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# **STALKING: UNRAVELLING THE TREACHEROUS PUZZLE**

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## **Abstract**

In India Stalking was added in criminal law after 2013 Criminal Amendment Act which was passed by Justice Verma Committee. Stalking was added in criminal law because of increase in number of crimes against modesty of women in society. Stalking is not a gender biased crime but in India most commonly stalking is held against women. In India anyone can be stalked at anytime. Before the amendment the term stalking was not directly included in the Penal Code of India. It was just included under harassment like voyeurism and sexual harassment against women, under section 354 and 509. Because of increasing number of cases, it became very necessary to make a separate law for stalking. Before the amendment it was very difficult to punish the offender. And they are moving freely from the court without any fear.

Due to stalking many of the girls commits suicide, suffers mental pressure or some suffers physical harassment. Some stalkers are so obsessive and after listening no from girl they start torturing them. Torture may be physical or mental. Stalking is often a precursor to other more violent crime. Other more violent crimes like murder, rape, sexual harassment, acid attack etc.

Indian movies play a big role to promote stalking. They were portraying stalking as a cool act. They are showing that stalking is not a crime. They are showing that by following a girl, singing song for a girl, sending present to a girl and protecting a girl from stranger will somehow attract the girls attention towards them. Not all the viewers but some of them are thinking that yes what is all shown in the movie is good and cool and they start doing that all in their real life. But in reality the stalkers open the door of jail for them by doing all that. Stalking is most commonly done by young and teenager peoples. Indian movies are somewhere providing the idea to the people how to stalk anyone. I is not like that movies are only influencing bad things. Movies are not only teaching the bad things to the people I think somewhere it is depending on the peoples mentality,

what they are thinking and taking from the movie.

**KEY WORDS:** Stalking, Victims, Threat, Fear, physical torture, suicide, harassment, obsessive, nonconsensual communication, Indian Penal Code, Stalkers.

## **Introduction**

The [murder](#) of Chennai college student Sathya Priya by her stalker in 2022 is at once horrific and familiar: a young woman is followed and harassed for months by a man obsessed with her. A police complaint is filed but the aggressor is let off on bail. He continues to offend and another complaint is filed but the families then settle for a “compromise”.

On October 13, 2022, Sathya Priya confronts the man who has followed her to a metro station. As a train pulls in, he pushes her onto the tracks. But replace Chennai with [Dumka](#), [Kakinada](#), [Srisaillam](#), [Delhi](#) or [Surat](#) and you get the same story of masculine entitlement, impunity, regressive social responses and casual policing of a serious crime.

Crime is an act or an omission which is universal or we can say it is in every bit of society and knowingly and unknowingly most part of the society is involved in it. To understand the crime there is no any universally accepted definition but there are different views of jurists and philosophers, but from a legal and legislative perspective – A crime is an act or omission which is illegal or which is against the law, and the wrongdoer is liable for punishment. The prosecution of case is started by state. There are innumerable types and classes of crimes and is continuously increasing. Stalking is one of them and was added in criminal laws of India after 2013 Criminal Amendment Act passed by the Justice Verma Committee due to the increasing number of crimes against modesty of women in society. Stalking is communication crime and it should not be gender biased but in our country stalking is held only against the women's. In general anyone can be stalked and can stalk without even knowing most of the times, because in our society following someone, calling someone, asking someone, staring at someone, etc is not accepted as a crime until a legal action is not taken against him/her.

In 1860 Indian Penal Code became a colonial law. At that time Stalking is not mentioned in Indian Penal Code as an offence. At that time Section 354 and section 509 only provides the protection to women. Section 354 covers the offence related to sexual harassment and section 509 covers the offences related to using words or gestures to insult a woman's modesty. If anyone is assaulting a

women believing that it will offend the modesty of women is liable under section 354 to be prosecuted by law. There are three tests which will prove that the act is illegal or not.

- 1) "The act must be against a woman,"
- 2) "The perpetrator must have used excessive force, and"
- 3) "Their modesty should be offended."

There are a lot of movies where stalking is shown very often. Indian Movies are portraying stalking as a cool and good act. They are showing that following a girl, commenting on a girl, singing a song for a girl is a romanticizing act and not putting any stress on girls. They are showing that this is a good way to get the consent of a girl and girls do not have any problem from that. Indian Movies are showing stalker as a hero of the film and he is following heroine singing some songs for her and after sometime he will get the consent of girl. Indian Movies are conveying that, stalking does not put any mental pressure or physical injury to girl. But in reality it is not true, many of the victims of stalking are facing mental pressure and physical injury. So many victims are there who are not able to bear that mental pressure and commits suicide. Some commits suicide because of fear of society, family and also because of some threat. The victims of stalking are not only young girls but also the married women, working women and school and college going girls. There are a lot of movies since 19's in which stalking scenes are shown and now also it is in the tradition of Indian Movies to show stalking. Tere Naam, Anjam, Darr, Badrinath Ki Dulhaniya, Toilet Ek Prem Katha and Deewana Mujhsa Nahin etc. These are some movies in which scenes of stalking is shown and also the stalkingful songs are also shown where hero is singing song and following the girl at everywhere knowingly that she is not interested, still he is troubling her and at last of the song or at last of the movie the heroine finally consents the hero. And after watching all these stuff people are thinking that it is true and tries this all thing in their real life and faces a lot of troubles and causing injury to others.

### **Meaning and Definition**

Stalking is defined in Indian Penal code under section 354D but firstly it can be understood through-

- Continuous and repeated following someone with ill intention of harming or causing fear to the person followed is said to be stalking.
- A crime of engaging in a course of conduct directed at a person that serves no legitimate purpose and seriously alarms, annoys, or intimidates that person.

-Merriam Webster

- The crime of illegally following and watching someone over a period of time.

-Cambridge Dictionary

- Stalking is the wilful, malicious, and repeated following or harassing of another person that threatens his or her safety.

– Melroy and Gothard

## **Stalking in India**

Before the amendment in criminal laws there was no direct inclusion of the term stalking in penal law of India. The stalking was covered under category of just harassment such as voyeurism, sexual harassment against women and it was covered under Section 354 and Section 509 for using words or gestures to insult a woman's modesty. Due to the shortcomings in the essentials of section 354 and section 509 of IPC, in most of the cases the wrongdoer moves freely from the court because it is hard to prove the certain essential conditions to constitute a crime-

1. The attack must be against a woman,
2. The offender must have used excessive force,
3. The modesty of women should be offended.

Therefore, it was need for emergence of the separate law for stalking in India.

The act of stalking as of today after the criminal amendment act 2013, is a cognizable, bailable and non compoundable offence with punishment-

1. up to three years and fine for the first conviction
2. up to five years and fine for the repetition.

According to Section 354 D of Indian Penal Code, Stalking means and includes-

(1) Any man who —

(i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or

(ii) monitors the use by a woman of the internet, email or any other form of electronic communication, commits the offence of stalking:

Provided that such conduct shall not amount to stalking if the man who pursued it proves that—

(i) it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or

(ii) it was pursued under any law or to comply with any condition or requirement imposed by any

person under any law; or

(iii) in the particular circumstances such conduct was reasonable and justified.

(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term

- a. which may extend to three years, and shall also be liable to fine;
- b. and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine

According to the national crime records bureau report 2018, there are 9,450 cases of stalking was reported in India. This means on an average there is one case of stalking in every 55 minutes.

### **Modes of stalking in India**

For constitution of crime of stalking, there is no any particular mode but innumerable options and ways through which one can stalk, some of them are as follows-

1. Following the girl;
2. Sending unwanted and filthy letters and phone calls;
3. Trying to communicate forcefully;
4. Taking Photographs;
5. Abuse and harass parents and friends;
6. Physical assault and Threaten to physical assault;
7. Threaten to sexual assault;
8. Visited home for unnecessary purposes and stood outside home;
9. Sending presents;
10. Spread rumors;
11. Cyber Stalking through social media and different apps.

### **Types of stalkers-**

- **Rejected stalker**– those who follow someone in order to take revenge from them due to personal grudges such as divorce, separation, etc.
- **Resentful stalkers**– those who stalk someone in order to distress the victim due to anger and past hatred.
- **Heroic Stalkers**– those who wish to make love, relationship, intimacy, etc from victim and they believe to be that they can get love from girl if they follow her.
- **Predatory stalkers**– those who follow the victims in order to make plans for the attack and sexual harassment on the victim.

## **Reel vs. Real: The Distorted Portrayal of Stalking**

Popular culture in India has inadvertently glorified stalking, with Bollywood movies often romanticizing the act as a means of pursuing a love interest. This cinematic portrayal contributes to a lack of seriousness surrounding the crime until it escalates into more horrific acts.

Stalking is frequently utilized to demonstrate the toughness and masculinity of action heroes.

Popular Bollywood movies like *Raanjhanaa* and *Badrinath ki Dulhania* have multiple scenes of stalking and harassment, fostering male entitlement and patriarchal views.

Stalking involves the unwelcome physical or online pursuit of an individual with the intention of establishing personal contact, even after objections have been raised. While stalking is punishable, it remains a bailable offense, posing a significant threat to victims' mental and physical well-being.

Victims of stalking often experience stress and social anxiety, are forced to relocate or change professions, and at times even conceal arms.

### **Impact of Stalking**

Impact of stalking on the victim is different and mostly it is severe and psychologically traumatic for many victims who are emotionally weak. Most of the victims are suffering from mental health disorders and they feel vulnerable, out of control, stressed, and anxious most of the time and may experience a loss of trust, long-term emotions from even closed ones and it leads to anxiety, bipolar disorders, etc and resulted in all time anger and stress. In most of the conditions the victims change their jobs, move location, have secret telephone numbers, and started carrying weapons or firearms to protect themselves.

According to report of *Karuppannan JAISHANKAR Puthisigamani KOSALAI captioned as Victims of Stalking in India: A Study of Girl College Students in Tirunelveli City* the impact on victims, are as follows-

*As far as physical impact is concerned half (50%) of the respondents did not have any impact. Half (50%) others had physical impact and 70% of the respondents felt. Anger as an emotional effect of stalking topped with 19.3%.*

In India the stalking and harassing is mostly common in youth and in teenagers and the problem isn't that stalking is taught in schools or homes but it is the result of influence from films, movies and series as they are watching that to follow a girl or boy or to make comments or to show love & care or to send presents or trying to be intimate, etc are negative content which is being promoted as heroic gesture. In movies such as Tere Naam, Raanjhanaa, Ae Dil Hain Mushkil, Jab Harry Met Sejal, Rehna Hai Tere Dil Mein, etc the villains of the movie created a heroic misconception into the minds of youth. Recently in the matter of BOYS LOCKER ROOM CHAT case a group was created by the students on Instagram of approx age 16 to 18 years and are of and from reputed family and schools of south delhi where it was alleged that they were making sexually colored remarks on girls and stalking them by capturing and sending the photographs of minor girls online on that group, similarly on the SNAPCHAT STORY case also, a mastermind girl was traced after enquiry where she created a page to stalk boys and girls and make sexually colored remarks over them and later on blame a boy for making these comments, who was unaware. so it is can be

### **Legal Pronouncements for Stalking**

It is important that the cases of stalking should be dealt with more seriously and it should be the prime concern of state and reforming authorities to encourage the victims to share it with their family and loved ones and to take help of police by reporting of such kind of offences if anyone is stalking and not to suffer alone and the police needs to be alert, careful while dealing with such matters and not to deter the victim by asking harassing questions.

Supreme Court in the case of **Vishaka v State of Rajasthan(1997)** discussing sexual harassment at workplace which is read with an important judgment of supreme court in the matter of **Apparel Export Promotion Council v. A.K. Chopra (1999)** stated that every act of sexual harassment resulted in violation of the fundamental right of women workers mentioned under article 14, 19, 21 of Indian Constitution which broadened the subject's jurisprudence in service law.

In 2012, the Supreme Court in its judgment of **Inspector General of Police v. S. Samuthiram (1999)** set out eight guidelines to curb eve teasing. The Court discussed the importance of taking up grievances of victim and bystander for eve teasing in public places such as public transportation, educational institutions, cinema theaters, etc.

In one of a leading case of stalking and rape titled **PRIYA MATOO CASE** where a young law student, was stalked by stalker Mr Santosh Singh, son of a former IPS officer, raped her and

murdered her in her home at Vasant Kunj Delhi. Multiple complaints filed against the culprit in Vasant Kunj and RK Puram police station. Mattoo was alone at home on January 23, 1996, when she was raped by Santosh and then killed. Afterwards the case was transferred to CBI in 1996. The high court awarded him the death penalty which was later granted life imprisonment by Supreme Court in December 2010.

In 2016, the Bombay High Court in **Shri Deu Bajju Bodake v The State of Maharashtra** looked into a case of suicide by a woman who claimed that the reason for her suicide was the constant harassment and stalking done by the accused. The accused would always stalk her during work and insist upon getting married to her. The High Court held that the charges under Section 354D ought to have been recorded in addition to the charge for abetment to suicide.

### **Why the Laws Fail?**

In India stalking is the offence which is gender biased and is deemed that the stalking is done by the males only and women's are crystal clear because the legislature has made the provision of section 354D very clear that Any man who—

1. follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman
2. or monitors the use by a woman of the internet, email or any other form of electronic communication, commits the offence of stalking:

Stalking is a punishable offence under [Section 354D](#) of the Indian Penal Code (IPC). Under the section, any man who follows a woman and contacts, or attempts to contact her to foster personal interaction repeatedly despite a clear indication of disinterest; or monitors her usage of the internet, email or any other form of electronic communication, commits the offence of stalking.

The section was added to the IPC through the [Criminal Law \(Amendment\) Act of 2013](#). This amendment was made on the recommendation of the Justice Verma Committee, constituted in the aftermath of the [Nirbhaya gangrape](#) in 2012, to suggest criminal law amendments for ensuring quicker trial and enhanced punishment for sexual crimes. Prior to the amendment, [Section 509](#) of the IPC which criminalises the use of word, gesture or act intended to insult the modesty of a woman was used in the prosecution of stalking-related offences.

However, it remains a bailable offence. This is despite the fact that stalking is an obsessive act and anecdotes show that it usually resumes after the offender is freed, and with doubled ferocity. Legal experts spoke to us about multiple issues with the law including ambiguous provisions, ease of bail, misapplication and the lack of gender neutrality.

Police responses also show they do not recognise stalking as a serious and life threatening crime, instances show.

So it can be an inference that the stalking is a crime only against women's and in the abovementioned case of Snapchat Story case the police officers of Delhi has not filed any FIR against the girl and she walked freely where the officer stated that "She is a girl and made a plan to make a forged account in order to find out the reaction of boys and suggested to sexually exploit herself and it is not any crime".

It is just an example but there are lakhs of cases where the males are victim of sexual harassment and especially for stalking but these cases and stories are underreported and no action is ever taken by the authorities and it is too a reason, why males are committing suicide.

## **Conclusion**

In India, stalking is very common and can either be done physically or through electronic mediums in different modes as elaborated above, which constitutes to a criminal offence with an imprisonment of min. 3 years.

In India the working professional, students, housewife and many women get stalked on regular basis without even knowing and not only the women's but also the men's. And stalking and harassing is not treated as serious crime and due to the fear of being stalked many women and girls avoid getting out of their house. In order to avoid stalking and attracting unwanted distress the women are forced to dress so called "modestly" and to be inside the houses before sunset and to keep professional and limited relations from colleagues, neighbors, and other persons so that they don't attract unwanted attention. Even after the 73 years of independence women's are still caged.

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