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THE LEGAL AND JUDICIAL EVOLUTION OF RAPE

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Abstract

The legal and social aspects of rape in India are examined in this paper, moving from conventional ideas of physical penetration to the rise of virtual and digital forms of sexual violence in a world growing more interconnected by the day. The paper explores how rape laws have evolved to acknowledge various forms of consent and violation by providing a historical analysis of statutory developments, including the IPC, POCSO Act, and post-Nirbhaya amendments. Despite these advancements, the quick transition to virtual spaces has given rise to new types of sexual assault that are not limited by physical boundaries and cause similar psychological harm but do not have official legal recognition. Inconsistencies in sentencing are revealed by case studies from Indian courts, and judicial attitudes frequently reflect ingrained rape myths and misogynistic biases, impeding survivor-centric justice. Drawing on psychological research, digital jurisprudence, and recent decisions, this study emphasizes the pressing need to update legal definitions, include virtual violations in statutory frameworks, and address judicial bias through gender-sensitive training. In the end, the paper makes the case for a progressive, trauma-informed, technologically conscious legal system that upholds dignity and consent in both the real and virtual worlds.

Keywords: Rape, Virtual rape, Metaverse, Judicial biasness, Rape myths.

1. Introduction

Rape is the cause of biological, personality and childhood trauma of the delinquents often motivated by the societal impact, internal satisfaction, personal incapacities, where the delinquent often resorts to hostile masculinity¹. Where the evolution occurs through natural selection in which one individual is more successful in reproduction causes frustration and a

¹ National Institute of Justice, "The Etiology of Adult Sexual Offending", available at: <https://smart.ojp.gov/sites/g/files/xyckuh231/files/media/document/etiologyofadultsexualoffending.pdf> (last visited on Nov. 07, 2025).

setback in the mind of another². But departing from the traditional meaning and patriarchal form of rape, it is not only confined to the physical form of sexual violence, which includes those commonly accepted conventions of rape, often regulated by the society and penalized by the state but now includes the rape through digital means which might also be famous for virtual rape as a repercussion of metaverse. The detailed studies shows as to how the rape has evolved and virtual rape is paving its way to cause a setback in the minds of the victims in support of various case studies describing the extent of the virtual crime especially the rape and the impact of judiciary reflected through various cases and how the social stigma has a nexus with the mindset of the judges.

2. New Terrains of Rape

The virtual rape is very different than the traditional concepts of the rape known to the society and the people are mostly afraid of. But does the impact of rape decreases or is it by no means a cause of mental trauma in the mind of the victim merely because it was caused virtually? And does it, anyhow, provide a right to the delinquents to engage in such activities? While Randy Thornhill and Craig Palmer provides for the evolutionary causes of the traditional rape³, the virtual rape differs on the basis of methods and means of commission of such crime.

Virtual rape, as the name suggests is committed virtually and is comprised of online sexual harassment, sharing of explicit content and abuses. All these factors lead to causation of the same mental trauma and sufferings similar to a victim who has been physically hurt. The core ingredient of this offence is that it brings the virtual avatar and the real self into alignment, and thus the embodiment produces a mirrored experience in which virtual sensations can seem real. Victims frequently experience severe emotional and psychological reactions as a result of their inability to distinguish virtual violations from reality due to this elevated sense of realism.⁴ The effects of digital rape are extremely real, even though it takes place in virtual environments. In addition to social consequences like strained relationships and damaged reputations, victims frequently report emotional trauma, such as feelings of helplessness, shame, and violation. Many also suffer from physical symptoms, such as depression, anxiety, and health problems

² Elisabeth A. Lloyd, "Science Gone Astray: Evolution and Rape", available at: <https://share.google/kCsxD18Bm5q2PIr0V> (last visited on Nov. 07, 2025).

³ Randy Thornhill & Craig T. Palmer, *A Natural History of Rape: Biological Bases of Sexual Coercion*, Cambridge, MA: MIT Press, 2000.

⁴ Aadya Khanna, "Understanding Virtual/Digital Rape: Navigating Consent and Accountability in the Digital Age", Centre for Law & Policy Research Blog (30 Jan 2025), available at: <https://clpr.org.in/tag/online-harassment/> (last visited on Nov. 07 2025).

brought on by stress. The permanence of digital content increases victims' feelings of vulnerability and fear, while the anonymity of the internet gives offenders more confidence.⁵

3. The Impact

3.1. Emotional and Psychological Impact of Virtual Rape

The various studies and instances shows how the victims of virtual rape are often met with the sufferings and mental trauma as if the act had been committed physically with them as a result of inability of the victim of detach itself from the virtual world, thereby leading to emotional harm that blurs the line between physical and digital violations.

A good example is the case of UK where according to reports, British authorities started looking into a case of "virtual rape" in 2024 that took place in the metaverse, an immersive virtual reality (VR) setting that is sometimes referred to as an "embodied internet," where users can actively engage rather than just watch. In this case, the digital persona of a teenage girl was allegedly "sexually assaulted by a group of unknown users," causing psychological and emotional distress similar to that of survivors of physical sexual violence. While similar incidents have been discussed for years, the involvement of law enforcement in this case garnered international attention and sparked significant discussions regarding the application of criminal law in virtual spaces.⁶

Another striking example is of Richard MacKinnon, who, in his article "virtual rape", explores a historic instance in a text-based virtual environment (a MUD) where a user coerced other avatars into performing sexual acts against their will by using a "voodoo doll" mechanism. He examined as to how the impacted users experienced actual psychological trauma as a result of this virtual event; despite the fact that no physical bodies were touched, the victims described the encounter as extremely offensive. It considers what consent, bodily integrity, and sexual violence mean in online settings.⁷

The survivors of virtual rape discloses similar signs with those of victims of physical rape:

⁵ *Id.*

⁶ Clare McGlynn & Carlotta Rigotti, "From Virtual Rape to Meta-rape: Sexual Violence, Criminal Law and the Metaverse" 45 *Oxford Journal of Legal Studies* 554–582 (2025), available at: <https://academic.oup.com/ojls/article/45/3/554/8108104> (last visited on Nov. 07 2025).

⁷ Richard MacKinnon, "Virtual Rape", 2(4) *Journal of Computer-Mediated Communication* (1997) JCMC247, available at: <https://academic.oup.com/jcmc/article/2/4/JCMC247/4584404> (last visited on Nov. 07, 2025).

feelings of loss, loneliness, anger, a general distaste for men, extreme reluctance to have sex, a severe inability to trust in day-to-day life, severe depression, self-blame, shame, sexual dysfunction, low self-esteem, a higher likelihood of engaging in substance abuse, and a sense of worthlessness have been the most frequently observed effects among the victims of the crime⁸. These similarities demonstrate that whether a crime takes place in real life or virtual reality, its effects are always the same.

3.2. Physicality in the Legal Definition of Rape: A Reevaluation

Notwithstanding these psychological similarities, physical acts—particularly penetration—remain the primary focus of the legal definition of rape. Rape is defined by the act of penetration or insertion, which are essential elements of the crime under Indian law, according to Section 63 of the Bharatiya Nyaya Sanhita (BNS)⁹. The legal emphasis on physical contact is further reinforced by the Protection of Children from Sexual Offences (POCSO) Act, which defines "penetrative sexual assault" as a crime (Section 3)¹⁰.

This penetration-first strategy has frequently been supported by judicial interpretations. For instance, in *Aksh vs State of Uttar Pradesh, 2025*¹¹, the hon'ble HC observed that the factum of mere grabbing the breasts of minor victim and breaking the string of her pyjama to bring down her lower garment are not sufficient to be considered act as an attempt to commit rape. And that there were no additional actions attributed to them that would substantiate an intention to carry out the offence of rape. This ruling illustrates how closely the concept of physical penetration is linked to the legal and social definition of rape, frequently at the expense of omitting other extremely damaging sexual offenses.

However, this limited definition of rape ignores violations brought on by digital interfaces. As demonstrated in the aforementioned cases, virtual sexual assault can cause trauma that is just as severe as that caused by physical acts, even if one believes that rape should only be defined by penetration¹². As a result, these actions should be acknowledged under broader legal

⁸ M A Whatley, "For Better or Worse: The Case of Marital Rape", 8 *Violence & Victims* 29–39 (Spring 1993).

⁹ The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), s. 63.

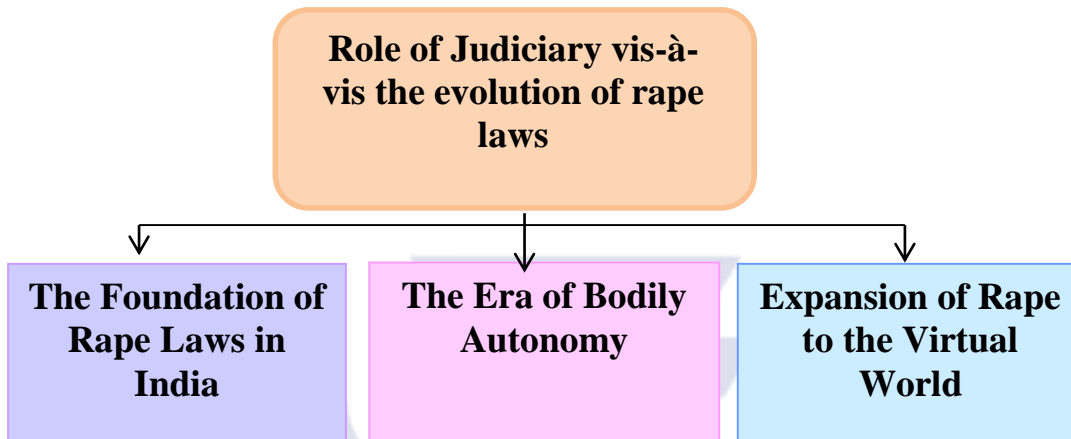
¹⁰ The Protection of Children from Sexual Offences Act, 2012 (Act 32 of 2012), s. 3.

¹¹ *Akash & 2 Others v. State of U.P. & 2 Others*, CR Revision No. 1449/2024, (Allah Pradesh High Court, Mar. 17, 2025)

¹² Shraddha Chaudhary, "Reconceptualising Rape in Law Reform", *Socio-Legal Review* Vol. 13 (2017), Articles section of Manupatra, available at: <https://docs.manupatra.in/newsline/articles/Upload/535B4F9F-4315-4F30-B4C4-DE7DE66983BC.pdf> (last visited on Nov. 07 2025).

frameworks. The seriousness of digital sexual offenses cannot be downplayed because there is no physical penetration.

4. Role of Judiciary vis-à-vis the evolution of rape laws



4.1 The Foundation of Rape Laws in India

4.1.1. Definition of Rape- Section 375 IPC (Repealed)/ 63 BNS¹³

- Since 2013, rape has been defined as penile penetration "to any extent" of the vagina, mouth, urethra, or anus, as well as the insertion of any object or body part—other than the penis—into the vagina, urethra, or anus; consent is crucial; and there are graded aggravated forms under s.376(2). Lack of physical resistance is irrelevant.
- The Criminal Law (Amendment) Act, 2013 expanded s.375 and added related offenses in response to the 2012 Delhi gang rape case¹⁴. It primarily relied on the Justice Verma Committee Report (Jan 23, 2013). The intent of the legislature was to improve sanctions and protections for survivors, modernize the definition beyond vaginal penetration, and center consent.¹⁵

4.1.2. *Tukaram v. State of Maharashtra*¹⁶ (Mathura rape case, 1979)

Two police officers allegedly raped a minor (Mathura) inside a police station. Due to the lack of injuries and "habituation to sex," the Supreme Court acquitted, questioning the absence of consent. There was a public uproar. This led to the Criminal Law (Amendment) Act of 1983,

¹³ *Supra* note 9

¹⁴ AIR 2017 SUPREME COURT 2161.

¹⁵ "Justice Verma Committee Report Summary", PRS India Policy Report Summaries (2013), available at: <https://prsindia.org/policy/report-summaries/justice-verma-committee-report-summary> (last visited on Nov. 07 2025).

¹⁶ 1979 AIR 185.

which contained provisions for special aggravated rape (s.376A-D¹⁷, then) and the Evidence Act (s.114A¹⁸), which states that there is a presumption of no consent when the prosecutor says so. The law now favours accepting the complainant's account rather than preconceived notions about resistance or injuries.¹⁹

4.1.3. State of Punjab v. Gurmit Singh (1996)²⁰

The Supreme Court criticized lower-court stereotypes, and ruled that if the prosecutrix's evidence is credible, it can be the sole basis of conviction. The court also emphasized in-camera proceedings and sensitivity. This case led to strengthening the victim-credibility theory, with a reduced emphasis on corroboration.

4.1.4. Mukesh & Anr v. State (NCT of Delhi)²¹ (Nirbhaya case, 2012)

In December 2012, a gang raped and killed a woman on a moving bus in Delhi. The Supreme Court upheld the sentences and death sentences on May 5, 2017. The Justice Verma Committee led to the Criminal Law (Amendment) Act, 2013, which broadened the definition of rape and added new crimes like stalking, voyeurism, sexual harassment, acid attack, and more (354A-D²²). The goal of the law is to make definitions broader, punishments harsher, and focus on the victim.²³

4.2 The Era of Bodily Autonomy

4.2.1. Protection of Women from Domestic Violence Act, 2005²⁴ (PWDVA)

It is a civil, rights-protective law that gives people protection orders, residency orders, maintenance, custody, and compensation. It also recognizes physical, sexual, verbal, emotional, and economic abuse in a "domestic relationship" or shared household. It also fills in the gaps that IPC s.498A²⁵ doesn't cover by giving quick civil reliefs, recognizing non-marital and domestic relationships, and following international obligations (for example, Vienna/Beijing)²⁶. The Supreme Court has also talked about the remedial intent in Indra Sarma

¹⁷ The Indian Penal Code, 1860 (Act 45 of 1860), ss. 376A–376D.

¹⁸ The Indian Evidence Act, 1872 (Act 1 of 1872), s. 114A.

¹⁹ *Tukaram & Anr v. State of Maharashtra*, AIR 1979 SC 185, available at: <https://www.nayalegal.com/tukaram-and-another-v-state-of-maharashtra-1978> (last visited on Nov. 07 2025).

²⁰ 1996 AIR 1393.

²¹ *Supra* note 14

²² The Indian Penal Code, 1860 (Act 45 of 1860), ss.354 A- D

²³ *Supra* note 15

²⁴ Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005).

²⁵ The Indian Penal Code, 1860 (Act 45 of 1860), s. 498A.

²⁶ Lakshlata Prajapati & Dr Amit Singh, "The Protection of Women from Domestic Violence Act, 2005 – A Critical Study of the Constitutional and Other Legal Provisions" 3(2) *International Journal of Civil Law and Legal Research* 1–6 (2023), available at: <https://www.ijfmr.com/papers/2025/4/52188.pdf> (last visited on Nov. 07 2025).

v. V.K.V. Sarma (2013)²⁷.

4.2.2. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH)²⁸

The goal of the Act is to make sure that workplaces are safe, which is part of Articles 14, 15, and 21 on equality and dignity. Later state circulars showed that the focus is still on making sure that these rules are followed. It puts Vishaka principles into law, sets up Internal and Local Committees, lays out procedures and employer responsibilities, and defines sexual harassment.²⁹

4.3 Expansion of Rape to the Virtual World

4.3.1. Section 67A, Information Technology Act, 2000 (inserted by the 2008 Amendment)³⁰

The 2008 amendment added specific cyber-offenses to fight online obscenity and pornography and protect children's welfare by making "online" and "offline" decency and morality rules the same (Art. 19(2)³¹). It punishes people who publish or send sexually obscene material electronically, with harsher penalties for people who do it again. 67B³² is specifically aimed at sexually explicit content involving children.³³

4.3.2. Section 354D IPC (Section 78 BNS³⁴) — Inclusion of Cyberstalking

The legislative intent was to directly respond to the Nirbhaya and Justice Verma Committees and make it a crime to stalk someone online or offline in a way that threatens their safety and freedom.³⁵ Recently many of the HCs are pursuing the same intent and are refining the boundaries. For instance, it has been established that profanity alone does not constitute stalking and repetition and monitoring are required to constitute the offence.³⁶ Any man who

²⁷ (2013) 15 SCC 755.

²⁸ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (Act 14 of 2013).

²⁹ Government of India, Ministry of Women & Child Development, *Handbook on Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013* (Nov. 2015), available at: <https://www.iitk.ac.in/wc/data/Handbook%20on%20Sexual%20Harassment%20of%20Women%20at%20Workplace.pdf> (last visited on Nov. 07 2025).

³⁰ The Information Technology Act, 2000 (Act 21 of 2000), s. 67A (as inserted by the Information Technology (Amendment) Act, 2008).

³¹ The Constitution of India, art. 19(2).

³² The Information Technology Act, 2000 (Act 21 of 2000), s. 67B.

³³ "Cyber Crimes", Press Release, Ministry of Women and Child Development (07 Feb 2020), available at: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1602398> (last visited on Nov. 07 2025).

³⁴ The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), s. 78.

³⁵ *Supra* note 15

³⁶ "Foul language doesn't mean stalking, rules Karnataka High Court", *The Times of India*, 13 July 2025, available at: <https://timesofindia.indiatimes.com/city/bengaluru/foul-language-doesnt-mean-stalking-rules-karnataka-high-court/articleshow/122409723.cms> (last visited on Nov. 07 2025).

frequently follows or contacts a woman despite her indifference or watches her use the internet or e-communications (with some exceptions) is guilty of stalking. The first offense is punishable by three years in prison, and the second by five years.

4.3.3. POCSO Act, 2012³⁷ —Online Child Sexual Exploitation

Section 13³⁸ (using a child for pornographic purposes), Section 14³⁹ (punishment for such acts), and Section 15 (penalties for possession or storage) are important provisions pertaining to "child pornography" that deal with the creation, distribution, and retention of such content, including content found online. Later revisions improved coordination with the Information Technology Act and fortified penalties. The goal is to create a comprehensive, gender-neutral framework for child protection that recognizes the risks associated with digital technology and mandates mandatory reporting and investigation processes.⁴⁰

4.3.4. State of Tamil Nadu v. Suhas Katti (2004)⁴¹

In this case, the accused, after facing rejection, created a fake email account in the victim's name and posted obscene and defamatory content in Yahoo groups, leading to her receiving harassing calls. He was convicted under Section 67 of the Information Technology Act and Sections 469 and 509 of the IPC. The court's willingness to tackle new digital offenses is demonstrated by this case, which is noteworthy for being one of the first to apply cybercrime laws to gender-based online abuse.⁴²

4.4 Instances of Virtual Rape

4.4.1. Delhi high court convicted the accused for 25 years Rigorous Imprisonment for digital rape of a 2-year-old (State v. X)

A Delhi court ruled in 2021 that a man had committed aggravated sexual assault against a two-year-old child, which the court referred to as "digital penetration" (i.e., penetration using fingers). By claiming that there was no penile intercourse involved in the assault, the accused requested a lighter sentence. The court, however, rejected this assertion. This decision emphasizes that digital penetration sexual assault is legally treated with the same seriousness as penile rape. The ruling makes it abundantly evident that criminals cannot request leniency

³⁷ The Protection of Children from Sexual Offences Act, 2012 (Act 32 of 2012).

³⁸ The Protection of Children from Sexual Offences Act, 2012 (Act 32 of 2012), s. 13

³⁹ The Protection of Children from Sexual Offences Act, 2012 (Act 32 of 2012), s.14

⁴⁰ "Crimes against Children", Press Release, Press Information Bureau (5 Dec. 2019), available at: <https://www.pib.gov.in/Pressreleaseshare.aspx?PRID=1743229> (last visited on Nov. 07 2025)

⁴¹ State of Tamil Nadu v. Suhas Katti (2004)

⁴² "State of Tamil Nadu vs Suhas Katti – Landmark Judgement", *Testbook* (n.d.), available at: <https://testbook.com/landmark-judgements/state-of-tamil-nadu-vs-suhas-katti> (last visited on Nov. 07 2025).

based on the penetration technique. The judiciary is enforcing harsh penalties, such as life in prison, in cases involving minors and digital penetration, demonstrating how seriously such offenses are taken.⁴³

4.4.2. Reduction of sentence in digital rape of 4-year-old [Rohit v. State (NCT of Delhi) 2014]⁴⁴

In a 2014 case, the trial court convicted a man guilty of digitally raping a 4-year-old girl and initially sentenced him to 20 years in prison and a fine. After considering mitigating factors like the convict's age, good behaviour in jail, and responsibility toward his mother, the Delhi High Court lowered the sentence to 12 years while keeping the ₹15,000 fine. This ruling demonstrates that, even though digital forms of sexual assault are treated seriously, sentencing is left up to the discretion of the judge, with appellate courts occasionally lowering sentences in light of particular facts.⁴⁵

4.4.3. School Principal Sentenced For Digital Rape in Gujrat (State Of Gujrat V. Arvindkumar Ramchandra Patel)

In September 2023, an incident took place in the Mehsana District of Gujrat where a 58 year old primary school principal was found guilty for the commission of digital rape of a Class 3 student. A special POCSO court was constituted which convicted him to **life imprisonment**. **This case** Highlights the misuse of positional authority (teacher/principal) in the context of "digital rape" and demonstrates that courts are willing to award life sentences in such serious circumstances. Digital penetration can result in the worst punishments for youngsters and those in positions of authority/trust.⁴⁶

4.4.4. Digital Rape of a Flight Attendant in the Hospital (Gurgaon) (X v. State of Haryana)

A flight attendant who was on a ventilator was digitally raped by means of non-consensual finger penetration at a hospital in Gurgaon, Haryana. This case expands the scope of concern by demonstrating that digital rape can happen in homes, children's environments, and institutional settings like hospitals. For offenses involving digital penetration, institutions such

⁴³ "Man gets 25 years rigorous imprisonment for raping 2-year-old girl", *Deccan Herald*, 02 Mar 2024, available at: <https://www.deccanherald.com/india/delhi/man-gets-25-years-rigorous-imprisonment-for-raping-2-year-old-girl-3411154> (last visited Nov. 07 2025).; "No leniency to convict for digital rape of 2-yr-old girl: Delhi court", *The Times of India*, 25 Mar 2024, available at: <https://timesofindia.indiatimes.com/city/delhi/no-leniency-to-convict-for-digital-rape-of-2-yr-old-girl-delhi-court/articleshow/118361376.cms> (last visited Nov. 07 2025).

⁴⁴ CRL.M.C. 7728/2014

⁴⁵ "Delhi High Court Reduces Jail Term Of Man Convicted For 'Digital Rape' Of Minor", *NDTV*, 05 Jan. 2024, available at: <https://www.ndtv.com/india-news/delhi-high-court-reduces-jail-term-of-man-convicted-for-digital-rape-of-minor-4807769> (last visited on Nov. 07 2025).

⁴⁶ "A predator in guise of educator": Gujarat school principal sentenced to life imprisonment for digital rape of Class 3 student", *The Times of India*, 24 July 2025, available at: <https://timesofindia.indiatimes.com/city/ahmedabad/principal-sentenced-to-life-imprisonment-for-digital-rape-of-class-3-student/articleshow/122887901.cms> (last visited on Nov. 07 2025).

as hospitals and assisted living facilities needs to be subject to legal and protective measures.⁴⁷

4.4.5. A 74-Year-Old Rickshaw Puller Sentenced For Digital Rape (State V. Bholu)

In 2021, the defendant conducted "digital rape" on two girls aged 6 and 7, on multiple occasions. The court condemned him to 20 years of severe jail and ordered a total compensation of ₹21 lakh (₹10.5 lakh for each victim). This instance demonstrates the severity of the sentence, as well as the fact of compensation for rehabilitation. Digital rape of extremely young minors carries severe penalties, as well as monetary compensation for victims.⁴⁸

4.5 Judicial Biasness and Rape Myths

4.5.1. Aparna Bhat v. State of Madhya Pradesh⁴⁹

When addressing cases involving sexual offenses from Madhya Pradesh, the Supreme Court took advantage of the chance to criticize court procedures like imposing bail requirements that denigrate survivors such as tying a rakhi, viewing marriage as a cure, or making generalizations about the victims. The Court ruled that compromise or marriage cannot be used as a remedy in rape or attempted rape cases; bail requirements must not be humiliating; judges must be made more aware of the issue; and judicial language must not reinforce stereotypes. The Court ruled that compromise or marriage cannot be used as a remedy in rape or attempted rape cases; bail requirements must not be humiliating; judges must be made more aware of the issue; and judicial language must not reinforce stereotypes.⁵⁰ Thus this landmark judgement envisages for the gender-sensitive jurisprudence and that the judiciary must always opt to avoid rape myths.

4.5.2. A Study of Rape Myths

A paper on "Judicial Narrative and Rape Myths: The Farooqui Case" explains how judgments have a nexus with the rape myths and stereotypes (e.g., victim must behave in a certain way) in Indian jurisprudence. The paper explicitly states the stereotypes about victims of rape. These may include clothing, behaviour, time of day, etc. When analysing judgments the author has illustrated how a minor crack constituting subtle biases affects survivor access to justice.⁵¹

⁴⁷ "Flight attendant 'digitally raped' at Gurgaon hospital: What does it mean?", *The Times of India*, 19 Apr 2025, available at: <https://share.google/hd4pwUD5fWd53I0im> (last visited on Nov. 07 2025).

⁴⁸ "Court sentences 74-year-old rickshaw puller to 20 years RI for digitally raping minor girls", *The Times of India*, 11 Jun 2025, available at: <https://timesofindia.indiatimes.com/city/delhi/court-sentences-74-year-old-rickshaw-puller-to-20-years-ri-for-digitally-raping-minor-girls/articleshow/121469130.cms> (last visited on Nov. 07 2025).

⁴⁹ AIR 2021 SC 1492.

⁵⁰ *Aparna Bhat & Ors. v. State of Madhya Pradesh & Ors.*, (2021) 4 SCR 479; Criminal Appeal No. 329 of 2021 (Supreme Court of India, 18 March 2021), available at: <https://clpr.org.in/wp-content/uploads/2024/12/65.-Aparna-Bhat-and-Ors-vs-State-of-Madhya-Pradesh-andSC20211903211723582COM219692.pdf> (last visited on Nov. 07 2025).

⁵¹ Arun Sagar, "Judicial Narrative and Rape Myths: The Farooqui Case", *Socio-Legal Review* (Vol. 15) [year], available at: <https://share.google/PDcHy1GoMQiXuNxrF> (last visited on Nov. 07 2025).

4.5.3. Analysis of Consent and Biasness

The author of "A Critical Analysis of the Standard of Consent in Rape Law in India" (2023) criticizes the ways in which victim-credibility and stereotyped reasoning impact consent jurisprudence. The paper helps to show how judicial bias is attached with the process and assessment of "consent" (e.g., whether a woman's behaviour indicates consent or not) rather than focusing purely on the dissent.⁵²

5. *Lacunae in Existing Statutory Frameworks*

The incidents and cases we have discussed in this paper helps us to analyse that rape is growing from its traditional physical act to spreading its roots in the digital world in its immersive environment such as metaverse, and the current legal regime continues to focus on the traditional rape concepts and even though there are digital rules, DPDP Act, and IT Act, they still do not recognise or efficient enough to cover digital rape cases. However, the judiciary from time to time has exhibited responsible role while dealing with these cases while simultaneously sympathising with the victims of both digital and physical rape. The study of cases elaborates how the laws are required to be comprehensive and technologically advanced enough to address these issues while acknowledging the psychological harm, filling the gaps in the currents enactments and dealing the cases of virtual rape at par with the physical rape cases, meanwhile advocating for all-encompassing reforms.⁵³

6. Reformation Proposals

6.1. Statutory Recognition of Virtual Rape

Under the current laws, the virtual and non- physical violations are not being sufficiently met as they focus on the physical penetration. The analysis of various cases of digital rape elaborate how this has led to inconsistent judicial interpretations. A uniform penalization of such kind of offences while filling up of definitional gaps can only ensure clear statutory recognition. Therefore, there's a need to modify the Protection of Children from Sexual Offences Act

⁵² Nikunj Kulshreshtha, "A Critical Analysis of the Standard of Consent in Rape Law in India", Onati Socio-legal Series Vol. 13, Issue 4 (2023) 1428 - 1456, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4336646

⁵³ Waseem Ullah Khan & Prasanna Barure, "Understanding Digital Rape: A Comprehensive Study of Legislation and Case Law", *International Journal for Multidisciplinary Research* 6(4) (July-Aug. 2024) (DOI: 10.36948/ijfmr.2024.v06i04.24362), available at: <https://www.ijfmr.com/papers/2024/4/24362.pdf> (last visited on Nov. 07 2025).

(POCSO)⁵⁴ and the Bharatiya Nyaya Sanhita (BNS)⁵⁵ to specifically include virtual acts of simulated sexual violence and digital penetration in the definition of rape.

6.2. Law Enforcement in Immersive Virtual Environments

Modernized virtual acts of sexual assault and non-consensual interactions still remain out of the scope of current IT laws. The current laws mainly concentrate only upon the pornographic material and child pornography. A reform is required which would foresee new abuses driven by technology. Therefore, the non-consensual sexual acts in immersive environments (such as the metaverse and virtual reality platforms) shall be addressed by adding a separate chapter or amendment under the Information Technology Act of 2000⁵⁶, in order to acknowledge psychological harm, as being legally equivalent to physical violation.

6.3. Sensitizing Judiciary to Reduce the Scope of Biasness

The landmark case of Aparna Bhat⁵⁷ shows how judicial stereotypes, or rape myths like depending on "compromise" or moral judgments, still plays a role in judgement delivery. A reform is suggested to implement a mandatory, recurring training programs on rape myths, and victim psychology including trauma from virtual assault in decision-making for the judges, and other significant authorities. This will help courts to adjudicate sensitively while thinking out of the patriarchal driven notions.

6.4. Digital Safety Protocols

6.4.1 Rationale

As already analysed, the trauma experienced by victims of digital sexual assault is comparable to that of survivors of physical assault. This also includes victims of non-consensual intimate imagery, deepfake porn and violations of virtual avatars. But the current criminal laws like the IT Act, POCSO, and BNS don't adequately address the persistence of harm online, especially when it comes to psychological distress, content removal, and privacy violations. Therefore, incorporation victim support into India's digital regulatory system can made possible only through Digital Personal Data Protection Act, 2023⁵⁸ (DPDP Act) and the draft DPDP Rules,

⁵⁴ *Supra* note 37

⁵⁵ *Supra* note 9

⁵⁶ *Supra* note 30

⁵⁷ *Supra* note 49

⁵⁸ The Digital Personal Data Protection Act, 2023 (Act 26 of 2023)

2025⁵⁹, which give people rights over their personal data.

6.4.2 Legal Infrastructure for Redressal

Individuals (referred to as "data principals") are entitled to access, correction erasure, and grievance redress under the DPDP Act. But for victims of online sexual assault, these rights need to be extended by:

- Redressing the grievances of such victims as a priority and clearly classifying them as vulnerable under the data principals.
- Providing a fast-track erasure and takedown mechanism for non-consensual sexual content on digital platforms.
- Establishing emergency support desks and round-the-clock redressal channels within major data fiduciaries (like Meta and VR platforms) in accordance with DPDP Rules.⁶⁰

The possible results can lead to positive outcomes as the survivors will get a way out of their chronic trauma and also facilitating the initialization of legal actions while maintaining the victim's confidentiality.

7. Conclusion

The law always needs to keep evolving as the society shifts from the traditional concepts to the digitalized world. But along with many other things, the extent of offences have also expanded their scope to the modern world and so does the sexual offences which are no longer confined to the realm of physical penetrative criteria but also to the virtual avatars. And this psychological trauma sustained online can be just as crippling as that sustained offline. Though the judiciary is playing a vital role in dealing and sympathising with these new types of offences, judicial reasoning somehow still reflects deeply ingrained biases. Access to justice is hampered by the persistence of victim-blaming, rape myths, and patriarchal ideas of consent.

Therefore, to tackle such kind of problems, the rape legislation must focus on the two main centric points- transforming the laws and sensitising the judges' behaviour towards such cases. This call for victim centric rationale prioritizes the autonomy and dignity of the survivors.

⁵⁹ "Draft Digital Personal Data Protection Rules, 2025", Press Information Bureau (Jan 2025), available at: <https://share.google/ZdYD8hPPY4ooz3oEt> (last visited on Nov. 07 2025).

⁶⁰ "Transforming Data Privacy: Digital Personal Data Protection Rules 2025", EY India (2025), available at: https://www.ey.com/en_in/insights/cybersecurity/transforming-data-privacy-digital-personal-data-protection-rules-2025 (last visited on Nov. 07 2025).

In the end, the society must realize that survivor-sensitive, technologically informed, and bias-free adjudicatory framework is a constitutional requirement, not a luxury and therefore the law must act as a dynamic link between justice and lived experience.

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