

NIRBHAYA: THE GANG RAPE

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Abstract

The Nirbhaya rape case was a horrific incident that took place in Delhi, India in 2012. It involved the brutal gang rape and assault of a young woman, who came to be known as Nirbhaya, on a moving bus. The incident sparked widespread outrage and led to significant changes in India's laws and attitudes towards sexual violence. The perpetrators were eventually arrested, tried, and convicted. The case brought attention to the urgent need for better safety measures, awareness, and support for survivors of sexual assault. It's a heart-breaking story that highlights the importance of fighting against gender-based violence. Before the Nirbhaya rape case in 2012, India had existing laws to address sexual offenses, but they were considered inadequate and outdated. The incident brought to light the urgent need for reforms in India's legal system to better protect victims and hold perpetrators accountable. In response to the public outcry, the Indian government made significant amendments to the laws pertaining to sexual offenses. These changes aimed to provide stronger legal protection to survivors and ensure swifter justice. The Criminal Law (Amendment) Act, 2013, was enacted to address the shortcomings and strengthen the legal framework. It expanded the definition of sexual offenses, increased the punishment for rape, introduced new offenses such as acid attacks and stalking, and implemented stricter penalties for repeat offenders. Additionally, the act recognized various forms of sexual violence, including marital rape, as criminal offenses. These legal reforms were crucial steps towards creating a safer environment for women and combating gender-based violence. However, it's important to note that despite these changes, there is still work to be done to ensure effective implementation and enforcement of these laws.

Introduction

The 2012 Delhi gang rape case was a rape and murder incident that took place on 16 December 2012 in the capital of India Delhi, which came to light due to the prompt intervention of the media. On 30 December 2012, his body was brought to Delhi and burnt under police protection. Condemning this act, a lot was written in social media on Twitter,

Facebook etc. There were violent and peaceful demonstrations across the country against this incident, in which the demonstrations in Delhi, Calcutta and Bangalore are notably.

After a long legal battle, the accused persons of Nirbhaya were finally hanged on 20 March 2020 at 5.30am in Tihar jail. India's only woman President Pratibha Devi Singh Patil has been converted to life imprisonment by waving the death sentence given by the Supreme Court in five rape cases. It was criticized at the international level. As a result of this many stringent laws have been passed in Parliament. The Nirbhaya rape case was a tragic incident that occurred in Delhi, India in 2012. It's a complex and sensitive topic that requires in-depth discussion. The case ignited massive protests across the country, with people demanding justice for Nirbhaya and stricter laws to combat sexual offenses. The incident led to significant changes in India's legal system, including the enactment of the Criminal Law (Amendment) Act in 2013, which aimed to provide better protection for survivors of sexual assault and ensure swifter justice for the perpetrators. The Nirbhaya rape case served as a wake-up call for the nation, prompting discussions on women's safety, gender equality, and the need for a collective effort to eradicate such heinous crimes. It remains a tragic reminder of the ongoing battle against sexual violence and the importance of creating a society where everyone feels safe and respected.

About case

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- . Mukesh and Anrs. Vs NCT Delhi [Nirbhaya Case][2017] 6 SCC.
- . Court Name -SUPREMECOURT OF INDIA
- . Date of Crime – 16 December 2012
- . Time – 9.45pm
- . Location – Delhi, India
- . Offence – Rape, murder, kidnapping, robbery, assault.
- . Victim Name- Jyoti Singh [Nirbhaya is the pseudonym used for the rape victim], 22 years, para-medical student.
- . Accused Persons – Mukesh Singh- aged 34

Vinay Sharma- aged 28

Pawan Gupta- aged 27

Akshay Thakur-aged 36

Ram Singh-aged 30

Juvenile Convict

. Sentence – Death sentence to 4 convicted persons

Juvenile convict- 3 years under Juvenile Justice Laws.

. Date of Judgement -5 May 2017

. Bench Name- DIPAK MISHRA, R. BHANUMATI, ASHOK BHUSHAN, JJ.

. Death Sentence – 20 March 2020

Judgement of Nirbhaya Case

The judgment in the Nirbhaya case was a landmark moment in India's legal history. The case received widespread attention and sparked nationwide outrage, leading to significant changes in the country's legal system. In March 2013, the four adults accused in the case were convicted and sentenced to death by hanging. The judgment was delivered by the Delhi High Court, which found them guilty of multiple charges, including rape, murder, and destruction of evidence. The court recognized the brutality of the crime and the need for a strong message to be sent to society. Following the conviction, the accused filed an appeal before the Supreme Court of India. In May 2017, the Supreme Court upheld the death sentences, stating that the crime fell into the "rarest of the rare" category, warranting the highest form of punishment. The court emphasized the need for justice and deterrence in cases of such heinous crimes. The judgment in the Nirbhaya case had a profound impact on the legal landscape of the country. It led to the introduction of new laws and amendments to existing ones to address issues related to sexual violence and the safety of women. One significant change was the Criminal Law (Amendment) Act, 2013, which expanded the definition of sexual offenses and increased the penalties for such crimes. It also criminalized several acts, including acid attacks, stalking, and voyeurism. The act aimed to provide better protection to victims and ensure swift justice. Additionally, the Nirbhaya Fund was established to support initiatives aimed at enhancing the safety and security of women in the country. The fund has

been utilized for various purposes, such as setting up helplines, strengthening forensic laboratories, and implementing awareness campaigns. The judgment in the Nirbhaya case served as a wake-up call for the nation, highlighting the urgent need to address issues of gender-based violence and ensure the safety and dignity of women. It sparked widespread protests and discussions on social, legal, and cultural aspects related to sexual violence. However, it is important to note that despite the progress made, there is still much work to be done to create a society free from gender-based violence. Efforts are ongoing to raise awareness, improve reporting mechanisms, and provide support to survivors.

Issues arises in front of society

The Nirbhaya rape case brought to light several critical issues that need to be addressed: -

- One of the primary issues was the prevalence of sexual violence and the need for better safety measures for women. The incident highlighted the vulnerability of women in public spaces and the urgent need for improved security and surveillance systems.
- Another issue was the slow pace of justice and the need for a more efficient and victim-friendly legal system. The case faced delays in the trial process, which further traumatized the survivor and her family.
- It shed light on the need for timely and expeditious trials, along with support mechanisms for survivors throughout the legal proceedings. The case also exposed the deep-rooted societal attitudes towards victims of sexual assault.
- Victim-blaming and stigmatization were prevalent, which further discouraged survivors from reporting such crimes. It emphasized the importance of creating a supportive environment that encourages survivors to come forward and seeks to eliminate victim-blaming.
- Additionally, the case highlighted the need for comprehensive sex education and awareness programs to address gender inequality and promote respect and consent. It underscored the importance of educating society about consent, boundaries, and the prevention of sexual violence.
- The Nirbhaya rape case served as a catalyst for change, prompting discussions and actions to address these issues and work towards building a safer and more equitable society

Amendments in criminal laws

- **Criminal Law (Amendment) Act of 2013: -**

Before the Nirbhaya rape case, there were several changes made to the law in India to address sexual offenses. One significant change was the Criminal Law (Amendment) Act of 2013, which was enacted in response to the incident. This law introduced stricter punishments for sexual offenses, including rape, and expanded the definition of sexual assault to include various forms of non-consensual acts. It also criminalized offenses such as acid attacks, stalking, and voyeurism. The Act also recognized the importance of survivor support by providing for the establishment of special courts and the appointment of special public prosecutors to ensure a more efficient and sensitive legal process. These changes were aimed at addressing the loopholes in the existing legal framework and strengthening the protection of women against sexual violence. The Nirbhaya rape case played a significant role in bringing these changes to the forefront and pushing for the necessary legal reforms. The objective of the Criminal Law (Amendment) Act of 2013 was to address the pressing issue of sexual offenses and provide better protection for women in India. This law aimed to strengthen the legal framework and ensure justice for survivors of sexual violence.

Here are some key objectives of the Act: -

- 1. Stricter Punishments:** The Act introduced harsher penalties for sexual offenses, including rape. It aimed to deter potential offenders and ensure that the punishment fits the severity of the crime.
- 2. Expanded Definition of Sexual Assault:** The Act broadened the definition of sexual assault to include various non-consensual acts, recognizing the different forms of sexual violence that can occur.
- 3. Protection of Women's Rights:** The Act sought to safeguard the rights of women by criminalizing offenses such as acid attacks, stalking, voyeurism, and disrobing. It aimed to address different forms of violence and harassment faced by women.
- 4. Survivor Support:** The Act emphasized the importance of support for survivors throughout the legal process. It provided for the establishment of special courts to

expedite trials and appointed special public prosecutors to ensure a more efficient and sensitive legal system.

5. Fast-Track Trials: The Act aimed to expedite the trial process for sexual offenses, reducing delays and ensuring timely justice for survivors. This was crucial in minimizing the trauma experienced by survivors during the legal proceedings.

6. Awareness and Education: The Act recognized the need for comprehensive sex education and awareness programs to promote a culture of consent, respect, and gender equality. It aimed to educate society about the prevention of sexual violence and the importance of reporting such crimes.

- **Indian Penal Code, 1860: -**

Before Nirbhaya case, there were some changes made to the Indian Penal Code of 1860. These changes aimed to address the evolving nature of crimes and insure better protector for individuals. Insertion of Section 166A which covers the offence of Disobedience of law by a public servant. After the amendment Act, It is made punishable with rigours imprisonment for 6 months to 2 years and liable to fine.

1. Section 326A:

Section 326A of the Indian Penal Code (IPC) is an important provision that deals with acid attacks. It was introduced as an amendment in 2013 after the Nirbhaya case. This section specifically addresses the offense of causing grievous hurt by throwing acid or using any corrosive substance. It states that if someone intentionally throws acid or uses any corrosive substance on another person, causing permanent or partial damage to their body or disfiguring them, they can be punished with imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, along with a fine. This amendment was a significant step in recognizing the severity of acid attacks and providing stricter punishment for the perpetrators. It aimed to deter such heinous crimes and ensure justice for the victims. The amendment also made it mandatory for the government to provide medical

treatment, rehabilitation, and compensation to the victims of acid attacks. Section 326A of the IPC played a crucial role in raising awareness about acid attacks and strengthening the legal framework to combat this form of violence.

2. Section 354A:

Section 354A of the Indian Penal Code (IPC) is an important provision that deals with sexual harassment. It was introduced as an amendment in 2013 after the Nirbhaya case. This section specifically addresses the offense of sexual harassment and provides legal protection to individuals who are subjected to such acts. Section 354A defines sexual harassment as any unwelcome physical contact or advances, or making sexually coloured remarks, or showing pornography against the will of a person, which creates an intimidating, hostile, or offensive environment. It recognizes that sexual harassment can occur in various settings, including the workplace, public spaces, and private places. Under this section, the punishment for sexual harassment varies depending on the severity of the offense. For the first offense, the punishment can be imprisonment for a term which may extend to three years, along with a fine. For subsequent offenses, the punishment can be imprisonment for a term which may extend to five years, along with a fine.

3. Section 354B:

Section 354B of the Indian Penal Code (IPC) is an important provision that addresses the offense of assault or use of criminal force on a woman with the intent to disrobe her. This section was introduced as an amendment in 2013 after the Nirbhaya case to provide legal protection to women in such situations. Section 354B defines the offense as using force, assault, or criminal intimidation to disrobe a woman without her consent. It recognizes the gravity of such acts and aims to prevent and punish those who commit such offenses. The punishment for the offense under Section 354B varies depending on the circumstances. If the offense is committed with the intent to outrage the modesty of a woman, the punishment can be imprisonment for a term which may extend to three years, along with a fine. In more severe cases, where the

offense is committed on a woman below the age of 18, the punishment can be imprisonment for a term which may extend to seven years, along with a fine. Section 354B of the IPC is an important provision that seeks to protect the dignity and safety of women. It sends a strong message that such acts will not be tolerated and ensures that those who commit such offenses face legal consequences.

4. Section 354C:

Section 354C of the Indian Penal Code (IPC) addresses the offense of voyeurism. It's a serious offense that invades a person's privacy and dignity. Section 354C defines voyeurism as capturing or recording the image of a person engaging in a private act without their consent, under circumstances where the person has a reasonable expectation of privacy. This includes situations like capturing someone's intimate moments or private activities without their knowledge or consent. The punishment for the offense of voyeurism under Section 354C varies depending on the circumstances. If the offense is committed for the first time, the punishment can be imprisonment for a term which may extend to three years, along with a fine. For subsequent offenses, the punishment can be imprisonment for a term which may extend to seven years, along with a fine. Section 354C of the IPC aims to protect individuals from unauthorized invasion of their privacy. It recognizes the importance of consent and the right to privacy in personal spaces. By establishing legal consequences, it acts as a deterrent and ensures the safety and dignity of individuals.

The definition of rape has been winded after the Nirbhaya Case.

5. Section 376(2)(c):

Section 376(2)(c) defines the offense of sexual assault committed by a person in a position of authority or trust, such as a public servant, police officer, or a person in a management or supervisory role. This offense occurs when such a person takes advantage of their position to induce or seduce a woman under their charge or custody to have sexual intercourse. The punishment for the

offense under Section 376(2)(c) can be imprisonment for a term which shall not be less than ten years but may extend to life imprisonment, along with a fine. The severity of the punishment reflects the gravity of the offense and aims to deter such acts. This provision is crucial in safeguarding individuals from sexual exploitation by those in positions of authority. It aims to protect the vulnerable and ensure that those who abuse their power are held accountable for their actions.

6. Section 376A:

Section 376A of the Indian Penal Code (IPC) deals with a specific type of sexual assault called "rape causing death or a persistent vegetative state." It's important to understand the provisions of this section to promote awareness and ensure justice for victims. Section 376A states that if a person commits rape, which results in the death of the victim or leaves them in a persistent vegetative state, the offender shall be punished with rigorous imprisonment for a term of not less than twenty years, but which may extend to imprisonment for the remainder of the offender's natural life, or with death. This provision recognizes the severity of the crime and aims to provide justice to the victims of such heinous acts. It sends a strong message that society will not tolerate such acts of violence and that those responsible will face severe consequences.

7. Section 376D:

Section 376D of the Indian Penal Code (IPC) deals with a specific offense called "gang rape." It's important to understand the provisions of this section to promote awareness and ensure the safety of individuals. Section 376D defines gang rape as when a woman is raped by a group of two or more persons acting in furtherance of a common intention. The offense of gang rape is considered to be extremely serious and carries severe penalties. The punishment for gang rape under Section 376D can be imprisonment for a term which shall not be less than twenty years, but which may extend to life imprisonment. In certain circumstances, the court may also impose the death penalty. The provision of Section 376D is aimed at addressing the heinous crime of gang rape and ensuring that those involved in such acts are held

accountable for their actions. It emphasizes the need to protect the rights and dignity of individuals and promotes a safer society for everyone.

- **Juvenile Justice Act:**

After the Nirbhaya case, there were some significant changes made to the Juvenile Justice Act in India. One of the key changes was the lowering of the age of juveniles involved in heinous crimes. Previously, the Juvenile Justice Act considered anyone below the age of 18 as a juvenile, regardless of the severity of the crime committed. However, after the Nirbhaya case, the act was amended to allow for the trial of juveniles aged 16 to 18 years as adults in cases of heinous offenses like rape and murder. This amendment was made to ensure that those involved in such grave crimes are held accountable for their actions, considering the severity of the offense and the need for justice. It aimed to strike a balance between the rehabilitation of young offenders and the punishment for their crimes.

Conclusion

The conclusion of the Nirbhaya case left a lasting impact on India's legal system and society as a whole. The case brought to light the urgent need for justice, accountability, and a safer environment for women. The judgment, delivered by the Delhi High Court in 2013, found the four-adult accused guilty of rape, murder, and other charges. They were sentenced to death, a decision that was later upheld by the Supreme Court of India in 2017. This landmark judgment not only provided justice to the victim and her family but also set a precedent for dealing with heinous crimes. It sent a strong message that crimes of such magnitude would not be tolerated and that perpetrators would face severe consequences. The Nirbhaya case prompted widespread protests and discussions across the country, leading to significant changes in India's legal framework. The Criminal Law (Amendment) Act, 2013 was enacted to address issues related to sexual offenses and enhance the safety of women. It expanded the definition of sexual crimes, increased penalties, and criminalized acts like acid attacks, stalking, and voyeurism. Furthermore, the case led to the establishment of the Nirbhaya Fund, which aimed to support initiatives focused on the safety and empowerment of women. The fund has been utilized to set up helplines, provide support services, and implement awareness campaigns, among other initiatives. While the Nirbhaya case brought about important

changes, it also highlighted the need for a broader societal shift. It shed light on the prevalence of gender-based violence and the urgent need for education, awareness, and cultural transformation. The case sparked conversations about consent, gender equality, and the importance of creating a safe and inclusive society for all. However, it is crucial to acknowledge that the fight against gender-based violence is an ongoing battle. Efforts are being made to strengthen laws, improve reporting mechanisms, and provide support to survivors. It requires collective action from individuals, communities, and institutions to create a society free from violence and discrimination.

The Nirbhaya case will always be remembered as a turning point in India's pursuit of justice and gender equality. It serves as a reminder that every individual deserves safety, dignity, and the right to live without fear.



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