

**NPTEL**

**NPTEL ONLINE CERTIFICATION COURSE**

**Course  
On**

**Gender Justice and Workplace Security**

**By**

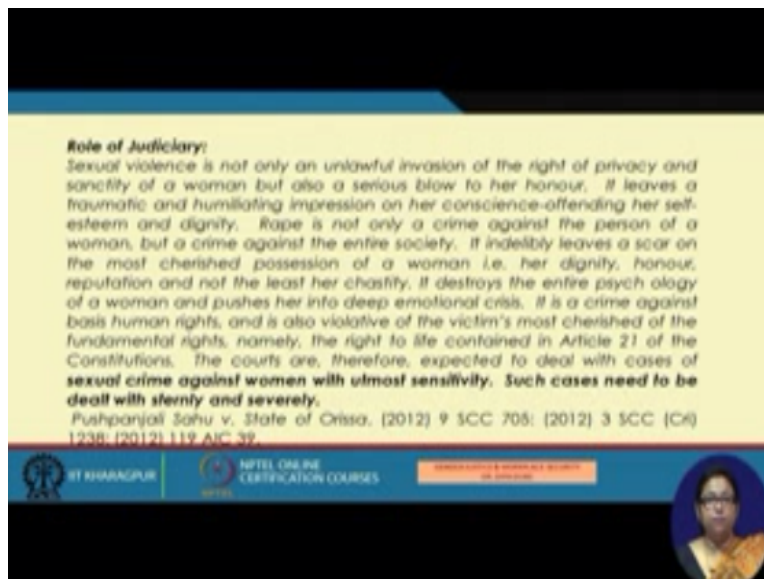
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**Lecture 19: Role of Different agencies**

Hello why welcome you back the course on gender justice and workplace security. In the last lecture we try to understand the course as well as the procedures and issues which regard the offences specifically relating the women such as offence of the rape etcetera, and then the role of the police and the judiciary.

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The judiciary place a very important and significant role in upholding rights of women and over the years specifically since in 19 which have been seen. That is a different cases the judiciary has try emphasize on the concern with regard the rising violence it is women and a down principles

where by her rights, her dignity can be safeguard and the strict punishment then we given in cases where their husband dutural preparation of offences with against women.

We will try look in some of the reasons which have been given we are a number of them or hundreds of them. But some of them with regard specifically the offence of the wave excetra I will try discuss. Now this is one of the decisions of spandrel shahu versus state of Orissa where the supreme court stated that sexual violence is not only an unlaughing invention of the right privacy and sanctity of a women but a serious blow her honor.

They please a dramatic and humanity impression on her concerns offending on herself esteem and dignity. Rape is not only a crime against the person a women but a crime against the entire society. It ends lively leaves a scare on the most cherish position of a women her dignity honor reputation and not release her chastity. It is a crime basically human rights and violet of the victims most cherished of fundamental rights that is right of life contain the article twenty one.

The quotes are therefore accepted been with cases of sexual crime we utmost sensitivity. Such cases need we dealt with externally and serious. The significant of this lay down by quote or these words pronounced by the quote assumes significant the light of the flag that is once look in decisions given by the same quote has the high quotes. In the sixties, in the seventies one finds an up ailing sense of degradation so for as women is concerned.

There are many such decisions which have gone on shock the a conscience of the people in the sense that we has a severely a castigated the women question her character, question her every action with the sense of visibly and there by a sort of try dishonor and disrespect the women in terms of the decision making. So when we port recognizes the fact that the offence of the rape is a one which goes against the entire the sanctity of the women leaves a scar on her dignity on her repetition and violates victim's right life under article 21.

It shows that the quote is now cognizant of the fact that raising crime is a reality, interest of women need be protected and the continuing a crimes against women or indicative of the fact that the society has still not accepted women has a equal partner with men in the development of the society.

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- Even a **woman of Loose morals** and easy virtue has the right to protect her dignity. Her evidence cannot be rejected on that ground alone. **Narendra Kumar v. State AIR 2012 SC 2281**
- A victim of an offence is **not a partner** to the crime. She stands at a much high pedestal than an injured witness. **State of UP v. Pappu AIR 2005 SC 1248**

A moving for that in Narendra Kumar versus state at 2012 decision the court said the even a women lose models and easy word has the rights the protect her dignity. Her evidence cannot be rejected on that ground alone. As I said in many situations the reputation of the women was called impression specifically by the defense and efforts made show that a woman is of lose morals.

So therefore in court has clarified that even if a women is a prostitute she has a right say no. she has a rights exercise her concerned we ld her concern decide as do and what not do and just because it is such a women does not mean that any clay imaged by her is be rejected. A very significant matter when it comes offences against women is that the women is seen as an accomplished the crime, accomplished a partner.

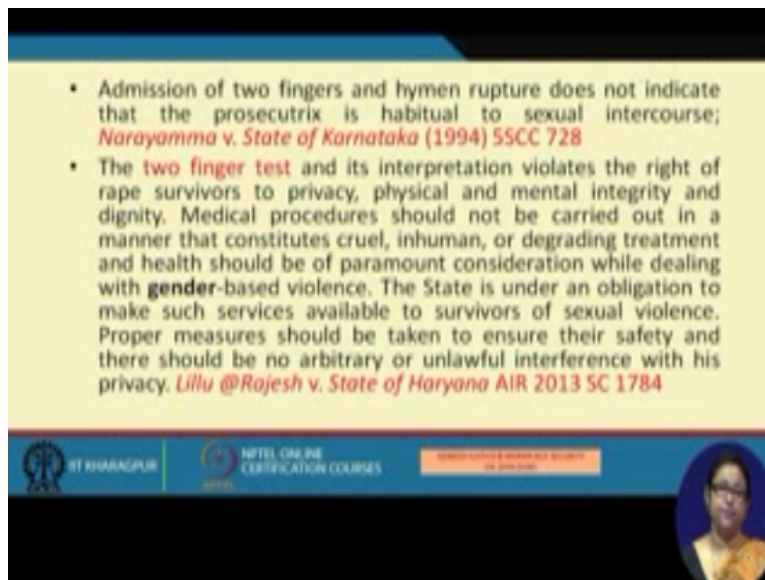
Now in general cases or in general offences which are there, whether speaking of murder or with regard kidnapping in no situation do you see this type of a ligation? That we preppy, that we victim must have colluded with the perpetrated in the commission of the crime. Very strangely whenever it involves women and the women becomes a victim. It is very easily remarked that must have colluded, she must have partner in the crime impression.

Like very often we might have that in case of let us see a sexual harassment or I case of a sexual assault. She has provoked the man; she has dressed up in a manner which was provoking for that man. So these are common every day experiences which we may be we have seen for ourselves

or we have heard or even may be read in books papers excetra. So that is were in one of the cases if regarding several cases the courts have one save that we are speaking of such a victim.

She is not a partner the crime, she stands at a much higher pedestal than an injured witness. So therefore whatever she save her testimony must respect and they should not be unnecessary collaboration or conformation of this sry which is asked for. Because she is a victim of the situation of the acting question and she is a party or a partner in the crime which has been perpetrated about her. So she cannot help the responsible in any way but rather it is the act of the person that is the acquiesced who is only responsible for having perpetrated in the act.

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As previously we have mention that medical examinations in cases of sexual offences are a very significant issue as well as very nightmarish experience in most of the cases. In the previous lectures with refers the cog so at 2012. I will mention that the act and the rules may for medical procedures which are safe convenient and comfortable for the child. Now the same must be extended or must be extended when it comes other girls or women who become victim of sexual assaults or waves impression.

Now specifically there is many times what is refer as to finger test which is taken refers in ordered understand that whether the women is habituated sexual intercourse. However this test has been found for has been help the serious infringement of the privacy of a woman has been lay down by the court in Rajesh versus state of Haryana at 2013 it will for decision. That to

finger test and its interpretation why rates the rights rape survivors' privacy physical and mental integrity and dignity.

Medical procedures should not be carried out in a manner that constitute cruel in human or degrading treatment. This state is hundred obligation make appropriate services available survivors and proper measures must be taken ensure the safety and that there is no arbitrary or unlaughful inference with their privacy. So yes medical test and medical evidence is very crucial and important in a rape case.

But is important that the doctors the other medical staff what involved in examination such women exhibit some around of sympathy some amount of consideration wards the cause of the women. A perform the procedures which will establish or otherwise indicate wards the commission of the offence but not in show that whether she is habituated sexual intercourse with essentially finger test is only capable off.

It does not show anything more other than whether the women has been involved in such acts with other persons but it no where goes to show whether she had been subjected to rape. So that is presides to where the court interviewed and set that the test which is been spoken of in her privacy there must be a better test, better medical procedure which must be in place and there should be a proper way in which such case are conducted.

So that the women is not further humiliated and degraded. And to that extend the ministry of public help has compiled a compendium with regard to the test which are to the conducted to the government hospitals excetra.

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• In a case of rape or attempt to rape, the conception of **compromise** under no circumstances can really be thought of. These are crimes against the body of a woman which is her own temple. These are offences which suffocate the breath of life and sully the reputation. Any kind of liberal or thought of mediation in this regard is thoroughly and completely sans legal permissibility. **Shyam Narain v. State (2013) 7 SCC 77.**

And that has been circulated all over. Now in a case of rape or a attempted to rape the conception of compromise and no circumstances can really be thought out. These are the crimes against the body of a woman offences suffocate the breath of life and sally the reputation any kind of liberal thought of mediation in this regard is thoroughly completely sans legal permissibility. So that was Shyam Narain versus state 2013.

This decision is significant because we are probably aware of the fact that in many states of the country and many communities if this type is such an offences perpetrated girl in the family. The family is virtually out made out cast in the society her chances of marriage suffer. And she finds the difficult may be continuing the life in terms of her education, in terms of a period. Because the entire society sans her makes her responsible for the act that has a following her.

And therefore in many situations they are influenced efforts which are made so that the girl can marry the perpetrated. And on that bases there are efforts may that any case which has been instituted only bases of the compromise. Such cases can be done away with can be dismiss. And in many cases it has been seen that actually courts have allowed for such compromisers. Allowed the perpetrated or the acquiesced to go on to marry a victim.

And all that bases the dismiss the cases. This unfortunate situation because the law and the procedure no ware allows for such manner of the dismiss of the cases or any manner of mediation. Specifically where it relates to offences of this nature. A sexual assaults of the nature

of rape therefore the Supreme Court in 2013 made it very clear that we are can be more situations of compromise of consignment are mediation between the parties.

Why speaking of sexual harassment at work place also that is why the significant of the fact, that only in those cases only in the victim are for conciliation can conciliation these spoken out. It has been May clear in the previous lecture that she cannot be towards, she cannot be intimidated by the internal complaint commity by the other party or the enquire or anybody to every such a conncilliation. So that is very important what is the only woman once but when it comes to quining a law.

It cannot again we watch you wants even she wants to marry the other person that cannot be ground for dismis in this case if ther is an alligation and the alligation is otherwise established then the person has to be well derialiable and criminally responsible for the which has been perpetrated.

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*Sudesh Jhaku v. KCJ 1998 CriLJ 2428*

- The court laid down certain guidelines in cases of child sexual abuse as follows:
  - Defense counsels are expected to avoid needless abuse and harassment of the witness.
  - CSA being one of the most serious and damaging criminal offences, the trial Judge shall handle the proceedings with considerable sensitivity and ensure that the trial is fairly conducted. He should take care that questions asked are not complex or confusing.
  - Breaks during questioning may also be given though it need not be for long time.
  - If the prosecution establishes that to obtain a full and candid account from the child witness the use of a screen would be necessary, the court may be inclined favorably to provide such a screen. But the witness should be visible to the judge.
  - Proceeding should be in camera. The trial judge may allow a supportive person like a social worker or other friendly but "neutral" adult visible to the child, or even sitting beside a young child who is testifying.

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Now these are two other land mark decisions, there are many others which have try to specifically lay down some guidelines. When it comes to rape or minors or more specifically speaking of child sexual abuse. So this is one Sudesh jhaku versus KCJ where the court lay down certain guideline, because in those cases you have a minor who is before the court and the minor finds the very difficult to narrate the type of incident.

There is a serious it yet affects the child as such and if there are questions Pu to a child. The child becomes further more fearfull and become silent and they become very difficult situation to handle or even to proceed with the case. So therefore some of the guidelines which were lay down, where different councils are accepted to avoid leagless and abuse and harrasment of the witnesses.

The trial Jhakus are handling with proceedings with concedrable sensitivity and ensured that we tried is fearly conducted. Questiona arwe not complex or confucing rapes during questioning it to be given to the witness. If the prositution establishes that to obtain a fool and can be account for the child witness ascream is necessary then such screen as would scream the witness or the child from the ofender.

Such a screen has to be placed between the parties and the child should be visible to the judge or the witness should be visible to the judge but the witness should nat have chance to have face to face introduction with the other party. Proceeding should be in camera the trial judge may allow a supportive person like social worker or other friendly but nuteal party to with the child or even sitting the young child who is just defines.




So these are certain important guidelines which are to be maintained when these are child witness or a minor who is before the court justifies with regard to the incident in question and specifically where it relates to incidences or violence against women. So the girl child should specifically allow these types of saveguads. So that she is not further puts to or abuse or the humiliation.

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*State of Punjab v. Gurmit Singh*  
AIR 1996 SC 1393

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- the courts should not pass unnecessary remarks on the character of the prosecutrix,
- should make sure that the cross examination does not become a means of harassment,
- privacy of the prosecutrix is maintained and
- female judges are appointed in trials.

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This was another celebrated case of state of Punjab versus Gurmit Singh of 1996, supreme court where report lay down further guidelines saying that the court should not pass unnecessary remark on the character of the prosecutrix should make sure that cross examination does not become a means of harassment, privacy of the prosecutrix is maintained and female judges are appointed in trial.

So this is one of the very landmark decisions the reason is that this was for the first time that the report recognize the fact. That many times the rape trials becomes a situation where the woman's character is assaulted. She is put to test rather than we offend who is to be tried and it is her character, her behavior, how she conducted herself becomes the core point of questioning for the law and decision making process.

So that is a very unfortunate situation and to do away with the supreme court made it by Justice J. Varma and Salim Khan went on the state that unnecessarily statements on the character of a prosecutrix. Saying that she is a woman of loose character or she is such nature, these things should be avoided. Report must be unbiased impartial, independent and it should not make loose comments against the victim.

Similarly as I have said to previous lecture, reports have a responsibility in the conduct of the trial. We are solely responsible to hear the parties and the evidence and the decision but in the conduct of the trial though the system it to act is an umpire. It must interview as in when it is required. If you see that obscene questions objectionable questions or questions reading on the privacy of a woman or been court to.

Then the court can rightly intervene and stop such questions because examination does not mean it is a means to harass the women. Furthermore privacy of the women must be maintained and preferably female judges and that is where which impact is seen. When we look into the composition of the ICC etcetra, in the sexual harassment that work place at they are headed by the purpose of having a woman is to ensure that the woman is aware of the concerns of the other woman.

And she can better respond to this situation that the woman is in. So therefore even in cases where women offences relating to women configuration. So far as possible they should be women judges who look into the matter. And even in cases—in cases radically is dealing with women. It is preferable that it should be with true women police officers that the matter is been look into.

So these are few of the judicial decisions in these matters which have been put before you as I said there are several other judicial decisions and the courts have made right interventions since the nineties in order to uphold the rights and dignity of women and in all such cases the court have try to see that they true the decisions. There can be and overall improvement in the societal perception with regard to this offenses as well as the legal protection.

Which is given to them is effective and they are can be better upholding of the rights of the and causes of woman. So therefore within the criminal justice mechanism the police have a very significant role to play. They are suppose to be sympathetic to the cause of the women and that is where women police officers for the become important. And they are accept complaints and evidence act on that complaints they are a radius other rights which have been ensured under the criminal procedure and a law.

And there are the courts so whether it is the criminal courts deciding on the issue or the higher courts in several cases of that matter. We has seen that they have played remarkable role in upholding rights of women. Now so where there is at one place these legal framework which is there with regard to gender violence or with regard to the rights of the women on the other hand. There are the different agents is which have been setup in the society and this agents is have also undertaken various initiatives and various important steps.

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**Role of Different Agencies**

- **National Commission for Women**
  - Statutory Body dedicated to the cause of Women
  - Established since 1990
  - Undertakes various functions to further the cause of Women
    - ☐ Investigative & Interventionist
    - ☐ Evaluative
    - ☐ Review of Laws/ Policies
    - ☐ Promotional and Educational Research

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You order to ensure that the rights and cause of the women can be effectively protected under the law. Now there can when we are speaking of agencies there are different bodies institutions in the society as such which are working towards the cause of the women. Now we know that at the central level at the state level there are the governments and the relevent deparments of the government such as the ministry of women and child whether at the central level or administrative.

Now these departments are constantly and they hearing to protect the rights of women through radius to an inactiment of various law to tome to time through radius policies and programs which are the floated for the purpose. So we might have heard in the alst few months or years about batti bacha or batti badau innitiative. Which has been taken by the ministry at the central level or may be if I speak on the state of west Bengal?

The kanyashri scheme which has been taken by the west Bengal and which recently one united nation award these are extremely positive steps which have been taken in order to address may be the issue of education to address the issue of early child marriage to encourage children specifically girl children to continue her education at least in the age of 18 years. And to ensure that girl children and not put to there by giving certain financial incentives to the parents or to the child.

So there in that manner this is just a relaxation in that manner this government boddies have taken ample initiatives over the years to address the various gape or various weak points which are existing and to see that issues of women can be effectively adjust. Rather than that there are different other boddies specifically the national womens commision and the visible boddies which are existing the society and in the next lecture will discuss the work of these boddies in protecting in cause of women.