

‘Spare innocent men anguish’: India ruling aims to end false rape claims

Judges have moved to ensure that women driven by revenge and self-interest will no longer be able to make spurious allegations when relationships end

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An Indian couple enjoy a private moment in Mumbai. Photograph: Pal Pillai/AFP/Getty Images

Their romance began at work. She asked him out for coffee with her friends. He took her out for lunch. Dinners and walks in New Delhi’s Lodhi Gardens followed. Then, for 18 months, they were in a sexual relationship.

But last year, when Pavan Gupta* turned 24, his parents began pressuring him to marry. When they introduced him to a girl he liked, Gupta ended his relationship with his girlfriend, Geeta Jain, telling her he could not disappoint his parents. “I liked her but I didn’t want to spend the rest of my life with her. I always told her I was an only child and would have to go along with my parents’ choice,” says Gupta.

In March, as Gupta was preparing for his wedding, Jain went to the Delhi police and accused him of rape. She said she had slept with him only on

promise of marriage and, since he had not married her, consent was procured on a false pretext, making the sex rape.

“Even if I had misled her and told her I’d marry her, it still wouldn’t make the sex rape. How can consensual sex for over a year be rape?” asks Gupta.

Last month, the supreme court ruled that rape cannot be invoked in cases of consensual sex after a relationship ends and the man declines to marry the woman, for whatever reason. The judges said a clear distinction had to be drawn between the two. But the ruling is of no help to Gupta. His life has already been shattered.

His mother had a heart attack a week after she learned of the accusation against him. She died a few days later. His fiancée called off the wedding. He lost his job. His peace of mind was destroyed. The trial is dragging on because Jain frequently does not attend hearings.

Something strange is going on in India. Women are becoming more educated and confident. Pre-marital sex is on the rise – a hotel chain called StayUncle offers rooms for an hour or two to couples seeking somewhere to have sex. But at the same time, so are the number of women alleging rape on false promise of marriage.

According to the National Crime Records Bureau, a total of 38,947 rape cases were reported in India in 2016. In 10,068 cases – about a quarter – the women claimed it was rape on false promise of marriage. In Andhra Pradesh state, 45% of all rape cases filed in the past two years fell into the false marriage category.

“When a relationship ends, women who have had consensual sex make false accusations of rape under promise of marriage out of vengefulness, to hurt the man. Or they do it to extort money out of him, promising to withdraw the charge if he gives them what they want,” says lawyer Vinay Sharma.



Lawyer Vinay Sharma in his chambers in the city of Dwarka in north-west India. Photograph: Amrit Dhillon

Sitting in his tiny chambers in Dwarka, Sharma, who is handling 90 such cases, gestures discreetly to two families waiting for him on the other side of the glass partition. “The girl’s family has agreed to withdraw the charge in return for 500,000 rupees (£5,400),” he says. “Tell me, would any parent settle for money rather than justice if she’s really been raped?”

In many cases, false rape accusations are simply the result of parents covering up the “shame” of an unmarried daughter having sex. Research carried out in 2015 by journalist Rukmini Shrinivasan, who worked for the Hindu newspaper at the time, revealed that when parents discover their unmarried daughters are in a sexual relationship, their horror at potential “dishonour” to the family name leads many to make spurious allegations of rape, having first bullied their children into submission.

By their logic, saying a daughter has been raped is preferable to people thinking she is sexually active. Shrinivasan stumbled upon this finding after discerning a pattern in the charge sheets she examined in Mumbai. Time and again, it was the same story: the victim had been picked up in a moving car, given a drink laced with sedatives to render her unconscious, and raped.

The recurrence of the sedative-laced drink seemed striking. Then the penny dropped. “This allegation is important because it is necessary to show that consent was not given, to protect the girl’s reputation,” says Shrinivasan.

Sharma supports her findings. He says the same story can be found in 50 of his 90 cases. “Only the names, dates and locations are different, otherwise they all narrate the story of sedatives and drinks when in fact the girls were in a relationship and willingly having sex,” he says.

Shrinivasan’s research into the 460 rape cases that came to trial in New Delhi in 2013 revealed that “more than one third turned out to be cases of couples having consensual sex outside marriage but, when the parents found out, they went to the police to end the relationship”.

Men’s rights groups and some lawyers believe these false allegations of rape by women who have been in consensual relationships trivialise the seriousness of rape. They raise plenty of questions, too. Even if a man promised to marry a woman, can he not change his mind? How can judges determine a man’s sincerity or falsity in talking of marriage?

Even more troubling is that the notion of sex constituting rape if a man “reneges” on a promise of marriage is not in the penal code. It has evolved

on a case-by-case basis as a result of judges choosing to interpret the notion of “consent” in this fashion. As a consequence, men can be charged with rape if they falsely obtain consent for sex by promising to marry a woman and then changing their mind.

The only solace for men who have been falsely accused is that many of these cases are thrown out of court. The supreme court ruling last month, for example, related to a nurse at a government hospital in Maharashtra. She was a widow who fell in love with a doctor and moved in with him. After living together for some years, he left her and married someone else.

The judges said that having lived with the man for some years, the nurse could not allege rape. They pointed out that it was possible the doctor, on account of circumstances he could not have foreseen or could not control, was not able or willing to marry her. Whatever the reason, it was not rape. The doctor was acquitted.

But between the arrest and the acquittal lies much distress. Jeevan Kishore is married with two children and works as a “halwai” or sweet maker in New Delhi. He started a sexual relationship with a much older woman who was separated from her husband and had two children. “She was financially in bad shape. I used to lend her money, pay for her rent sometimes, and for medical costs if her relatives back in the village fell ill,” says Kishore.

When her young son fell ill, Kishore paid the hospital bills. When he died, he paid for the funeral. Then, he says, she began demanding larger and larger sums of money. “She told me if I didn’t give her the money, she would accuse me of rape. I was dumbstruck,” he says.

Eighteen months ago, that’s exactly what she did. Last month, he was acquitted. “My wife was angry with me over my unfaithfulness but she knew I was incapable of rape. I thank God the judge realised it was a false case. But for 18 months, I burned with shame every time I went out or met anyone,” says Kishore.



Vivek Deveshwar, a software engineer in Bangalore who runs a men's rights group. Photograph: Amrit Dhillon

Vivek Deveshwar, a software engineer in Bangalore who runs a men's rights group, has come across far too many shattered men. "Their trust in human relationships is destroyed. They withdraw into a shell, not knowing who they can trust and they are very frightened of embarking on another relationship," he says.

He believes that parents who make false allegations of rape are encouraged by the fact that rape victims' identities are not revealed. Consequently, there is no social embarrassment. "I believe a man's identity should also be kept secret until the trial is over and a verdict has been reached. It would spare innocent men a lot of anguish," he says.

Seema Misra, a lawyer in New Delhi, says that false cases under breach of promise to marry are a "huge" issue, one that she finds upsetting. "There is a limit to how far women can portray themselves as victims. At some point we have to take responsibility for our actions – 90% of the cases I have seen are false," she says.

For feminist lawyers like Misra, the subject is fraught with problems. They realise that such cases reflect the premium put on a woman's chastity by a very patriarchal society – no unmarried woman can be seen to be sexually active outside marriage – but oppose the abuse of rape laws.

Many observers feel that false claims brought by women who argue they were duped into losing their virginity serve only to undermine efforts to promote gender equality. "These cases should not be treated as rape. If we are talking of women's agency, then we can't have it both ways," says lawyer and activist Vrinda Grover.

Grover believes that last month's supreme court ruling will help in setting a precedent for the lower courts to follow. Ultimately, though, she believes the legal system must find another way to give women justice if they have suffered harm at the hands of a man. "The system needs to offer some form of relief – either damages or in some other way – because desperate women are resorting to the rape charge, which is wrong, but that's because they have no other remedy. The law needs to develop a different perspective," says Grover.

In the meantime, she worries that false charges of rape over consensual sexual relationships serve only to dilute genuine cases and distort the debate about rape in India. On this, Deveshwar concurs: “The tragedy is that with so many false cases, genuine victims of rape may find it harder to get justice.”

** Names of the accused men have been changed to protect their identities*

<https://www.theguardian.com/global-development/2019/feb/11/spare-innocent-men-anguish-india-ruling-aims-to-end-false-claims>