do Women's Rights Differ from those of Men"*, BK Pal (Ed) Problems and Concerns of Indian Women, ABC Publishing House, 1987.

¹⁶ Liddle, Joanna and Joshi, R. (1986). *Daughters of Independence: Gender, Caste and Class*, (Eds). Kali for Women: New Delhi.

¹⁷ The Criminal Law Amendment Act 1983 (46 of 1983).

the victims have been neglected by the family and society.¹⁸ Despite numerous landmark judgments that aimed to correct these deficiencies, there remains a prevailing concern among the public about whether the Indian judiciary has effectively protected the rights of women? The judgments often revealed an on-going struggle to balance the rights of the accused with the need to ensure justice for the victims. These decisions sometimes raised doubts about whether the judiciary was fully committed to safeguarding women's rights or it remained constrained by procedural and systemic biases? The continued advocacy by Indian feminists has been crucial in pushing for further reforms and ensuring that the legal system evolves for better protection of women's rights.¹⁹

Failures of the 1983 Amendment Act: With Cases

1. The Dhananjay Chatterjee case²⁰, which emerged in 1990, is a landmark criminal case in India that involved the brutal murder of Hetal Parekh, a 16-year-old schoolgirl in Kolkata. Chatterjee, a 25-year-old man, was accused of luring Hetal to his home under the pretext of helping her with her studies. Once there, he allegedly raped her and subsequently killed her to cover up the crime. The case gained significant media attention due to its shocking nature and the involvement of a young victim. Dhananjay Chatterjee was arrested, and during the trial, the prosecution presented compelling evidence, including forensic findings and witness testimonies. In a historic verdict, Chatterjee was sentenced to death by the trial court, making him the first person in West Bengal to receive the death penalty after the Supreme Court reinstated capital punishment in 1980. The case sparked widespread debates about the death penalty, the safety of women, and the effectiveness of the criminal justice system in India. Ultimately, Chatterjee's execution in 2004 marked a significant moment in the discourse surrounding capital punishment and its implications for society.
2. The Priyadarshini Mattoo case²¹, which unfolded in 1996, involved the tragic rape and murder of a 23-year-old law student in Delhi. Mattoo was found dead in her apartment, and the investigation quickly pointed to her classmate, Santosh Kumar Singh, as the prime suspect. Despite compelling evidence, including DNA analysis, Singh was initially acquitted in 1999 due to lack of sufficient evidence, sparking widespread public outrage and protests demanding justice. The case highlighted significant flaws in the Indian judicial system, particularly regarding the handling of sexual violence cases. In response to the public outcry, the Delhi High Court ordered a retrial, which led to Singh's conviction in 2006. He was sentenced to death, marking a pivotal moment in the discourse on gender violence and the need for judicial reform in India. The case remains a symbol of the struggle for justice for victims of sexual assault and the importance of accountability in the legal system.
3. The Delhi Gang Rape Case (2006): A 30-year-old woman was gang-raped in Delhi by a group of men, including a police officer. The case drew significant media attention

¹⁸ MacKinnon, C. A. (1989). Harvard University Press published "Toward a feminist theory of the state" in 1989. Harvard University Press.

¹⁹ Williams, L. S. (1984). The classic rape question: When do victims report? *Social Problems*, 31(4), 459–467.

²⁰ Dhananjay Chatterjee v. State of West Bengal. 1994 SCR (1) 37.

²¹ Santosh Kumar Singh v. State, Criminal Appeal no.87 of 2007.

and public protests, leading to discussions about women's safety in urban areas and the need for legal reforms.

4. The 2008 Mumbai Rape Case²²: In this case, a 23-year-old woman was raped by a group of men in Mumbai. The case received widespread media coverage and highlighted the issue of sexual violence in urban settings, prompting calls for better protection for women.
5. The Ruchika Girhotra case, which gained prominence in 2009, revolves around the tragic story of a 15-year-old school girl, Ruchika Girhotra, who was molested by a senior police officer, SPS Rathore, in 1990 in Chandigarh, India. After the incident, Ruchika and her family faced severe harassment and intimidation from Rathore and his associates, which ultimately led to her family's decision to leave Chandigarh. Ruchika's case remained largely unaddressed for many years until her tragic suicide in 1993, which was linked to the trauma and harassment she endured following the assault. The case was reopened in 2009, leading to Rathore's conviction for molestation. However, he was sentenced to only six months in prison, which sparked widespread outrage and protests across the country, highlighting the systemic failures in the justice system regarding sexual violence and the treatment of victims. The public outcry led to open the case, and in 2010, the Punjab and Haryana High Court increased Rathore's sentence to 18 months. The Ruchika Girhotra case became emblematic of the challenges faced by victims of sexual assault in India, particularly in terms of societal stigma, legal inadequacies, and the need for reforms to protect and support survivors of such crimes. It also underscored the importance of addressing issues of power dynamics and accountability within law enforcement and the judicial system.
6. The Nirbhaya case²³, which occurred in December 2012, involved the brutal gang rape and murder of a 23-year-old woman in Delhi, India. The victim, who was later referred to as "Nirbhaya" (meaning "fearless"), was attacked by six men on a moving bus while she was returning home after watching a movie with a male friend. The assault was particularly heinous, involving extreme violence and torture. The case sparked widespread outrage and protests across India, leading to a national conversation about women's safety, sexual violence, and the inadequacies of the legal system in addressing such crimes. The public outcry prompted the government to implement significant legal reforms, including the introduction of stricter laws against sexual assault and the establishment of fast-track courts for such cases. In the aftermath of the incident, four of the accused were convicted and sentenced to death, while one was a minor at the time of the crime and was tried in a juvenile court. The Nirbhaya case remains a pivotal moment in India's ongoing struggle for gender equality and justice for victims of sexual violence, symbolizing the urgent need for societal change and improved protections for women. The victim's bravery and the subsequent movement for justice have had a lasting impact on public awareness and policy regarding women's rights in India.
7. The Unnao rape case²⁴, which came to light in 2017, involved the alleged gang rape of a 17-year-old girl by a prominent Bharatiya Janata Party (BJP) legislator, Kuldeep Singh Sengar, in Unnao, Uttar Pradesh. The victim accused Sengar of raping her in

²² State Of Maharashtra v. Chandrabhan Sudam Sanap.

²³ Mukesh and other v. State of Delhi, AIR 2017 Supreme Court 2161.

²⁴ Available at <https://www.lokatantra.in/articles-details/Unnao-Rape-Case> (last visited Jan 2, 2024)

2017 when she was a minor, but her case faced significant obstacles, including police inaction and intimidation from the accused's supporters. Despite her attempts to seek justice, the victim's family faced harassment, and her father was later arrested on false charges, leading to his death in police custody. The case gained national attention in 2019 when the victim attempted self-immolation outside the Chief Minister's residence, prompting widespread outrage and protests. Following public pressure, the Supreme Court intervened, transferring the case to Delhi for a fair trial. Sengar was eventually convicted in 2020, but the case underscored critical issues of political influence, systemic failures in the justice system, and the urgent need for reforms to protect victims of sexual violence in India.

8. The Hyderabad rape case²⁵, which occurred in November 2019, involved the horrific gang rape and murder of a 26-year-old veterinary doctor in Hyderabad, Telangana. The victim was abducted while she was on her way home, and her charred body was discovered later, leading to widespread outrage and protests across India. The case highlighted the pervasive issue of sexual violence against women in the country and sparked a renewed demand for justice and safety for women. In response to public outcry, the police quickly apprehended four suspects, who were later killed in an alleged encounter with law enforcement while they were being taken for a reconstruction of the crime scene. This incident raised significant concerns about extrajudicial killings and the rule of law. The Hyderabad rape case reignited discussions on women's safety, the effectiveness of the legal system in handling sexual assault cases, and the urgent need for comprehensive reforms to protect women from violence in India.
9. The Hathras case²⁶, which gained national and international attention in 2020, involved the brutal gang rape and murder of a 19-year-old Dalit woman in Hathras, Uttar Pradesh, India. The victim was attacked by four upper-caste men while she was working in the fields. After suffering severe injuries, she was hospitalized and later succumbed to her injuries, leading to widespread outrage and protests across the country. The case highlighted systemic issues of caste-based violence, gender inequality, and the inadequacies of the Indian legal system in addressing such crimes. In a controversial move, the local police cremated the victim's body at night without the family's consent, further fueling public anger and allegations of a cover-up. The incident sparked a national debate on women's safety, caste discrimination, and the need for urgent legal reforms. The Hathras case became emblematic of the ongoing struggle against sexual violence and the demand for justice for marginalized communities in India.

The series of high-profile cases of sexual violence and murder in India, including the Dhananjay Chatterjee case, the Priyadarshini Mattoo case, the Ruchika Girhotra case, and the Nirbhaya case, have collectively highlighted the urgent need for reform within the Indian criminal justice system. Each case not only exposed the horrific realities of gender-based violence but also underscored systemic flaws, such as inadequate legal protections for victims, societal stigma, and the challenges of ensuring accountability for perpetrators. The

²⁵ Available at <https://indianexpress.com/article/cities/hyderabad/hyderabad-fake-encounter-recap-7927828/>. (last visited Jan 2, 2024)

²⁶ Available at <https://www.livemint.com/news/india/hathras-gang-rape-case-a-look-at-the-timeline-as-up-court-sets-3-accused-free-11677748908293.html>. (Last visited Jan. 10, 2024).

public outcry and protests that followed these incidents have catalyzed discussions on women's safety, the effectiveness of the legal framework, and the moral implications of capital punishment. As India continues to grapple with these issues, it is imperative to prioritize the protection of women's rights, enhance legal reforms, and foster a societal shift towards greater respect and dignity for all individuals. These cases serve as a poignant reminder of the ongoing struggle for justice and the necessity of creating a safer environment for women in India.

Suggestions

The Mathura case, a significant event in India's history of legal reforms involving women's rights, has catalysed major changes in the perception and judgment of sexual assault within the Indian judicial system. Widespread criticism of judgement in Mathura case for its insensitivity and failure to uphold the victim's dignity sparked a significant public outcry and demand for reforms. This case highlighted the urgent need for systemic changes in both the legal and judicial handling of sexual violence, revealing how procedural technicalities and out-dated notions of morality could obstruct justice for victims. In response to the widespread criticism and activism that followed, the Indian government undertook a series of legislative reforms, culminating in the 1983 amendment. This amendment aimed to address some of the glaring issues highlighted by the Mathura case by broadening the definition of rape, increasing penalties for offenders, and introducing more victim-centric procedures. These changes represented a significant shift from a legal framework that had historically marginalized and blamed victims to one that sought to uphold their rights and deliver justice. Despite the significant progress since the Mathura case, still there is a need of continuous address of emerging challenges, and to ensure the legal system to be evolved in a way that genuinely upholds the dignity and rights of all individuals. The legacy of the Mathura case underscores the importance of vigilance, continued advocacy, and reform in the on-going quest for justice and equality for women.

Keeping in view the whole scenario of handling the rape cases in India, certain key measures are required to be implemented. First, there should be a focus on the proper training of the investigation officers so that they can create a supportive and empathetic environment for the victims. This will help the victims to feel more comfortable and supported throughout the process of investigation. Second, trials in rape cases should be on fast track levels. It will prevent the prolonged distress for the victims. Third, the current 'compensation and rehabilitation' scheme should be made simpler to ensure that victims receive the support without unnecessary delay. Moreover, there should be no restriction on the utilization of funds by victims. Lastly, advanced techniques should be adopted for collection of evidence to build the strong cases and improve the accuracy of investigations. These measures collectively will enhance the legal process in handling the rape cases, and will improve the support system for rape victims.