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News: SC puts an end to ‘two finger’ test on rape survivors

- The Supreme Court on Monday declared that any person conducting the invasive ‘two finger’ or ‘three finger’ vaginal test on rape or sexual assault survivors will be found guilty of misconduct.
- In a judgment, a Bench led by Justice D.Y. Chandrachud said the sole reason behind using the “regressive” test on traumatized sexual assault survivors is to see whether the woman or girl was “habituated” to sexual intercourse.
- Such a “concern” was irrelevant to fact whether she was raped or not. “Previous sexual experience is immaterial to the question of conduct,” he held.
- The faulty logic behind the test was that “a woman cannot be believed when she said she was raped merely for the reason that she was sexually active”, the court said.
- “This so called test has no scientific basis and neither proves nor disproves allegations of rape. It instead re –victimizes and re –traumatizes women who may have been sexually assaulted, and is an affront to their dignity. The ‘two finger’ test or pre –vaginum test must not be conducted,” the Bench, also comprising Justice Hima Kohli, directed.

- The court pointed out the 2013 amendment of Section 53A in the Indian Evidence Act that reads “the evidence of a victim’s character or her previous sexual experience with any person shall not be relevant to the issue of consent or the quality of consent in the prosecution of sexual offences,” the court held.

Rape laws in India: an Overview

- A rape law was first introduced in Indian Penal Code (IPC) in 1860.
- The first law commission headed by Lord Macaulay decided to put the criminal law in two separate codes; Indian Penal Code (IPC) and Code of Criminal Procedure (CrPC).

Indian Penal Code IPC

- Section 375 of the IPC made punishable the act of sex by a man with a woman if it was done against her will or without her consent.
- Her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt is considered to be Rape.
- Sex with or without her consent, when she is under 18 years is considered rape. This has been termed as POCSO.
- Exception: sexual intercourse or sexual acts by a man with his wife, the wife not being under 15 years of age, is not rape.

- Even though **J S Verma Committee** (constituted after Nirbhaya Rape Case) suggested criminalizing Marital Rape, government has stayed silent in this case till date.
- **Section 376** provided for seven years of jail term to life imprisonment.

Mathura custodial rape case 1972

- In 1972 a **young Adivasi girl** named Mathura was allegedly raped by policemen in the **Desai Gunj Police Station** in Maharashtra.
- In the trial that ensued, **the session's court** came to the conclusion that she had **sexual intercourse** while at the police station but rape had not been proved and that she was habituated to intercourse.
- The sessions court **acquitted both the policemen**, the **High Court** reversed the order of acquittal.
- When the **case reached the Supreme Court**, it overturned the High Court verdict saying that **“the intercourse in question is not proved to amount rape”**.
- **SC 1978** verdict, said **no marks of injury** were found on the girl after the incident and **“their absence goes a long way to indicate that the alleged intercourse was a peaceful affair”**.

Controversy and Criminal Law (Second Amendment) Act 1983

- Controversial SC 1978 verdict sparked wide scale protests across the country seeking a change in existing rape laws. This led to Criminal Law (Second Amendment) Act of 1983.
- Section 114A in the Indian Evidence Act of 1872 was inserted which presumed that there is absence of consent in certain prosecutions of rape if the victim says so. This applied to custodial rape cases.
- Section 228A was added which makes it punishable to disclose the identity of the victim in Rape case.

Law Commission

- Law Commission in its 172nd report recommended widening the scope of rape law to make it gender neutral.
- While the rape law in India even today remains gender specific, as the perpetrator of the offence can only be a 'man', the 172nd report led to the amendments in the Indian Evidence Act in 2002.

Nirbhaya case in Delhi 2012 & Criminal Law (Amendment) Act in 2013

- Parliament made the amendments on the recommendation of the Justice J.S. Verma Committee, which was constituted to re-look the criminal laws in the country and recommend changes.
- The 2013 Act, increased jail terms in most sexual assault cases and also provided for the death penalty in rape cases that cause death of the victim or leaves her in a vegetative state.
- It also created new offences, such as use of criminal force on a woman with intent to disrobe, voyeurism and stalking.
- Unwelcome physical contact, words or gestures, demand or request for sexual favors, showing pornography against the will of a woman or making sexual remarks stalking was made punishable acid attack was increased to 10 years of imprisonment.

Offences against minors (Kathua Rape case in Jammu and Kashmir)

- Led to the passing of the Criminal Law (Amendment) Act, 2018 which for the first time put death penalty as a possible punishment for rape of a girl under 12 years;
- The minimum punishment is 20 years in jail.

- The minimum jail term for rape, which has remained unchanged since the introduction of the IPC in 1860, was increased from seven to 10 years.

National Crime Records Bureau (NCRB) 2017 report

- A total of 3, 59,849 cases were reported against women in 2017. The number of cases reported has increased from 3.38 lakhs in 2016 and 3.2 lakhs in 2015.
- Uttar Pradesh has again topped the list with 56,011 cases of crime against women, followed by Maharashtra with 31,979 cases and West Bengal at 30,002.
- Crimes against women constitute murder, rape, dowry death, suicide abetment, acid attack, cruelty against women and kidnapping.
- ‘Cruelty by husband or his relatives’ accounts for 27.9 per cent of the crimes against women.
- ‘Assault on women with intent to outrage her modesty’ comprise 21.7 per cent, followed by ‘kidnapping and abduction of women’ with 20.5 per cent and ‘rape’ with 7.0 per cent of reported cases.

Rape data

- ‘Rape’ stands with 7.0 per cent of reported cases.
- A total of 32,559 rapes were reported in 2017 in India.

- Madhya Pradesh has recorded the highest number of rape cases at 5,562 cases being reported in 2017. Uttar Pradesh is second to MP.
- Delhi saw a decline in reporting of rape cases, in 2017, 13,076 were reported, which is the lowest in the last three years.
- 93.1 percent cases the accused were known to the victims.
- Arunachal Pradesh, Goa, Himachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura can be seen as moderately safer than other states as they recorded the lowest number of cases.

News: SC to examine law depriving under trials the right to vote

- The Supreme Court on Monday decided to examine a petition challenging a provision in the election law that imposes a blanket ban on under trials, person confined in civil prisons and convicts serving their sentence in jails from casting their votes.
- Section 62 (5) of the Representation of the People Act, 1951, mandates that “no person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police”.

- This include persons who are arrested by the police but not proven guilty by the court and persons who are convicted by the court after proven guilty, but excludes persons out for bail even after being convicted by the Judiciary.

News: New Tiger Reserve

- Recently, Uttar Pradesh (UP) approved the notification of the state's fourth tiger reserve in the Ranipur Wildlife Sanctuary (RWS) in Chitrakoot district.

Ranipur Tiger Reserve cum Wildlife Sanctuary (RWS)

- Ranipur Tiger Reserve (RWS) is the first tiger reserve in Bundelkhand Region, Fourth tiger reserve in Uttar Pradesh and 54th Tiger Reserve in India.
- Ranipur Wildlife Sanctuary (RWS) founded in 1977, has no resident tiger.
- However, it is an important corridor for the movement of tigers, according to the Status of tigers, co-predators and prey in India report by the National Tiger Conservation Authority (NTCA).
- There is dry deciduous forest of Bamboo, Palash, Khair, Mahua, Dhau, Saal, Tendu, etc.
- Blackduck, Chinkara, Sambar, Cheetal, Bear, Leopard, Wolf, Wild dog, Blue bull, etc are the major fauna found here.

- Other tiger reserves in Uttar Pradesh are **Dudhwa, Pilbhit and Amangarh**.

National Tiger Conservation Authority (NTCA)

- National Tiger Conservation Authority (NTCA) is constituted under **Wildlife Protection Act, 1972 (amended in 2006)**.
- It was **established in 2005** December following the recommendations of Tiger Task Force.
- It was an **executive body** and later given statutory status after the amendment of Wildlife Protection Act in 2006.
- NTCA along with **Wildlife Institute of India**, in collaboration with state forest departments **conducts the Tiger Census once in a 4 years**.
- It also **conducts the leopard census once in 4 years**.
- NTCA is headed **by Minister of Environment, Forest and Climate Change**.
- Recent Tiger Census was done in the period of 2014 – 2018 and was released in 2019.
- The All India Tiger Estimation Report 2018 said the **country has emerged as of one of the biggest and safest habitats for tigers in the world**. It revealed that **Madhya Pradesh was the country's "tiger state"** with 526 of the big cats.