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Language Crimes against Women

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ABSTRACT

George Orwell, highlighting the power that words hold within them, wrote in his famous 1984 that language has the power to corrupt. The practical illustration of the same too can be seen in India with the infamous 'Bois Locker Room' incident. This ordeal placed in front of the nation, the question of ascertaining criminal liability to the misuse of language. Answering the same, this paper aims to highlight crimes that are perpetrated essentially through the use of language and terms them as Language Crimes.

This paper presents the status quo and looks into the wide array of provisions that exist pertaining to the issue which are spread across several statutes. Further the practical application of the provisions too has been portrayed through taking a dive into the Indian courtrooms and highlighting their stand on the same. It also showcases the irony with the protectors of justice rendering injustice by examining the situation of the courtrooms dealing with cases of sexual offences and outlines the gross abuse of language by defence lawyers in their interaction with the prosecutrix during cross examination and by the judges, through the judgements they deliver. The author recognises the need to maintain a balance free speech and ascertaining criminality to language, so as to not make the liability of the accused to be infinite and presents the mechanism that exists to achieve the same. Further, the paper puts forward several suggestions to counter this social evil, including certain amendments to the current legislation.

Keywords: *Language Crimes, Verbal Abuse, Sexual Harassment, Eve teasing, Victim blaming*

I. INTRODUCTION

India, amidst the global pandemic, witnessed in the month of May a furor across all social media platforms over a conspicuous group chat of school boys where they objectified women and glorified rape. Further, on the unveiling of the chats, the members, reached out to the women who publicized their group and threatened them of dire consequences. This episode projected in front of the nation a perspective - in terms of predatory behaviour, the apple hasn't fallen far from the tree. Apart from raising obvious concerns over lack of sensitization

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regarding sexual offences in the minds of the miscreants, this ordeal reminded us of the power of language and put forward the question of ascertaining criminality to the misuse of language².

JL Austin highlights in his Speech Act Theory³ that language is not just a mere tool of communication but can function as acts that do things besides delivering information. Thus, Language Crimes are crimes that are perpetrated essentially through the use of language⁴. There are two factors which needs to be fulfilled for the commission of language crimes - namely, the speaker's intention or Mens Rea and the effect that the speech has on the listener. A statement that does not leave the recipient feeling intimidated is not a threat, whatever the intent⁵. Further, language can be either used to abet a crime or be used in a way that encroaches upon public welfare and safety. The primary focus of this paper is language crimes against women which mostly falls under the ambit of the latter.

The term 'Language Crime' has not been mentioned expressly in any legislations of the world. However, cognizance to the same has been duly given in several legislations. The practical scenario of the same can be seen with the aggressive usage of the anachronistic *Section 4A* of the Summary of Offences Act⁶, where the sanction is disproportionately magnanimous owing to the fact that even the usage of a mere cuss word is under its ambit.

Edward Bulwer-Lytton could not have possibly thought about the criminal aspect when he said 'Pen is mightier than the sword'. However, to think about it, the usage of language in executing crime does not seem like a farfetched concept considering how language is something that is omnipresent and a sword is something that a prudent man usually doesn't have with him.

II. RECOGNIZING LANGUAGE CRIMES AGAINST WOMEN

There are several provisions, like Defamation⁷, which are applicable to all, irrespective of

²Nilashish Chowdhary, Bois Locker Room : Letter Petition Before SC Seeks Criminal Action, LiveLaw.in, accessed on 2nd May 2020 at 9:06am, <https://www.livelaw.in/top-stories/bois-locker-room-letter-petition-before-sc-seeks-criminal-action-156262>

³Mitchell Green, Speech Act, Stanford Encyclopaedia of Philosophy, accessed on 2nd May 2020 at 9:26am, <https://plato.stanford.edu/entries/speech-acts/>.

⁴Roger W. Shuy, Creating Language Crimes. How Law Enforcement Uses (and Misuses) Language, Oxford: Oxford University Press, 2005

⁵Peter M. Tiersma & Lawrence M. Solan, The Language of Crime, Brooklyn Law School Legal Studies Research Papers Accepted Paper Series, Page 2, March 2012

⁶Section 4A, Summary of Offences Act, 1988 - "A person must not use offensive language in or near, or within hearing from, a public place or a school."

⁷Section 499 of the IPC, 1860 talks about Defamation. It states that "Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person."

their sex, under which cases can be filed by anyone if they are victims of language crimes. However, for the purpose of this paper, legislations which are applicable only to women have been mentioned. The same can be broadly categorised into the following:

(A) WORD, GESTURE OR ACT INTENDED TO INSULT THE MODESTY OF A WOMAN

In *Harries v. State of Kerala*⁸, The petitioner wanted to quash the charge laid against him under S. 292⁹, 294 (b)¹⁰ and 506 (1)¹¹ of IPC by a woman, a senior police official from IPS cadre, who was the recipient of anonymous letters which were foul and outraged her modesty. By the virtue of her position, she had unmasked the author of the letters and had brought proceedings against him. On investigation, it was found that the petitioner was indeed the author of the letters. However, none of the provisions under which the case was filed deemed fit to punish the same. Justice K. Hema raised questions of extreme importance – “Is there really no provision in the Penal Code, 1860 to deter a person who writes a letter to a woman intending to insult her modesty? Is Indian legislature so blind to such a severe problem of a woman? Should a woman in this country feel so helpless and unprotected in an annoying situation like this?”¹²

These questions were answered by bringing in light **Section 509 of the IPC** which states that “Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both”¹³. With the help of dictionaries and illustrations, she established that writing a letter could be considered as a gesture and laid down that there were no grounds at all to quash the charges.

Two clauses have been amended into the said section in the state of Chhattisgarh. First is the addition of **Section 509A**¹⁴, which extends rigorous imprisonment for a minimum of one year but which may extend to five years accompanied with a fine to the relatives of a woman through blood adoption or marriage if they induce, seduce or threaten such woman with intent to insult her modesty by word, gesture or act. This section is an important addition to

⁸*MM Harries v. State of Kerala*, CrI. M.C. No. 9717, KLHC01-013754-2002, Kerala High Court, 2002

⁹ Section 292 of the IPC, 1860. Provision punishing the “Sale, etc., of obscene books, etc.”

¹⁰ Section 294(b) of the IPC, 1860. This provision talks about the punishment of singing, reciting or uttering any obscene song, ballad or words, in or near any public place.

¹¹ Section 506(1) of the IPC, 1860. Provision describing the “Punishment for criminal intimidation.”

¹²*MM Harries v. State of Kerala*, CrI.M.C. No. 9717, KLHC01-013754-2002, Kerala High Court, Page 1, 2002.

¹³Section 509 of the IPC, 1860.

¹⁴ Section 509(A) of Criminal Law (Chhattisgarh Amendment) Act, 2013.

the skeleton legislation owing to the fact that in the data released by the National Crime Record Bureau of all the rape cases reported in 2017, it was found that the accused were known to the victims in 93.1% of the cases¹⁵. However, this section is not extended to the husband of such woman, giving him an immunity of sorts.

Second is the addition of *Section 509 B*¹⁶ which extends a punishment of rigorous imprisonment for a minimum of 6 months but may extend to two years accompanied with a fine to anyone, who by means of telecommunication device or by any other electronic mode, makes creates, solicits or initiates the transmission of any comment, or any other communication, which is obscene, lewd, lascivious, filthy or indecent with intent to harass or cause or having knowledge that it would harass or cause annoyance or mental agony to a woman.

The importance of addition of Section 509B is immense. Prior to the Shreya Singhal judgement¹⁷ there existed a provision in the *Indian Technology Act, 2000* which laid down provision for punishment for sending offensive messages through technological communication service, etc. The lack of this provision leaves a lacuna in the legislation and the problem of language crimes promulgated through technology is left unaddressed. The addition of *Section 509B* is a fairly good attempt to fill this lacuna and ensures that an important mode of crime propagation is regulated.

(B) CRIMES ACCOMPANYING THE INSTITUTION OF MARRIAGE

The case *K.M. Prakash vs State of Karnataka*¹⁸ could be used as an example to illustrate the language crimes committed in the institution of marriage. The facts of the case are as follows: Vishalakshi was married to Prakash. During the course of deciding the marriage of the two, Prakash's family demanded dowry which was to be given on the day of the engagement. The bliss of marriage lasted only for a few months as very soon, she was subjected to cruelty and mental harassment by her in-laws as she was unable to bring in more dowry. Unable to bear the constant harassment, Vishalakshi committed self-immolation. This was confirmed by the statements made by the victim herself during her treatment in the hospital which ultimately was unsuccessful and she succumbed to the burns.

Thus, a charge sheet was brought against Prakash, his parents, his siblings and his brother in

¹⁵No Stranger to Crime: 93% Rapes in India Committed by Persons Known to the Victim, News18, accessed on 5th May 2020 at 5:30 pm, <https://www.news18.com/news/india/no-stranger-to-crime-93-rapes-recorded-in-2017-were-committed-by-persons-known-to-the-victim-2355681.html>.

¹⁶Section 509(B) of Criminal Law (Chhattisgarh Amendment) Act, 2013.

¹⁷*Shreya Singhal v. Union of India*, (2013) 12 SCC 73.

¹⁸*K.M. Prakash vs State of Karnataka*, (2017) 1 KCCR 860.

law for offences punishable under Sections 498-A, 302¹⁹, 304-B²⁰, read with Section 34 of the IPC²¹ and Sections 3²², 4 and 6²³ of the Dowry Prohibition Act, 1961.

It is to be noted that the mere demanding of dowry, which of course is done by the means of language, is a crime under **Section 4 of the Dowry Prohibition Act**. The penalty for the same is stated in the provision as *“imprisonment for a term which shall not be less than six months but which may extend to two years and with fine which may extend to ten thousand rupees.”*²⁴

The judges identified an important question raised in this case - Whether verbal abuse falls under the ambit of Section 498A which lays down the punishment of the husband or the relative of husband of a woman subjecting her to cruelty, where the term ‘cruelty’ is defined as

“(a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical of the woman); or

*(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”*²⁵

The judges took cognizance of the fact that Vishalakshi, in her dying declaration stated that she committed the act of self-immolation due to the verbal abuse that she was subjected to by her mother in law. Further a prosecution witness of the case stated a situation where she had called the house of the accused to talk to Vishalakshi and could hear the accused abusing her in background, right after which the call disconnected. Thus, the Court was of the opinion that there has been a demand for dowry based on which the deceased has been harassed and thus laid down that the mother in law was guilty of cruelty under **Section 498A of the IPC,1860**.

¹⁹ Section 302 of the IPC,1860. This section states the punishment for murder.

²⁰ Section 304(B) of the IPC<1860. This section explains Dowry Death as “Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.”

²¹ Section 37 of the IPC,1860. This section lays provisions for Acts done by several persons in furtherance of common intention.

²² Section 3 of the Dowry Prohibition Act, 1961. It describes the penalty for giving or taking dowry.

²³ Section6 of the Dowry Prohibition Act,1961. It talks about the dowry to be for the benefit of the wife or heirs.

²⁴ Section 4 of the Dowry Prohibition Act, 1961.

²⁵ Section 498(A) of the IPC,1860.

Another legislation which could be used to address the same issue is the **Section 3 in The Protection of Women from Domestic Violence Act, 2005** which defines verbal abuse as

- “(a) insults, ridicule, humiliation, name calling and insults or ridicule especially with regard to not having a child or a male child; and
- (b) repeated threats to cause physical pain to any person in whom the aggrieved person is interested.”²⁶ The act considers the same to fall under the ambit of domestic violence.

(C) EVE TEASING

The problem of eve teasing is only addressed in euphemisms, in sections and provision already mentioned and in **Section 354A of the IPC**²⁷, in which the fourth subclause under clause 1 criminalises making sexually coloured remarks and considers it as sexual harassment. The penalty for the same too has been laid down as imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Section 294²⁸, which extends a punishment of imprisonment of a minimum of 3 months or fine or both to anyone, who, to the annoyance of others,

- (a) does any obscene act in any public place, or
- (b) sings, recites or utters any obscene song, ballad or words, in or near any public place, too can be summoned in cases of eve teasing.

In the state of Tamil Nadu, multiple incidents of eve teasing leading to serious injuries and even death to women came to the notice of the government. This pushed the state legislators to bring about an act which addresses the issue of eve teasing and thus **The Tamil Nadu Prohibition of Eve Teasing Act, 1988** came into existence. The act prohibits eve teasing and lays down penalty if the same is committed. Further it grants the State government powers to make rules for carrying out the purposes of the act. The act was amended in 2002 and the term ‘Eve teasing’ was replaced with ‘*Harassment of Women*’.

The redressal of this issue still appears to be in impasse. The courts have recognised its shortcomings regarding the same. The judgement of *UT, Chandigarh Admin. & Ors. v. Pradeep Kumar & Anr*²⁹. encompasses criticism of the verdict in the case *DIG of Police & Ors V. S.Samuthiram*³⁰ and states that the defendant was acquitted despite the pending criminal proceedings under Section 509 IPC due to non-examination of key witnesses and

²⁶ Section 3 of The Protection of Women from Domestic Violence Act, 2005.

²⁷ Section 354A of the IPC, 1860.

²⁸Section 294 of the IPC, 1860.

²⁹*UT, Chandigarh Admin. & Ors. v. Pradeep Kumar & Anr*, (2018) 1 SCC 797.

³⁰*DIG of Police & Ors v. S.Samuthiram*, (2013) 1 SCC 598.

two materials witnesses turning hostile. It called the judgement “*a serious flaw in the conduct of the criminal case.*”

However, the judgment of *DIG of Police & Ors v. S. Samuthiram* highlighted the incompetence of the Indian courts to resolve matters involving eve teasing due to the lack of effective legislation. In order to uphold public interest, *Justice K.S. Radhakrishnan & Justice Dipak Misra* laid down 8-point directions to curb eve teasing. They are as follows:

- “1. All the State Governments and Union Territories are directed to depute plain clothed female police officers in the precincts of bus-stands and stops, railway stations, metro stations, cinema theatres, shopping malls, parks, beaches, public service vehicles, places of worship etc. so as to monitor and supervise incidents of eve-teasing.
2. There will be a further direction to the State Government and Union Territories to install CCTV in strategic positions which itself would be a deterrent and if detected, the offender could be caught.
3. Persons in-charge of the educational institutions, places of worship, cinema theatres, railway stations, bus-stands have to take steps as they deem fit to prevent eve-teasing, within their precincts and, on a complaint being made, they must pass on the information to the nearest police station or the Women’s Help Centre.
4. Where any incident of eve-teasing is committed in a public service vehicle either by the passengers or the persons in charge of the vehicle, the crew of such vehicle shall, on a complaint made by the aggrieved person, take such vehicle to the nearest police station and give information to the police. Failure to do so should lead to cancellation of the permit to ply.
5. State Governments and Union Territories are directed to establish Women’ Helpline in various cities and towns, so as to curb eve-teasing within three months.
6. Suitable boards cautioning such acts of eve-teasing be exhibited in all public places including precincts of educational institutions, bus stands, railway stations, cinema theatres, parks, beaches, public service vehicles, places of worship etc.
7. Responsibility is also on the passers-by and on noticing such incidents, they should also report the same to the nearest police station or to the Women Helpline to save the victims from such crimes.
8. The State Governments and Union Territories of India would take adequate and effective measures by issuing suitable instructions to the concerned authorities including

the District Collectors and the District Superintendent of Police so as to take effective and proper measures to curb such incidents of eve-teasing.”³¹

III. LANGUAGE CRIMES IN COURT ROOMS

This section focuses on the irony that exists in the Indian courts - how the chamber meant for addressal of crimes by discharging justice becomes a breeding ground for language crimes by lawyers and judges alike. The courtroom drama that succeeds the incidents of sexual harassment subjects the victim to gaslighting, harmful stereotyping, character assassination and victim shaming, leaving her bereft of justice. It can be seen that neither the Presiding Officer nor the Public Prosecutor is mandated to specially look out for the rights and wellbeing of the prosecutrix, leaving a loophole and giving leeway to the use of insensitive language in courtrooms³².

Up until *The Indian Evidence (Amendment Act) of 2002*, which came into force in 2003, there existed a provision which further perpetrated and legalised the abuse of language in the court. *Clause 4 of Section 155 of the Indian Evidence Act* stated that “*When a man is prosecuted for rape or an attempt to ravish~ it may be shown that the prosecutrix was of generally' immoral character.*”³³ The amendment sought to remove this clause and add a section to disallow the asking of prosecutrix about her general moral character in the cross examining i.e. section 146³⁴. In 2013, the legislators acted, owing to the massive outcry that erupted in the country due to the Nirbhaya case, and passed the *Criminal Law (Amendment Act), 2013*. This act brought in changes to the definition of consent and added that “*A woman who does not physically resist the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.*”³⁵ This amendment is important as the lack of the new phrase was grossly misused by the defense lawyers who further made remarks about the victim partaking consensual participation.

Despite the changes to the legislation, the way of use of language in courtrooms still remains abysmal. This has been pointed out by a senior criminal lawyer in Delhi, Rebecca Mammen John who said “*The attempt at shaming the victim is still very much prevalent in the courts. We need to work to change the language in the courtroom.*”³⁶ The incessant pestering of the

³¹*DIG of Police & Ors v. S.Samuthiram*, point 32, (2013) 1 SCC 598.

³² Partners for Law in Development, Towards Victim Friendly Responses and Procedures for Prosecuting Rape, accessed on 12th May 2020 at 6:23pm, <https://doj.gov.in/sites/default/files/PLD%20report.pdf>.

³³Section 155 of the Indian Evidence Act, 1872.

³⁴Section 146 of the Indian Evidence Act, 1872.

³⁵ Criminal Law (Amendment Act),2013.

³⁶ Jayshree Bajoria, “Everyone Blames Me” Barriers to Justice and Support Services for Sexual Assault Survivors in India, Human Rights Watch, accessed on 10th May 2020 at 6:17pm.

prosecutrix by the defence counsels with questions insinuating lack of resistance as equal to consensual participation, only to upset the victim is still in practice³⁷. This predicament can be owed to the regressive mindset that still exists in the mind of the Indian society. An illustration of this can be portrayed by looking into an interview given by the defence lawyer of the Nirbhaya case – M.L. Sharma. The statements given by him in a public forum are not only a testimony of the deep-rooted misogyny in our patriarchal society but also hints towards the possible extents the defence lawyers can stoop to in the trials which are mostly in camera. Here are a couple of statements given by the said person:

*“Until today I have not seen a single incident or example of rape with a respected lady. Even an underworld don would not like to touch a girl with respect.”*³⁸

*“You cannot penetrate without being excited. If you can’t do that, how can you go for sex; and how can you go for rape? A man will be excited when he gets the ‘atmosphere’.”*³⁹

*“Rape is the last stage. First stage is excitement, second is the circumstance, third stage is the consent of the girl and the final is rape.”*⁴⁰

The judges, who should ideally be an instrument to curb instances like these too have equally contributed in the propagation of language crimes in the courtrooms. The National Law University, Delhi, studied 50 judgements of the Supreme Court in order to understand the extent to which, and the manner in which, the court tends to propagate gendered opinions and evaluate the victim in a stereotypical manner, especially bringing her conduct into question. The study revealed that the court did make gender-insensitive comments during the trial in 18 out of the 50 cases and in 11 cases, the apex court made stereotypical comments⁴¹. A judgement which is well known for all the wrong reasons was given in 1979 in the case *Tukaram & Anr. v. State of Maharashtra*⁴². It is one of the most classic examples where the judges are promulgating the abuse of language. The case is a special leave petition against the judgement of the HC of Bombay which convicted the appellants on grounds of sections related to sexual harassment. Ganpat (appellant) is said to have raped Mathura, after which

<https://www.hrw.org/report/2017/11/08/everyone-blames-me/barriers-justice-and-support-services-sexual-assault-survivors>

³⁷Supra 31, Page 23.

³⁸Saurabh Das, Defence lawyer in New Delhi rape case blames victim; claims he's never heard of 'respected' lady getting raped in India, National Post, accessed on 13th May 2020 at 10:50am.

<https://nationalpost.com/news/defence-lawyer-in-new-delhi-rape-case-blames-victim-claims-hes-never-heard-of-respected-lady-getting-raped-in-india>.

³⁹Ibid

⁴⁰Ibid

⁴¹G S Bajpai and Mehak Bajpai, Victim-blaming by court, Deccan Herald, accessed on 19th May 2020. <https://www.deccanherald.com/content/635109/victim-blaming-court.html>.

⁴²*Tukaram & Anr. v. State of Maharashtra*, (1979) 2 SCC 143.

the other appellant, Tukaram, fondled with her private parts but couldn't rape her owing to him being in a state of stupor. The examination proved that there were no bodily injuries on the victim. Her hymen revealed old ruptures and that she passed the two fingers test. The sessions judge called Mathura a "*Shocking Liar*" and threw allegations that she had consensual sexual intercourse with Ganpat and wasn't raped. The court further reasoned their allegation by stating that the presence of Mathura's brother and husband compelled her to fabricate the story of rape in order to sound virtuous. Thus, with the following observations, The Supreme Court acquitted the appellants.

In 2017, The judgement rendered in *Vikas Garg &Ors. v. State of Haryana*⁴³ is another such example. The case is an appeal to the HC of Punjab & Haryana for the release of the applicants on bail who had been charged with sections relating to sexual harassment. In the judgement, rape of a college student by her fellow classmates was reduced to a reflection of "*degenerative mindset of the youth breeding denigrating relationships mired in drugs, alcohol, casual sexual escapades and a promiscuous and voyeuristic world.*"⁴⁴ Further, the testimony of the victim is interpreted as the victim having casual relationships with her friends, acquaintances, adventurism and experimentation in sexual encounters and is deemed as a compelling reason to consider the prayer; considering that the accused are young and that the narrative of the incident does not hint towards any violence which usually precedes any incident of rape. Further the victim is said to have a 'promiscuous attitude' and a 'voyeuristic mind'. On the basis of the grounds mentioned above, the applicants were granted bail by the court.

IV. CONCLUSION

Another essential of crime is to prove that there exists a direct injury due to the act of perpetrator. This brings us to the question – *What injury can language implicate?*

The deep-rooted conservatism in India leaves very little space for a victim of sexual harassment to not be judged by the society. The questions of her character quite often spring up, leaving her to be a matter of gossip at the hands of the people around her. Furthermore, the trauma that a victim goes through post the incident also needs to be taken into account. At this stage, statements of character assassination or encroaching upon her modesty will cause further mental agony to the victim, thus stripping her of the right to live with dignity and honour guaranteed under Article 21 of the Constitution of India. The extent to which words

⁴³*Vikas Garg &Ors. v. State of Haryana*, (2017) SCC OnLine P&H 2806.

⁴⁴*Vikas Garg &Ors. v. State of Haryana*, Point 20, (2017) SCC OnLine P&H 2806.

can affect a person is immense for example, in the case *State of West Bengal v. Indrajit Kundu & Ors.*⁴⁵, a girl had committed suicide because the parents of her lover had referred to her as a call girl.

Both the Indian legislation and the Indian courts have recognised the existence of this menace in the society and have undoubtedly taken steps in countering the same. However, it is still far from being impeccable owing to the fact that there exist several lacunae in the present laws which can further perpetrate this menace if they are taken advantage of by unscrupulous people, like the lack of laws for the act of eve teasing.

But a problem that arises with ascertaining criminal incrimination to abuse of language is the breaking of boundaries with the right to free speech. Will a small fight leading to verbal spite be deemed as language crime? What is the test for determining the words which do encroach upon a woman's modesty and which don't? The answer to these questions has been addressed not only in the provisions of the IPC which expressly mention the existence of Mens rea and an actual injury to the victim, but also in the case *State of Punjab vs Major Singh*⁴⁶ which provides an objective test as to when the modesty of a woman is encroached upon - as per **Justice Bachawat J:** *"The essence of a woman's modesty is her sex. Even a female of tender age from her very birth possesses the modesty which is the attribute of her sex. The test therefore, would be whether a reasonable man will think that the act of the offender was intended to or was known to be likely to outrage the modesty of the woman."*⁴⁷

V. RECOMMENDATIONS

A few suggestions to curb this menace are as follows:

- Keeping in mind the rapid progress that we are witnessing in the 21st century, the lack of legislation to cater to the language crimes that are propagated via technology through social media etc. is a matter of concern. Thus, it can be concluded that though the scrapping of Section 66A of the Indian Technology Act, 2000 was needed to stop the violations by the police in the country, its absence has left an open pit for the victims to fall in without anything to hold onto. Hence, a replacement for 66A is paramount.

⁴⁵*State of West Bengal v. Indrajit Kundu & Ors.*, (2019) 10 SCC 188.

⁴⁶*State of Punjab vs Major Singh*, AIR (1967) SC 63.

⁴⁷*State of Punjab vs Major Singh*, Point 15, AIR (1967) SC 63.

- A uniform legislation to cater to the problem of eve teasing needs to come in place as the act of eve teasing is constitutionally immoral, as it engulfs the essence of a person's Right to Privacy by its unwanted interference into her life.
- The problem of abuse of language in courtrooms by the defence lawyers, though amendments in the criminal law has been ever growing. To cater to this, there must be strict implementation of one of the guidelines laid down in *Sakshi v. Union of India*⁴⁸ - “The questions put in cross-examination on behalf of the accused, in so far as they relate directly to the incident, should be given in writing to the President Officer of the Court who may put them to the victim or witnesses in a language which is clear and is not embarrassing”⁴⁹
- To criminalise the abuse of language in courts.
- To promote sensitivity programmes for the members involved in the process of rendering justice. Judicial education focused on making judges aware of the stereotypes and biases that influence adjudication is a solution to the problem.

⁴⁸*Sakshi v. Union of India*, (2004) 5 SCC 518.

⁴⁹*Sakshi v. Union of India*, Para 34, (2004) 5 SCC 518.