

## Chapter-18

### Sexual Offences

**219. Prohibition of committing rape:** (1) No one shall commit rape.

(2) Where a man has sexual intercourse with a woman without her consent or with a girl child below the age of eighteen years even with her consent, the man shall be considered to commit rape on such woman or girl child.

**Explanation:** For the purposes of this Chapter,-

- (a) consent obtained by way of coercion, undue influence, intimidation, threat, misrepresentation, or abduction or hostage-taking shall not be considered to be consent,
- (b) consent obtained at the time of being of unsoundness of mind shall not be considered to be consent,
- (c) the penetration of penis into the anus or mouth, penetration of penis, to any extent, into the anus, mouth or vagina, insertion of any object other than the penis into the vagina shall also be considered to be rape.

(3) A person who commits rape shall be liable to the sentence of imprisonment as follows, having regard to the circumstances of such sexual intercourse and the age of woman:

- (a) imprisonment for a term of sixteen to twenty years, if she is a girl child below ten years of age,

- (b) imprisonment for a term of fourteen to sixteen years, if she is a girl child who is ten years or above ten years of age but below fourteen years of age,
- (c) imprisonment for a term of twelve to fourteen years, if she is a girl child who is fourteen years or above fourteen years of age but below sixteen years of age,
- (d) imprisonment for a term of ten to twelve years, if the woman is sixteen years or above sixteen years of age but below eighteen years of age,
- (e) imprisonment for a term of seven to ten years, if the woman is eighteen years or above eighteen years of age.

(4) Notwithstanding anything contained in sub-section (3), if the husband commits rape on his wife during the existence of the marital relationship between them, he shall be liable to a sentence of imprisonment for a term not exceeding five years.

Provided that the following **situation** shall not be considered as the existence of marital relationship:

- (a) a case of partition has been instituted upon making separation of **board and bread**,
- (b) the wife has lived separate upon taking her partition share from the husband,
- (c) a case of divorce **with** the husband has been instituted.

(5) In the case of the situation referred to in sub-section (4), the court may, if it is necessary to do so upon a petition by the victim, order the husband to do the following:

- (a) to allow the wife to reside in the same house where **she** has resided, to provide her with food and clothes, not to hurt her and to behave her **politely** ad decently,
- (b) to get the wife to have required medical treatment or provide **reasonable** amount for her treatment,
- (c) to arrange a separate residence for the wife/**husband** if it is not appropriate for them to reside in the same place together and make necessary arrangement for the maintenance of the wife while so residing separately,
- (d) to refraining from doing act causing suffering or annoyance, in any manner, to the wife and do, or cause to be done, necessary and appropriate act for the **benefit/interest** and security of the wife.

(6) Notwithstanding anything contained in sub-section (1), a man who commits rape **in spite of knowing** that he has human immune deficiency virus (HIV positive) or a sexually transmitted disease shall be liable to the following additional sentence, in addition to the sentence provided for in sub-section (3):

- (a) the sentence referred to in Section 105 in the event of the commission of rape **in spite of**

**knowing** that he has human immuno deficiency virus ( HIV positive),

(b) a sentence of imprisonment for a term not exceeding three years and a fine not exceeding thirty thousand rupees in the event of the commission of rape in spite of knowing that he has any other sexually transmitted disease.

(7) A man who commits rape on a woman **in a gang** or on a woman having pregnancy of more than six months or on a woman who is disabled or **handicapped** or on a woman who is suffering from physical or mental illness or commits rape showing arms shall be liable to an additional sentence of imprisonment for a term not exceeding five years, in addition to the sentence provided for in sub-section (3).

(8) A person who commits rape on a woman within the prohibited degree of relationship **by consanguinity or affinity** shall be liable to the sentence provided for in this Chapter, in addition to the sentence imposable for incest if he is liable to such sentence for incest.

**220. Prohibition of incest:** (1) No person shall have sexual intercourse with another person knowingly that such person is one falling within the prohibited degree of relationship **by consanguinity or affinity** for marriage according to the usage, custom or tradition being practiced in his or her caste or **lineage/descent**.

(2) A person who commits the offence under sub-section (1) in the following relationship shall be liable to the following sentence:

- (a) a sentence of imprisonment for life in the case of sexual intercourse between the natural mother and her natural son or between the natural father and his natural daughter,
- (b) a sentence of imprisonment for a term of four years to ten years and a fine of forty thousand rupees to one hundred thousand rupees in the case of sexual intercourse between the step-mother and her step-son, between the step father and his step daughter, between the **uterine/full blood** elder sister and brother, between uterine/full blood elder brother and sister, between father-in-law and daughter-in-law within the same branch, between grandfather and grand-daughter or great-grand-daughter within the same branch, between brother-in-law (elder) and sister-in-law within the same branch or between brother-in-law (younger) and sister-in-law within the same branch,
- (c) **a sentence of imprisonment for a term of three years to six years and a fine of thirty thousand rupees to sixty thousand rupees in the case of**

**sexual intercourse between grand-mother and her grand-son or great grand-son within the three generations of the** same branch, between father's elder brother or uncle and niece within the same branch, between nephew and great mother (wife of own father's brother) or aunty within the same branch, between father-in-law and brother's daughter-in-law within the same branch, between uterine maternal uncle and niece or nephew and maternal aunty, between mother's elder sister or younger sister and **son/nephew** or between mother-in-law (one's wife side) and son-in-law,

- (d) a sentence of imprisonment for a term of one year to three years and a fine of ten thousand rupees to thirty thousand rupees, having regard to, inter alia, the branch, relationship and generation, in the case of sexual intercourse between **persons** in other relationship within seven generations of one's own clan except that referred to in clause (a), (b) or (c).

**221. Prohibition of sexual intercourse with detainee:** (1) No government employee shall have sexual intercourse with a person held in prison or detention or **facilitate or create circumstances**

for the commission by another person of sexual intercourse with such person.

(2) A person who commits, or causes to be committed, sexual intercourse as referred to in sub-section (1) shall be liable to a sentence of imprisonment for a term not exceeding three years, and if such sexual intercourse is an offence under this Act or other law also, the sentence under this Section shall be added to the sentence under such law.

**222. Prohibition of sexual intercourse with person in one's own protection or security:** (1) No person shall have, or aid another person to have, sexual intercourse with any person in his or her protection, security or custody, and no office-bearer or employee of any organization providing treatment or rehabilitation services to persons of unsound mind or suffering from physical or mental illness shall have sexual intercourse with any person held in such organization.

(2) A person who commits the offence under sub-section (1) shall be liable to a sentence of imprisonment for a term not exceeding three years, and if such sexual intercourse is an offence under this Act or other law also, the sentence under this Section shall be added to the sentence under such law.

**223. Prohibition of sexual intercourse with person in office or receiving professional service:** (1) No employee serving in a government office or a private office or person providing any

professional service or **commercial** work shall have, or aid another person to have, sexual intercourse with a person serving in such office or a person making contact or being in contact for such service or work, while performing functions of such office or providing such service or at the place where such service is provided.

(2) A person who commits the offence under sub-section (1) shall be liable to a sentence of imprisonment for a term not exceeding four years, and if such sexual intercourse is an offence under this Act or other law also, the sentence under this Section shall be added to the sentence under such law.

**224. Prohibition of sexual harassment:** (1) No person shall commit, or caused to be committed, sexual harassment **to another person.**

(2) A person shall be considered to commit sexual harassment if the person holds, or touches or attempts to touch any sensitive organ of, or opens or attempts to open undergarments of, or obstructs or hinders in any way the wearing or removing of undergarments of, or takes to any lonely place in an unusual manner, or gets his or her sexual organ to be touched or held by, or uses vulgar or similar other words, spoken or written or by gesture or by way of electronic medium, or shows any pornography to, or teases or annoys with sexual motive, or behaves in an unusual, undesirable or indecent manner with, a person who is not his wife or her husband, without her or his

consent, with the motive of having sexual intercourse with her or him.

(2) A person who commits an offence under sub-section (1) shall be liable to a sentence of imprisonment for a term not exceeding three years and a fine not exceeding thirty thousand rupees.

**225. Prohibition of child sexual abuse:** (1) No person shall commit, or cause to be committed, child sexual abuse.

(2) A person shall be considered to commit child sexual abuse if the person takes to any lonely place in an unusual manner, or holds or touches any sexual organ of, gets his or her sexual organ to be touched or held by, or makes any form of unusual sexual behavior with, a child, with the motive of having sexual intercourse with the child.

(2) A person who commits an offence under sub-section (1) shall be liable to a sentence of imprisonment for a term not exceeding three years and a fine not exceeding thirty thousand rupees.

**226. Prohibition of unnatural sexual intercourse:** (1) No person shall have, or cause to be had, unnatural sexual intercourse with another person without his or her consent.

**Explanation:** For the purposes of this sub-section, consent given by a child shall not be considered to be consent.

(2) A person who commits an offence under sub-section (1) shall be liable to a sentence of imprisonment for a term not exceeding three years and a fine not exceeding thirty thousand rupees.

(3) A person who commits an offence under sub-section (1) against a child shall be liable to a sentence under Section 219.

**227. Prohibition of bestiality:** (1) No person shall have, or cause to be had, sexual intercourse with an animal.

(2) A person who commits the offence under sub-section (4) shall be liable to a sentence of imprisonment for a term not exceeding two years and a fine not exceeding twenty thousand rupees, if the person has committed, or caused to be committed, sexual intercourse with a cow, and to a sentence of imprisonment for a term not exceeding one year and a fine not exceeding ten thousand rupees, in the case of sexual intercourse with any other animal.

**228. Compensation ordered to be paid:** A reasonable compensation shall be ordered to be paid to the victim of any offence under this Chapter other than the offences under Sections 220 and 226.

**229. Statute of limitation:** (1) A complaint shall lie at any time in relation to the case of any offence under Section 220.

(2) No complaint shall lie after the expiry of one year from the date of commission of any of the offences under Sections 219, 221, 222, 223, 224 and 225 and sub-section (3) of Section 226, and after the expiry of three months from the date of knowledge of the commission of any of the other offences under this Chapter.

Provided that where the offence is committed against a person held in detention, taken into control, abducted or taken hostage, no complaint shall lie after the expiry of three months from the date of release from such detention, control, abduction or hostage-taking.