

# DEATH PENALTY ON RAPE IN STATE OF PUNJAB: AN EMPHIRICAL STUDY

## ABSTRACT

The rise of sexual assault in India, is a trend that has been influenced by multiple factors namely socio-cultural, legal, economic, and historical aspects. The research work presented in this paper, focuses on how the law of rape has changed from the traditions of the ancient and the medieval times, to the colonial laws and the modern reforms of the Criminal Law Amendments and the Bharatiya Nyaya Sanhita (BNS), 2023. First, it delves into patriarchal values which have a strong grip in society, caste-based discrimination, structural inequalities inherited from history as well as the perception of "honor" and how all these have influenced the recognition and the prosecution of Sexual Violence.

By doing doctrinal and descriptive research, the paper analyses the changes of the statutes, investigations of the courts, and legal systems. To support its arguments, it also refers to the data obtained from the public opinion survey in which 73 people took part. The findings point to a considerable gap between reforms in law and their implementation on the ground. The public remains sceptical of the justice system despite the fact that they are also overwhelmingly in Favor of strict punishments, such as the death penalty. The examples of judiciary in Punjab and the PHHC reveal how the court is careful in applying the "rarest of rare" principle in rape cases and, therefore, showing the differences in the punishment of crimes and the urgency of the establishment of uniform guidelines for that matter.

The research argues that the existence of heavier penalties, including in cases of death - punishments that are mostly of symbolic and deterrent nature - is not enough to bring about real justice. The latter, according to the paper, requires improvements in the forensic investigation of crimes, victim relief services, judicial efficiency, and gender sensitivity. The paper further asserts that a thorough plan to bring about lasting changes should not only comprise legal reforms but also social changes, and enhanced institutional accountability.

**KEYWORDS:** Rape, Death Penalty, Penile Vaginal Penetration, Posh Act, Posco Act, Life Imprisonment, Evidence, Rape Victims, Victims, Investigation, Sexual Violence,

**Fundamental Rights, Feminist, Movements, sexual Assault, Sexual harassment, Human Trafficking, Gang rape, False promise rape, Acquaintance Rape, Marital Rape, Digital Rape**

## **INTRODUCTION**

Rape and sexual misconduct dominate cases have been increasing exponentially over the last decades, which have seriously troubled the legal, social, and academic circles. The rise of the situation is the result of many complex factors that can be divided roughly into two categories - subjective and objective frameworks. The subjective frameworks include anthropological, medical, biological, psychological, psychiatric, and analytical viewpoints, all of which can be reasonably explained the personal and behavioural aspects of both the perpetrators and the victims. The objective frameworks, on the other hand, consist of geographical, ecological, economic, social, sociological, and cultural factors that influence the environment in which these crimes occur.

Interestingly, the social and economic conditions are highlighted as the most crucial factors that largely determine those aspects of the victims such as their level of vulnerability, awareness, and access to justice. Notwithstanding legal reforms and constitutional guarantees, a distressing fact is still present: in many parts of the country, where the male culture dominates, women are denied basic rights, autonomy, and dignity and are treated as objects by a patriarchal system which sees them as a means of satisfying male desires only.

The purpose of this research paper is to identify those factors that are closely related to each other, to figure out the different aspects of rape, and to increase the knowledge of societal and systemic issues that form the breeding ground for such offenses.

## **OBJECTIVES OF THE STUDY**

- To investigate changes in rape laws in India from cultural norms, religious laws, colonial laws, and contemporary laws, including the transition from IPC to BNS, 2023.
- To analyse the socio-cultural, economic, and structural factors behind the prevalence of rape, with the main focus on patriarchal norms, caste systems, and gender-based power inequalities.

- To examine the legal reforms' performance and challenges by looking at the 1983 amendments, the Nirbhaya reforms of 2013, the 2018 amendments, and new provisions under the BNS, especially regarding gang rape, child rape, deception-based sexual intercourse, and marital rape.
- To study judicial trends and milestones cases in Punjab and the PHHC, mainly centered on the usage of the "rarest of the rare" principle to the death penalty imposition.
- Examination of public opinions on the knowledge of rape laws, the justice system efficiency, and capital punishment attitudes based on factual survey data.
- Detection of the inadequacies of the system in the areas of investigation, forensic processes, victim protection, and trial procedures and suggesting criminal justice reforms designed to improve these areas.
- Suggesting policy and institutional measures that will help in ensuring speedy trials, better evidence gathering, gender-sensitive procedures, victim-centric approaches, and societal change over time.

## **LITERATURE REVIEW**

Research works compiled till now show that sexual assault is a sensitive and complicated issue that command attention of scholars from all corners of the world. The most recent inquest has been focusing on the psychological, physical, and societal side effects of sexual assault to the survivors. One of the publications titled *An Analytical Study of the Rape Law and Its Impact*, deeply delve into the examination of the sentencing practices across various common law jurisdictions, and also, it evaluates how serious the crime is.

Researchers correspondingly dissect the features, divisions, and fluctuations of the sexual assault incidence supported by the factual data. There are a great number of books where authors' arguments revolve around the victim's role in the court decision and the moral and legal aspects of sexual crimes. Moreover, there has been extensive deliberation on domestic regulations, court decisions, and international legal frameworks.

To sum up, the existing writings provide a powerful platform to understand sexual assault from the legal, social, and psychological perspectives.

## 90 **METHODOLOGY**

91 The study uses a descriptive and analytical method, largely relying on doctrinal and non-  
92 empirical approaches. It is based on the study and understanding of a wide range of  
93 accessible resources. The chief sources are educational materials, research articles, official  
94 publications, and library records. Besides that, it integrates the first-hand materials like court  
95 judgments, laws, and legal codes of India as well as some other countries. Secondary sources  
96 include online articles, blogs, seminar presentations, and research dialogues. Moreover, the  
97 study is further supplemented by an analytical framework consisting of the books,  
98 commentaries, digests, periodicals, and legislative conversations.

99

## 100 **HISTORICAL DEVELOPMENT**

101 India's problem with rape has been impacted and shaped over time by highly complex and  
102 layered gender, caste, class, and patriarchal systems. The conception of sexual violence has  
103 changed drastically from it being seen mainly as the most severe affront to the family's  
104 honour to now being recognized as a crime against one's bodily autonomy. Present-day rape  
105 laws in India represent a blend of the four major periods of time (religious principles, cultural  
106 ideologies, legal frameworks, movements, and changes)—namely ancient, medieval,  
107 colonial, and postcolonial. Knowing this long and complicated past is very important to  
108 understanding the existing Indian rape laws' pros and cons.

109

## 110 **ANCIENT INDIA: HONOUR, CASTE AND CONTROL OF WOMEN'S BODIES**

111 In the old India, the issue of rape was mainly viewed by the Dharmashastra tradition lens,  
112 which included texts such as Manusmriti, Yajnavalkya Smriti, and Narada Smriti. These texts  
113 described sexual violence not just as a crime against the individual, but as an attack on the  
114 honour of the victim's family or caste group. The extent of punishments fluctuated greatly  
115 according to caste, with upper-caste men often getting light punishments for raping lower-  
116 caste women, whose dignity was socially degraded. Women were seen as the weak and the  
117 preservers of the purity of the family, which shows that sexual misconduct was regarded as a  
118 communal or religious issue rather than as an injustice done to the woman personally. The  
119 idea of consent, as it is now recognized, was of very little importance; a woman's sexuality  
120 was still controlled by patriarchal standards and caste-based norms.

This period set the stage for the domination, silence, and moral supervision of women that lasted for many centuries.

## MEDIEVAL INDIA: THE INTERPLAY OF CUSTOMARY LAW AND RELIGIOUS INFLUENCE

During the entire medieval era, especially the times of Sultanate and Mughal, Indian society was a mix of Islamic and local legal traditions. Islamic law made a clear distinction between rape and illicit sexual relations that were consensual; nevertheless, the implementation of these laws was very inconsistent, most of the time, because community courts, caste panchayats, and local customs were dominant. In many places, rape cases were settled privately by giving money to the victim's family and thus the idea that sexual violence was mainly a matter of male guardians and societal honour was strengthened again. Women had a very hard time proving that they were not consenting in situations where patriarchal norms were strongly established. Even if sometimes formal Islamic courts offered more organized legal proceedings, most of the cases were handled informally, so the victims had very few opportunities to find justice. Thus, medieval India continued the honour-centric system of the past while adding new layers of religious authority that made the patriarchal dominance even more impregnable.

## COLONIAL INDIA: THE INDIAN PENAL CODE (IPC) AND THE EXCEPTION FOR MARITAL RAPE

A major change was brought about in 1860 when the British enforced the Indian Penal Code (IPC) which for the first time was the single criminal code for the entire British Indian territories. Section 375 gave a very limited definition of rape as a sexual act only between a male and a female where the male used his penis for penetration and this was a reflection of the Victorian view of sexuality and morality. The most crucial and influential feature of the IPC was the exception of rape within marriage—based on British patriarchal law—by which a husband raping a wife could only be the one below a certain age that could be charged. Marriage was seen as a continuous consent within the colonial mindset. The IPC, however, was a tool aimed at creating a uniform legal framework, yet it was still patriarchal in concept and consequently, women's rights were severely limited. The late 19th century debates on age

of consent, particularly after the death of 10-year-old Phulmoni Dasi due to marital rape, unveiled the disagreements among colonial authorities, Indian reformers and conservatives. Despite some reforms, the definition of rape was still very restricted and patriarchal values were dominant in both legal and societal realms.

## POST-INDEPENDENCE ERA (1947–1980): CONTINUITY OF COLONIAL LAW AND SOCIAL SILENCE

After independence India mostly kept the Indian Penal Code (IPC) the same without making any significant changes. Over a long period of time, the stigma attached to rape was so strong that the cases were not reported in large numbers. The reasons for this included police indifference, cruel medical examinations, and court practices like checking the victim's character or demanding proof of physical resistance, which were all ways in which survivors were deterred from seeking justice. Sexual violence based on caste was going on as usual, and women from the most oppressed groups, such as Dalits and Adivasis, were not only being discriminated against in society but also in the judicial system. The courts were very much focused on "moral character," thereby continuing the biases of the colonial era. The lack of significant changes to the law was a clear sign that society was unwilling to confront the issue of sexual violence and, hence, patriarchal systems were allowed to continue without being challenged.

## THE MATHURA RAPE CASE AND THE 1983 LEGAL REFORMS

The 1972 Mathura rape case (Tukaram v State of Maharashtra), in which a tribal girl sexually molested in police custody, was a major landmark turning point. The SC, however, on the ground that the victim did not offer "resistance," decided to acquit the accused. This verdict resulted in a fiery protest all over the country and led to a landmark legal reform: the Criminal Law (Amendment) Act of 1983. This amendment made several very important changes like the burden of proof being shifted to the accused in the case of custodial rape, the victim's past sexual history being limited for the cross-examination, and the increase in the punishment in aggravated circumstances. Thus, for the very first time, public feminist movements were able to bring about a change in the rape laws of India, which was the beginning of the new kind of feminist legal activism.

183

184 LATE 20TH–EARLY 21ST CENTURY: GROWING AWARENESS OF SEXUAL  
185 VIOLENCE

186 This period between 1990 and 2012 saw an increasing understanding of rape as a problem  
187 that is deeply embedded in the system. The gang rape of Bhanwari Devi in Rajasthan, for  
188 instance, brought out the interconnection of caste, gender, and state power that later on  
189 resulted in the creation of the Vishaka Guidelines (1997) dealing with sexual harassment in  
190 the workplace. The society's understanding of sexual violence expanded to include custodial  
191 rape, caste-based rape, communal violence, and human trafficking. However, the legal  
192 definition of rape has largely been the same as it was during the colonial times, and  
193 conviction rates have been very low due to the law enforcement, forensic, and judicial  
194 systems' deficiencies.

195

196 THE NIRBHAYA CASE (2012) AND THE 2013 CRIMINAL LAW AMENDMENT

197 The dreadful gang rape and murder in Delhi in December 2012 led to massive public protests  
198 and was also condemned by the whole world. The government, as a consequence, set up the  
199 Justice Verma Committee, which came out with a progressive report emphasizing the  
200 significance of consent, gender justice, and accountability. The changes brought about by the  
201 Criminal Law (Amendment) Act 2013 were substantial: the definition of rape was broadened  
202 to include any kind of penetration; new crimes such as stalking and voyeurism were added;  
203 the punishment was made harsher; and the rights and privileges of the victims were  
204 strengthened. This change was a core shift of Indian rape law, thus it changed the law from a  
205 very limited, penetration-focused, framework to one that is more in line with the modern  
206 understanding of bodily autonomy.

207

208 THE 2018 REFORMS: ENHANCEMENTS IN CHILD PROTECTION AND STRICTER  
209 PENALTIES

210 Another wave of reforms followed in 2018 as a direct consequence of public outrage over the  
211 cases of minors. The law increased the minimum sentences and introduced the death penalty  
212 for the rape of children under 12 years of age. While these changes reflected the demand of

the public for harsher punishments, scholars were debating if increased severity would actually decrease the incidence of sexual violence without addressing the root causes of the problem such as police indifference, long trials, and social stigma.

## THE NEW CRIMINAL CODES OF 2023: BHARATIYA NYAYA SANHITA (BNS) AND CURRENT LEGAL SITUATION

India replaced the Bharatiya Nyaya Sanhita (BNS) to change the colonial Indian Penal Code (IPC) in 2023. The new code has shuffled and renumbered the different sections of the law but has kept the majority of the substantive provisions of the 2013 legal framework. The concept of rape is basically the same one, i.e. a description of the different types of penetrative assault. Moreover, the changes in the law include an increase in the maximum sentences of some aggravated offences and some new procedural reforms under the Bharatiya Nagarik Suraksha Sanhita (BNSS) aimed at speeding up investigations and trials. However, the most controversial element, the exception for marital rape, which is retained except for the cases of spouses living separately, has not been changed. This is a reflection of the continued denial of women's right to sexual autonomy even though it is inside marriage.

## CURRENT CONTEXT: SOCIETAL REALITIES AND PERSISTENT CHALLENGES

India, notwithstanding the legal reforms, keeps on experiencing systemic problems of sexual violence. One of the main factors hindering the report of cases is the social stigma which is especially difficult for women of marginalized castes and those who come from an economically disadvantaged background. Police officers sometimes are on the side of the perpetrators and they discourage people from going to the police with their cases. When it comes to handling cases, the officials may also be conducting the process in a way that is insensitive or biased. The duration of the court proceedings is very long, and the number of convictions is still not very high. In addition, the forensic sector is not well-developed. Moreover, patriarchal ideas about "honour", "purity" and "morality" not only dominate the society but also influence both the public and the court room perception of the issue. The truth is that there has been a visible change in people's awareness during the past couple of years, however, real change still requires reforms in education, structural accountability in the police.



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## 245 **LEGAL REFORMS**

246 The Indian penal code, which was first introduced in 1860, has witnessed a pretty narrow,  
247 male dominating and inefficient legal framework of rape law that has failed to keep pace with  
248 the increasing nature of the sexual violence of the time. The movements of society, landmark  
249 judicial decisions, and unfortunate events have over time recognized these insufficiencies and  
250 have therefore progressively reformed the law; with a recent complete overhaul following the  
251 adoption of the BNS in 2023. These changes indicate attempts to broaden the meaning of the  
252 terms, increase the sentences, and address the newly arisen sources of exploitation (for  
253 instance, cheating and power abuse). However, some deeply rooted restrictions, especially  
254 those related to marital rape and the gender neutrality principle, still remain. The upcoming  
255 sections will provide me an opportunity to reflect on the reforms by different categories:  
256 general rape, gang rape, deception or 'digital rape', acquaintance rape, and marital rape.

257

## 258 **RAPE**

259 Under the original Indian Penal Code (IPC), the crime of rape was describe in S. 375 and  
260 subject to the punishments provided in S. 376. This definition essentially focused on penile-  
261 vaginal penetration and also the consent standards that were affected by colonial moral  
262 values. Although, legal interpretations as well as social movements have been striving to  
263 expand the concept of consent and the range of protection the basic framework was still very  
264 limited. The biggest part of the work was done by the Criminal Law (Amendment) Act,  
265 which is mostly called the “Nirbhaya Act” and it has amendments in IPC, the Evidence Act,  
266 and the criminal procedure laws. The 2013 amendments excluded only the penile-vaginal  
267 intercourse, but accepted object penetration, forcefully sexually activities, and many other  
268 incidences of sexual violence as rape. Besides that, it gave more protections to victims like  
269 trials in camera, identity and privacy protection, and limitations on the intrusive questions  
270 about a woman's sexual past.

271 The definition of rape with the passing of the BNS in 2023 is at present in S. 63 of the BNS.  
272 The new legislation continues to define rape in a very detailed way; the focus is heavily on  
273 consent, and it recognizes several different types of non-consensual sexual intercourse.

Besides that, the BNS has provisions for the rape crimes of the minor which is in line with the general framework of child protection.

The BNS stipulates that a minor who is a victim of a rape offense shall be met with very harsh penalties. Moreover, the BNS brings in procedural reforms that are aimed at the acceleration of justice delivery: it not only changes the grouping of “Offences Against Women and Children” under which the offenses are referred but also sets clearer sentencing guidelines and makes it obligatory to observe child protection laws where it is applicable.

## GANG RAPE

The necessity of categorizing gang rape as a separate, aggravated crime has been acknowledged for an extended period. Following the amendments to the IPC in 2013, gang rape — defined as sexual assault perpetrated by multiple individuals — is punishable under S.376D, which prescribes severe penalties, including life imprisonment. Under the BNS, gang rape remains a specifically articulated crime. S.70 of the BNS addresses gang rape: in instances where an adult woman is subjected to gang rape, each offender may be sentenced to a minimum of 20 years in prison, with the possibility of life imprisonment, in addition to a monetary fine. Importantly, in cases involving the gang rape of a woman under the age of 18, the BNS stipulates even harsher penalties, including life imprisonment or the death penalty. This represents a significant escalation in comparison to previous legislation, particularly concerning victims who are minors. The restructuring under the BNS seeks to eliminate ambiguities, enhance clarity, and bolster deterrent measures.

## DECEIT / DIGITAL RAPE / FALSE-PROMISE RAPE

Realizing that sexual violence may be invasive without physical force but rather through tricking, coercing, or giving misleading promises - marriage, employment, or social status - BNS has included a new article dealing with 'sexual intercourse by deceitful means.' As per S. 69 BNS, a person who has sexual intercourse with a woman under the deceptive or false pretense of marriage (or other inducements) - without the real intention of marrying - may be imprisoned for a term, which may extend up to 10 years, and be fined. This crime is separate from the category of 'rape'; however, most of the commentators consider it as a step to deal with the cases of rape by acquaintances, 'digital rape,' or sexual exploitation by false

pretenses, i.e., situations in which no explicit force or violence have been used, thus, the offenders have not been punished.

It is a significant legal recognition that fraud or misrepresentation in obtaining consent is not considered valid consent - thus, the law is more in agreement with the modern understanding of individual's autonomy and informed consent.

## ACQUAINTANCE RAPE / RAPE BY KNOWN PERSONS

In the case of Indian legislative history, acquaintance rape (which means sexual assault by a person known to the victim, e.g., a friend, neighbour, relative, or employer) was not separately clarified in the law, but such incidents were governed by the same legal provisions as "stranger rape" cases, i.e., generally under S. 375/376 of the Indian Penal Code (IPC) after 2013. The main issue has been, and still is, the proof of non-consent, the showing of resistance, and dealing with societal stigma. In line with the BNS provisions, acquaintance rape is still considered as a case of general rape (S 63) or, if there is an element of deception, under S 69 (deceitful intercourse). Therefore, even though there is no separate section for "acquaintance rape" only, the broadened definitions, clearer consent standards, and the creation of new offences arising from deceit increase the chances of such cases being successfully prosecuted.

## MARITAL RAPE

Marital rape is, by far, the most debated issue among the Indian rape laws that have been the subject of controversy. Previously, under the Indian Penal Code (IPC), in particular S. 375, an exception for marital rape was clearly demarcated: a sexual intercourse by a man with his wife (above a certain age) was not considered as rape. This exclusion was still present after the changes made in 2013. When the BNS substituted the IPC, S. 63 of the BNS was the one to keep the marital rape exception. Nevertheless, a substantial change was made: the "age of consent" for the wife under this exception has been raised.

The exception is available only when the wife is 18 years or older, instead of 15 years, as it was before. So, while the BNS reform the law in many ways regarding the sexual offenses, it does not make marital rape illegal. It still remains a legal and human rights issue. A number

of scholars, activists, and international observers have identified this as a major flaw since they consider marital rape to be the most severe violation of one's bodily autonomy and the right to give consent.

## COMPARISON CHART: OLD LAW (IPC & AMENDMENTS) VS. NEW LAW (BNS, 2023)

CRIME	Under IPC / Amendments (pre-2023)	Under BNS (2023) / New Criminal Law Regime
RAPE	S.375 of the Indian Penal Code (amended in 2013) — primarily refers to penile-vaginal or penile-anal/oral penetration; consent is defined, albeit in a limited manner.	S. 63 BNS — an extensive definition of rape; encompasses multiple types of non-consensual sexual intercourse; establishes a more explicit standard for consent.
Rape (general adult women)	S. 376 of the Indian Penal Code: a minimum sentence of 7 years, extending to life imprisonment, contingent upon the specific circumstances.	S. 64 BNS (or the applicable punishment clause) — penalties have been upheld or intensified; the framework for sentencing has been elucidated.
Rape of minors / children	The Indian Penal Code (IPC) along with specific legislation such as the Protection of Children from Sexual Offences Act, 2012 (POCSO); amendments made in 2018 have heightened penalties; the death penalty has been instituted for the rape of minors under the age of 12.	BNS consolidates the provisions related to rape and child sexual offenses into a single framework. The rape of minors, particularly those under the age of 18, results in more severe penalties, which may include life

		imprisonment or even the death penalty in cases of aggravation.
Gang Rape	S.376D of the Indian Penal Code — gang rape is subject to a penalty of life imprisonment.	S.70 of the BNS law explicitly penalizes gang rape. The minimum sentence is set at 20 years; however, for victims who are under the age of 18, the penalties can escalate to life imprisonment or even the death penalty.
Deceit / False-Promise / “Digital / Deceptive” Rape	S. 90 IPC (consent invalid due to misconception/fraud), but rarely successfully; no dedicated offence. Judicial outcomes inconsistent.	S. 69 BNS — new offence for sexual intercourse obtained by false promise of marriage (or other deceit) without intent to marry; punishable by up to 10 years + fine
Acquaintance Rape (by known persons, friends/neighbors, etc.)	related under general rape provisions (S. 375/376), but social stigma & evidentiary challenges made convictions difficult.	Treated under general rape (S.63) or deceit-based offence (S. 69), with clearer consent/deception standards — improves legal scope to address such cases.
Marital Rape	Exception: consensual intercourse with wife (above certain age) not considered rape — under S.375 IPC.	Marital rape exception retained under S.63 BNS. However, the age threshold raised: wife must be at least 18 for exception to apply.

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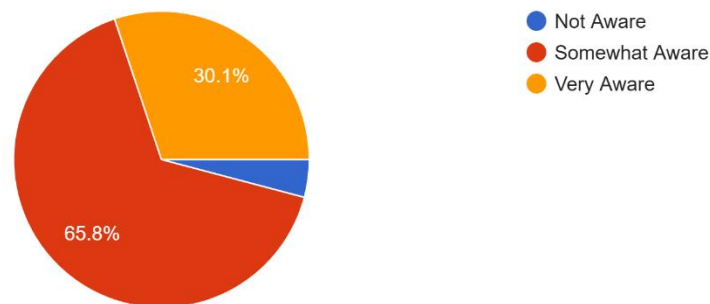
342 **FINDINGS**

343 Regarding my term paper topic for empirical research, I circulated a Google Form to gather  
344 data from the general public. Approx. 73 individuals participated, and the data, along with the  
345 chart presented below, is highlighted.

346 **Q1.** Are you Aware of Criminal laws in India?

Are you Aware of Criminal laws in India?

73 responses



347

348 In this chart, roughly 65.8% of individuals have some awareness of criminal law, 30% are  
349 very aware, and approx. 4% of people lack awareness of criminal laws in Punjab.

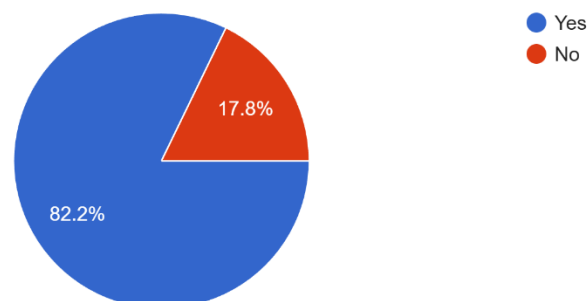
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351 **Q2.** Are you aware that the death penalty can be awarded for rape in India?

352

Are you aware that the death penalty can be awarded for rape in India?

73 responses

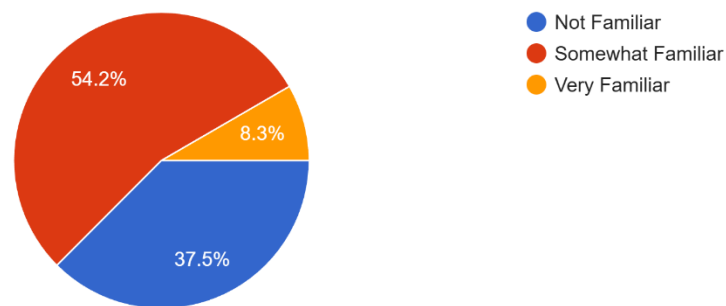


353

354 In this chart, approx. 82% of individuals are aware that the death penalty may be imposed for  
355 rape in India.

**Q3.** How familiar are you with cases in Punjab where the death penalty was awarded for rape ?

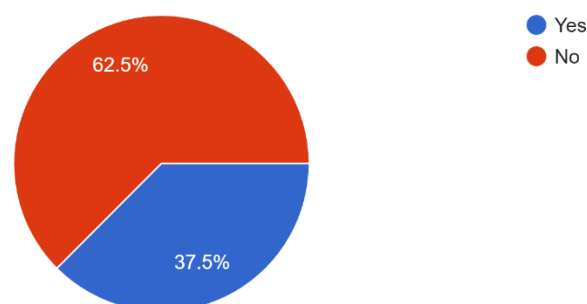
How familiar are you with cases in Punjab where the death penalty was awarded for rape ?  
72 responses



The chart presented above indicates that approx. 37% of individuals are unaware of rape cases that result in the imposition of the death penalty, while 54% possess a moderate level of awareness, and 8.3% are knowledgeable about such cases.

**Q4.** In your opinion, does the current legal system in Punjab ensure justice for victims of rape ?

In your opinion, does the current legal system in Punjab ensure justice for victims of rape ?  
72 responses



368 In this chart, 62.5% of individuals do not agree that Punjab provides justice for victims of  
369 rape.

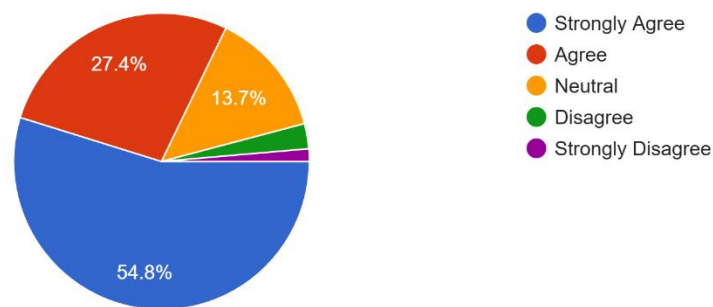
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371 **Q5.**Do you believe the death penalty serves as an effective deterrent for rape ?

372

Do you believe the death penalty serves as an effective deterrent for rape ?

73 responses



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374 In this context, 54% strongly agree that the death penalty may serve as a solution for rape,  
375 while 27.4% express agreement, and 13.7% remain neutral on the matter.

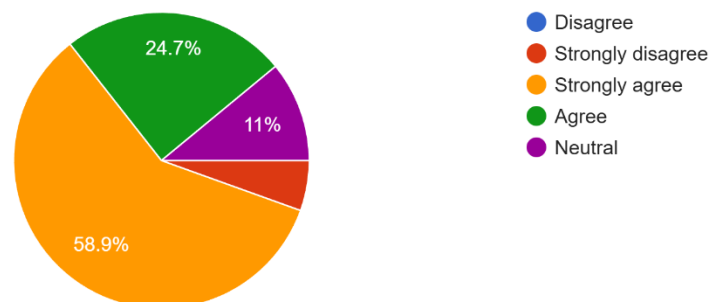
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377 **Q6.**Should the death penalty be mandatory in rape cases?

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Should the death penalty be mandatory in rape cases?

73 responses



379

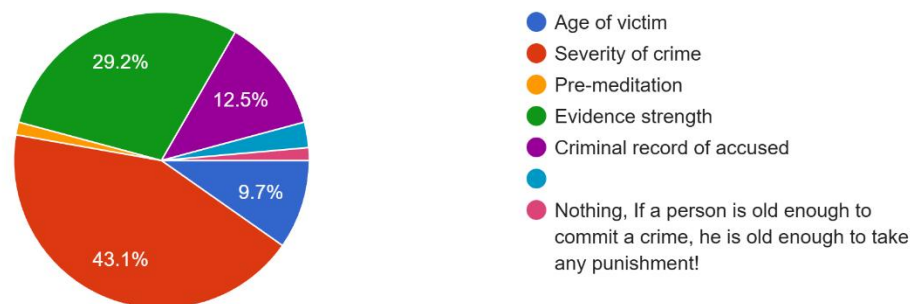


When the question arises regarding the necessity of making the death penalty mandatory in cases of rape, approx. 58% of individuals express strong agreement, 24% agree, while 11% remain neutral on this issue.

**Q7.**In your opinion, what factors should influence awarding the death penalty?

In your opinion, what factors should influence awarding the death penalty?

72 responses

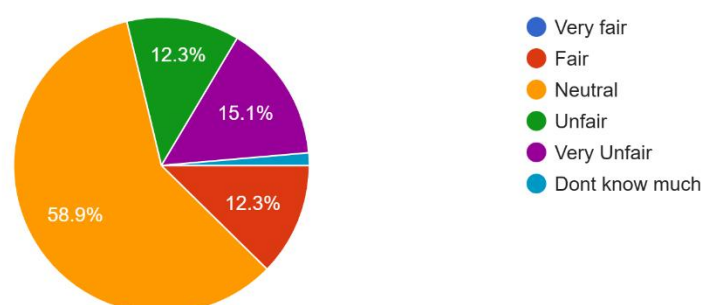


According to public opinion, the most significant factor influencing the death penalty is the severity of the crime. The strength of the evidence ranks second, followed by the criminal record of the accused in third place. Lastly, the age of the victim accounts for only 9.7%.

**Q8.**How fair do you think trials for rape cases in Punjab are?

How fair do you think trials for rape cases in Punjab are?

73 responses

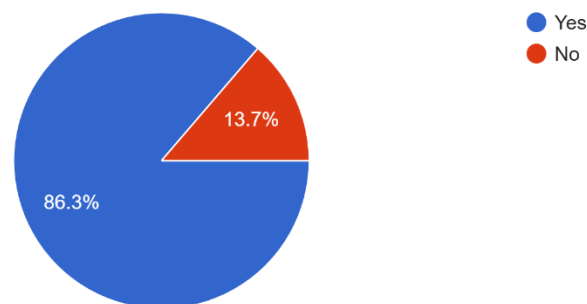


The subsequent inquiry posed was whether the trials in rape cases are equitable. In response, 58% of individuals expressed neutrality on this matter, while 15% indicated that they believe the trials are highly unjust. Conversely, an equal percentage of 12.3% asserted that the trials are both fair and unfair.

**Q9.** Would you support reforms that focus on faster trials, better investigation, and victim protection even if the death penalty is reduced or replaced?

Would you support reforms that focus on faster trials, better investigation, and victim protection even if the death penalty is reduced or replaced?

73 responses



In this chart, 86% of individuals express their support for reforms.

## LANDMARK JUDGMENTS & CASES

### **The case of the "6-year-old girl in Mansa (2016)" — State of Punjab v Kala Ram (also known as Kala Singh)"**

In May 2016, a six-year-old girl from a village in the Mansa district (Alampur Mandra) was kidnapped during a wedding celebration by her distant relative, Kala Ram (who is also referred to as Kala Singh). The criminal took the little girl, carried her off to a nearby canal, raped her, and then killed her by strangulation. Later her body was found.

On 25 July 2018, the Additional Sessions Judge, Mansa, Jaspal Verma, convicted the accused of kidnapping, rape, and murder according to the relevant sections of the Indian Penal Code

(IPC) dealing with rape and murder as well as under the child protection law. The judge condemned the crime as "barbaric and ruthless" and stated that the act "shook the faith of society." Since the victim was a minor who had no way to defend herself against such a heinous crime, the court referred it to be one of the "rarest of rare" cases and consequently awarded the capital punishment.

This is the first instance of a death penalty in Punjab resulting from the rape-murder of a minor girl after the ordinance/law came into effect that increased the severity of the punishments for rape of minors.

Being a death sentence handed down at a trial level, it requires HC confirmation, thus the final decision depends on whether the death penalty is upheld. Public reports of 2018 stated that the case awaited a Murder Reference to the HC.

#### **State of Punjab v Unknown (Amritsar 2020 rape murder) State of Chandigarh v. Hira Lal alias Guddu**

An individual from Amritsar had reportedly taken his six-year-old daughter forcibly from her maternal home on the night of January 4–5, 2020. The next thing that was heard in the dead of the night was the discovery of the child's hanging body from a tree near the canal bridge. Upon investigation, the postmortem report revealed that the child was sexually assaulted before being strangled. Following this, the father was charged with murder under S. 302 IPC, as well as under the POCSO Act.

Trial court convicted him in August, 2024 and sentenced him to death.

However, a D.B. of the PHHC in April 2025 reduced the death sentence to life imprisonment (natural life without remission) First.

The Court stated that although the offence was extremely heinous, it did not meet the 'rarest-of-rare' criteria for imposing the death penalty, referring to the mitigating factors such as the accused not having a criminal record, his socio-economic background and conduct during the jail period.

This judgment is important in a way that the lower court had considered the case as 'rarest-of-

The High Court's decision of commutation reflects the close scrutiny that capital cases are subjected to even in which are the severest of instances - child rape and murder "rare".

443

444 **The 2024 rape-murder of a minor girl in Chandigarh — Hira Lal rape murder case**  
445 **(Chandigarh 2024)**

446 In 2024, a specialized fast-track POCSO court in Chandigarh passed its verdict against a 40-  
447 year-old man, allegedly named Hira Lal in media, for the extreme crimes of raping and  
448 murdering a minor girl. The crime involved the acts of kidnapping, rape, and murder, as per  
449 the Indian Penal Code (IPC) and the POCSO Act, the perpetrator was charged with violating  
450 the law.

451 The court handed down the death penalty to the accused in 2025. The full and detailed ruling  
452 has not been made available to the public (as per the news sources), but it is said that the  
453 decision was drawn from the sections related to kidnapping, rape, and murder along with the  
454 laws dealing with sexual offenses against children.

455 As of now, this court case is the last one to be mentioned, which has led to capital punishment  
456 being imposed for the crime of rape-murder of a minor by a court within the jurisdiction of  
457 the union territory of Punjab-Haryana.

458

459 **Landmark jurisprudence - Machhi Singh & Others v State of Punjab (1983) and its**  
460 **impact on rape-murder sentencing**

461 Although it is not a case of direct rape, Machhi Singh (mass-murder) is a Supreme Court  
462 landmark judgment that marked the introduction of the "rarest of the rare" category of cases  
463 for the application of the death penalty. This doctrine lays down that the death sentence  
464 should be the last resort which is to be carried out when life imprisonment is obviously  
465 inadequate and the case exhibits extreme depravity or inhumanity.

466 In the subsequent cases of rape-murder (such as the cited ones), the lower courts and High  
467 Courts by referencing Machhi Singh try to find out if the facts of the case are such that a  
468 death sentence is justified — weighing the aggravating factors (like the victim's age, the level  
469 of cruelty, and the victim's profile) against the mitigating factors (for example, the accused's  
470 prior history, the possibility of rehabilitation, and socio-economic background). So, the legal  
471 doctrines pronounced in Machhi Singh still being instrumental in the determination of the  
472 punishment of killing the first degree accompanied by sexual offenses.

473

474 **State of Punjab v. (Amritsar minor daughter case) (2020–2025) — death sentence**  
475 **commuted to life**

476 An individual from Amritsar was accused of raping and murdering his six-year-old daughter  
477 in the night of January 4–5, 2020, allegedly after abducting her from her maternal home. The  
478 post-mortem report revealed that the victim was sexually assaulted and the cause of death  
479 was hanging. In August 2024, a Sessions Court convicted him (under IPC and the POCSO  
480 Act) and sentenced him to death. A Division Bench of PHHC in April 2025, however,  
481 changed the death sentence to life imprisonment for the natural term of his life without  
482 remission, stating that the "rarest-of-rare" principle requires that although the crime was  
483 extremely brutal, it did not call for death penalty. The Court In this instance, the Court found  
484 the accused guilty of murder in the first degree (IPC, S. 302) and the POCSO Act, but  
485 changed the verdict from death to life imprisonment, denying the imposition of capital  
486 punishment. It is a landmark case that highlights the fact that the death penalty is not an  
487 automatic consequence in the judicial practice of severely aggravated sexual crimes against  
488 minors as the judges take socio-economic conditions of the accused and other mitigating  
489 factors into consideration and interpret "rarest-of-rare" criteria accordingly.

490

491 **Punjab and Haryana High Court v. (2018 Gurugram 3 year old rape murder case) —**  
492 **death sentence confirmed by PHHC - State of Haryana v. Sunny @ Raju**

493 Although the crime took place in Gurugram (Haryana), the appeal was decided at the PHHC,  
494 whose decisions are often referred to in the legal discourses. In 2018, a 3-year-old girl was  
495 kidnapped from a public place (Sector-65) in Gurugram and later found dead in a sexually  
496 violated condition; the accused was recorded with the child in the CCTV footage.

497 In February 2024, a Fast-Track Court awarded a death sentence to the accused under POCSO  
498 and IPC. On December 7, 2024, the PHHC, upon its scrutiny of the heinousness and moral  
499 turpitude of the offense, rejected the convict's appeal and, therefore, retained the death  
500 sentence. The Bench described the case as a "monster-like" one, arguing that the absolute  
501 mercilessness and the helplessness of the victim called for the capital punishment.

502 This is a case from the PHHC jurisdiction, which is not "Punjab-centric" only, but is often  
503 cited in academic and legal discussions as the PHHC is the appellate court for both Punjab

and Haryana and its precedents influence how the courts in Punjab may decide in cases of death penalty for rape and murder.

**Darbara Singh — a serial murderer and rapist from the Jalandhar region (involved in multiple child rapes and murders), sentenced to life imprisonment.**

In the Jalandhar area of Punjab, Darbara Singh was a notorious serial killer, albeit not a single incident case, of the "rape and murder of a child." As per the allegations, between April and October 2004, he kidnapped a large number of migrant children, raped many of them, and it is only confirmed that he killed a few (however, the exact number of victims is still disputed).

He was sentenced to life imprisonment after being found guilty of at least two murders and multiple rapes.

His case did not lead to a death sentence but is recognized as one of the harshest penalties enforced in cases of serial child-rape and murder in Punjab. Therefore, it is essential for an empirical study of sentencing severity and the state's reaction to serial sexual offenses.

**The Neha Ahlawat rape-murder case (Chandigarh 2010) ended with a life imprisonment sentence after a detailed investigation was conducted in 2025.**

This case concerned the killing and raping of Neha Ahlawat, a 21-year-old MBA student, in Chandigarh in 2010. A partially unclothed body was found near a taxi stand, and the very first investigation was not able to establish anything conclusively. In 2013, the forensic department examined the clothes and found traces of semen; hence sexual assault was the police charge to the case.

Finally, in 2025, after a long period of investigation and at times running into a brick wall, a court found a taxi driver guilty. Instead of the death penalty, he was given a life sentence (only). By doing so, the court showed how delays, procedural issues, and problems with forensics can have an impact on the final sentences in serious sexual-offense cases.

As a result of the very lengthy period (14-15 years) between the incident and the conviction, this case is a landmark decision for sexual offense law in the Chandigarh/Punjab-Haryana area, showing that investigation to the end and diligent policing will eventually bring justice, albeit a life sentence rather than capital punishment.

Sr. No.	Case Name	Court	Offences	Citation	Punishment
1.	Tukaram & Anr. v. State of Maharashtra	Supreme Court of India	Custodial rape	(1979) 2 SCC 143	Perpetrators acquitted (led to 1983 Criminal Law Amendment)
2.	Mukesh & Anr. v. State (NCT of Delhi) & Ors.	Supreme Court of India	Gang rape and murder	(2017) 6 SCC 1	Death penalty
3.	State of Punjab v. Kala Ram @ Kala Singh	Additional Sessions Judge, Mansa (Trial Court)	Kidnapping, rape, murder of 6-year-old girl	2018 SCC OnLine P&MPN 112	Death penalty (trial court level, pending HC confirmation)
4.	State of Chandigarh v. Hira Lal alias Guddu	Fast-Track Special POCSO Court, Chandigarh	Kidnapping, rape, murder of minor girl	Media/Unreported (2024–2025)	Death penalty
5.	Machhi Singh & Others v. State of Punjab	Supreme Court of India	Mass murder (not sexual offense, but sentencing principle applied in	AIR 1983 SC 957	Death penalty (established “rarest of rare” doctrine)

			rape-murder)		
6.	State of Punjab v. Unknown (Amritsar minor daughter case)	Punjab & Haryana High Court, Division Bench	Rape and murder of 6-year-old daughter	2025: PHHC: 044770-DB	Life imprisonment (death sentence commuted)
7.	State of Haryana v. Sunny @ Raju	Punjab & Haryana High Court	Rape and murder of 3-year-old girl	2025: PHHC: 044770-DB	Death penalty confirmed
8.	Darbara Singh v. State of Punjab	Sessions Court, Jalandhar	Serial child rape and murder	Media/Unreported	Life imprisonment

## IMPROVEMENTS AND SUGGESTIONS

- The Indian death penalty system uses the "rarest of rare" rule to decide the cases that will be sentenced. However, the interpretation of this rule differs from one judicial authority to another. Accordingly, to reduce the discrepancies among district courts:
- The PHHC might set clear sentencing norms targeting such criminal cases as rape, rape combined with murder, juvenile victims, recidivists, and aggravated penetrative assaults.
- Implanting a uniform checklist comprising both aggravating and mitigating factors will facilitate well-structured judicial reasoning.
- By the same token, introducing a compulsory practice of "victim impact statements" will be enlightening for the sentencing phase since they provide indispensable information.



549 • All these steps intend to foster the determinacy of the penal code and, in turn, reduce the  
550 intimidation of capital cases.

551 • There is a plethora of rape cases in Punjab that have been hindered mainly due to improper  
552 evidence collection, procedural inaccuracies, and delays in the submission of forensic  
553 materials.

554 • It is of utmost importance to enforce that the collection of forensic materials should be  
555 conducted within the first 48 hours of any rape incident.

556 • By Raising the number of Forensic Science Laboratory (FSL) setups, along with the  
557 introduction of strict report deadlines ranging from 15 to 30 days, can be helpful in achieving  
558 this goal.

559 • It is a necessity to bring out mobile forensic units in villages. • Yearly workshops for the  
560 police should be focused foremost on to ensure:

561 • evidence preservation, trauma-sensitive interview techniques, and POCSO-compliant child  
562 victims' sensitivity.

563 • The use of each of the following sources has been increasingly observed in rape cases  
564 detected by law enforcement:

565 • CCTV videos

566 • DNA fingerprints, Digital footprints (like mobile devices and geographic locations)  
567 Information-sharing platforms

568 • Punjab must set up:

569 • District-wise Digital Forensics Units.

570 • Investigator training programs emphasizing electronic evidence preservation.

571 • Forensic teams working round the clock on emergency cases of sexual assault.

572 • Molecular profiling made compulsory in every case of sexual assaults and related  
573 homicides.

574 • To encourage fairness and victim support:

575 • Legal representation, funded by the state, should be provided immediately after the FIR has  
576 been registered.

- There should be an improvement in the release of money under the Punjab Victim Compensation Scheme.
- The formation of one-stop crisis centres (OSCs) in every district hospital is a good idea.
- Increasing the number of child psychologists and counsellors for POCSO cases is equally important.
- The provision of safety and confidentiality for victims and witnesses is a must.
- The introduction of strict measures, such as the death penalty, will not lead to the disappearance of rape. It is even more important that Punjab deal with these issues first:
- A number of studies have found that alcohol misuse is a main factor behind violent crimes - stricter regulations are urgently needed for the sale of liquor.
- There is likewise an urgent need for efficient programs aiming at awareness to be conducted in different sectors such as honor-based violence, domestic violence, and acquaintance rape.
- Coercive sex education together with teaching about consent is imperative in schools and universities.
- It is necessary that the state implements the said proposals for men that will include anger management, addiction control, and behavioral change programs.

## CONCLUSION

The issue of rape in Punjab and India should not be just looked at as a simple case of a crime, rather it is still dependent on the interaction of numerous factors of history, society, culture and law that have shaped social understanding of gender and sexual autonomy. The history of rape law is depicted through the transition of the treatment of women from being considered as the property of men to the acknowledgment of their individual autonomy and dignity, and this transition is illustrated through the law from the very beginning: ancient and medieval times where rape was looked at as the violation of the honor of the family, to colonially-influenced laws that kept the patriarchal system alive—most significantly, the marital rape exception—

After the Nirbhaya event in 2012, the most notable legislative changes, especially those prescribed by the introduction of the Bharatiya Nyaya Sanhita (BNS) in 2023, are the

widening of the definition of rape, the increasing of the punishment, and the control of the new forms of sexual exploitation, such as deceiving for the purpose of intercourse, among others. However, a lot of issues such as those relating to the marital rape, and inconsistent enforcement of the sentencing guidelines still exist.

The empirical research for this study had been very revealing in terms of one aspect: the public perception. Many respondents expressed knowledge about the laws on rape and a majority of them believed that the death penalty could deter the offenders from committing the crime. Nevertheless, distrust in the justice system is very high here which shows that people are commonly worried about long trial procedures, lack of forensic evidence, and shortage of victim support services. Although a large number of participants were in favor of the death penalty—especially in the case where a minor is involved—most of them were also addressing the urgent need for comprehensive reforms of the system such as speeding up of investigations, efficient witness protection, better-prepared prosecution, and psychological support for victims.

The research on Punjab and PHHC cases exposes how judiciary applies the ‘rarest of rare’ concept with great care and principles. The trial judges who decide the death sentence in general, especially in cases where the raped-murdered victims are minors and the crime is appalling, the higher courts usually reconsider the situation with a view to the mitigating factors as they are seeking the right balance between retribution, deterrence, and fairness of the Indian judicial system. These examples of cases show that even though the death penalty can be used, the application of it is neither automatic nor consistent—putting the stress on the need for more clearly defined sentencing guidelines to lessen the differences and at the same time not take away the judges’ right to make a decision.

First of all, the DNA, the case law, and the views of the people combine to demonstrate that the death penalty by itself cannot deal with the rape problem that is spread far and wide. One of the truly necessary steps to reform the police department is to upgrade the methods of investigation, to increase the number of skilled forensic experts, to provide trauma-informed services for the victims of sexual abuse, to introduce more police officers who can be held

accountable and, along with that, to try to break down the age-old patriarchal ideas. Some of the measures that come under the umbrella of justice in words of compulsory timelines for the gathering of evidence, the forensic centers at the district level, the programs to compensate the victims, and the legal aid system are of great importance. Moreover, the long road to social change, which includes topics such as consent, gender equality, and the process of demolishing the wrong kinds of stereotypes, is the only way to guarantee the total absence of sexual abuse in the future.

First of all, in Punjab, there have been some instances that demanded the harshest of consequences in rape cases, to be exact, several death sentences. However, the primary lesson that this scrutinizing has brought to the forefront is that justice should not keep the gender issue aside. Punishment alone, no matter how severe, is not sufficient enough to provide deterrence of the crime rather it is the certainty and also the swiftness of justice, social transformation, and the establishing of an environment that grants women's safety, dignity, and self-reliance that are responsible for the deterrence of the crime. Punjab as well as India will be able to move on to the future untoward which sexual violence will not only be punished but also prevented just by combining legal reform and societal change.