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# **DATING RELATED VIOLENCE AND LAWS RELATING TO IT**

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## **ABSTRACT**

Any form of violence in India is quite normal and the people of our country do not consider violence as a crime. The dating culture in India is not as progressive as it is in the West, and the people (adolescents/young adults) who are dating people are afraid of being criticized, humiliated or punished by the family. Inherently, the social structure of the classical Indian family (regardless of religion), brings in a definite lack of communication among the family members. What this translates into is, an inadequate amount of worldly advice and almost a total lack of proper dating related advice (our society traditionally frowns upon institutions like dating – promoting only conservative alliances such as wedlock). Yet, the youth of today enjoy greater freedoms in life and are also more ‘liberated’ (sometimes to the point of being hedonistic). To them, dating is yet experimentation in social interaction. Dating friends, acquaintances – and often even ‘blind dates – is something that Millennials take as a part of life. Yet since the society itself – and family in particular – has not prepared the youth for the many ramifications of Dating, they fail to understand that a harmless flirtation can well translate into ugly violence.

This Research Paper delved into the many scenarios in which violence comes along with dating.

## **INTRODUCTION**

Dating, a ‘social interaction’ phenomenon which was relatively unusual in the past but is gaining in popularity with the Millennials. Earlier, phenomena like ‘attraction’, ‘crushes’, and ‘infatuation’ or even ‘flings’ were kept very much within the closet. But increasingly, society is becoming more brazen about their romantic side and sexuality.

Hence, when individuals get attracted to other persons of the same or opposite sex, they brazenly flirt with them. In fact, they express their interest in taking the relationship forward by dating the people they are attracted to.

Hence, there is an underlying assumption in any Dating scenario by all the parties concerned that ‘consent’ is implicit. Whether it refers to consent of association, consent to be photographed,

consent to go out, consent to have the other party pay attention to one, or even the consent to have a physical relationship with one other outside wedlock.

This is where the complication sets in. How far can the concept of implicit ‘consent’ be stretched? How deep a commitment in actuality is the consent itself? Is it just a fleeting desire to kill a few hours in a coffee shop on a lonely day? Or something more? An indication of a deeper liking for an individual, likely to translate into a more meaningful relationship?

And what if one person enters into a Dating relationship on a flimsy experimental basis while the other is intense and is passionate about it? What if one person trusts a friend or family member, while the other is out to take advantage of that trust.

In a nation where people are considered to be at risk in the face of danger, Dating represents that overt danger with sheep in wolves’ clothing. Something more ominous than the fear of the unknown: a tangible threat from the Known. A predator known through the same social circle, school or even the neighbourhood - or even others who are acquaintances made over social media and ‘matched up’ in dating websites and apps.

The irony with Dating Related Violence is that, in today’s more “progressive” society one may AGREE to date another interested party or REFUSES to date him/her, there is a risk of violence and abuse.

Let’s read more about this topic in the rest of the Research Paper.

## **DATING AND VIOLENCE**

As discussed in the Introduction, Dating is a double-edged sword. When you date a person, he/she starts feeling a sense of warmth and affection, which may thereafter lead to a sense of familiarity which can finally blur the line between overtures that are acceptable to the recipient of affection. Hence people involved in a Dating relationship could start taking their partner for granted and let their guard down. This typically manifests in Violence of many kinds.

On the other hand, when a person refuses to accept a proposal to date another individual, it may create a feeling of rancour - almost hatred and a desire to get revenge. This negative emotion can lead unrequited suitors to take ugly recourse to violent measures.

A new cause for concern is the acquaintance rape and violence observed during the COVID-induced Lockdown. With the unusually high stress levels, unprecedented levels of forced prolonged proximity and high levels of frustration, people all over the world are venting out their frustration on each other. What happens under 'locked down' rooves is another story altogether. When emotions are highly suppressed, the narrow confines of homes turn them into hell - fear manifests in many forms. Insecurity about feed, clothing, shelter, employment. These, in turn, fan a sense of inadequacy in the men of the homes, which manifests into perverted authoritative gestures such as violence against the women (including sexual violence).

Before we start elaborating on the many forms of Dating Related Violence, let us get one basic myth out of the way - Victims of Dating Related Violence are not necessarily only women.

There are many forms in which Violence and abuse are expressed:

- **Physical Violence** - The traditional association with violence is when it manifests in the form of Physical Violence. That is more palpable - and in fact the effects are more visible when the victim bears bruises, scars and bumps. When one refers to Physical Violence involves any kind of physical force against a person that causes injury and harm. Physical Violence consists of slapping, pushing, scratching, pinning a person against any surface (like a wall, floor, etc.), throwing things, choking a person, using potentially lethal objects etc.
- **Verbal Abuse/Violence** - Verbal Abuse in a Dating Related relationship refers to the phenomenon where a person is threatened and abused using untoward names. Verbal abuse i.e., saying insensitive things effectively makes the partner feel insulted and humiliated. Even acts of recurrent nagging, harsh tone of voice, persistent sarcasm and contentiousness can create a lot of friction in a couple. In a couple that is dating all of these, as well as dominating verbal efforts to dominate over one of the partners and coerce them into doing actions is a way of Verbal Violence. Ironically, Due to the fact that it is

not as palpable as Physical Abuse, Verbal Abuse often goes unnoticed and unquestioned by the couple in a Dating Relationship (and also by their group of friends).

- **Emotional/Mental Abuse** - Dating relationships - like other relationships - are two-way streams. They may be fostering - thereby creating a good sense of well-being. Or they may be abusive – ebbing. A significant component is when the partner in dating undermines one’s confidence and systematically lowers their self-esteem. This makes the dating relationship highly toxic and unbearable.
- **Digital Dating Abuse/Violence** - This refers to the malicious misuse of digital tools and the invasive internet to abuse a dating partner by harassing him/her, cyber stalking them or manipulating the partner into actions that go against the grain of the person. This topic will be discussed in greater detail later in this research paper.
- **Financial Abuse (Economic Abuse)** - Though most people think may mainly relate dating related violence to verbal abuse and physical violence, it has been observed from empirical data that an equally prominent form of abuse in Dating is **Financial Abuse**. One partner may start abusing the intimate dating relationship by helping himself / herself to the other partner’s money and other assets without their permission. There are also instances when intimate the partner not only usurps unauthorised control of the victim’s valuables, but also extends to the point of coercing the partner in the dating relationship to name the abuser as heir in their Will. <sup>1</sup>

An extension of Financial Abuse is “**Economic abuse**”, where the intimate partner takes control over the other partner's access to economic resources.<sup>2</sup> As a consequence, the victim starts losing the ability to live in a self-sufficient manner and is, instead, pushed into an artificial sense of scarcity, where the person ends on depending on the perpetrator who has siphoned off their own finances. In extreme cases, it may lead the victim in the Dating relationship to feel trapped and financially incapable of escaping and living on their own.

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<sup>1</sup> Sherri Gordon, *How to Identify Financial Abuse in a Relationship*, 6 May, 2020, <https://www.verywellmind.com/financial-abuse-4155224>

<sup>2</sup> Megan R. *et. al.* (2008). "Development of the Scale of Economic Abuse". *Violence Against Women*. **14** (5): 563–588. doi:10.1177/1077801208315529. PMID 18408173. S2CID 36997173.

## **DATE RAPE – VIOLATION OF TRUST**

Dating is essentially a relationship that is based on a romantic foundation. While Dating in itself is not really age-specific, dating related crimes in which victims are forced into sexual activity are more commonly observed among teenagers and people in their twenties. This is primarily because they are more gullible and experimental, and easier for the sexual predators to dupe. Common culprits in this type of sex crime are classmates, friends, co-workers' colleagues and even an intimate partner in a relationship gone wrong.<sup>3</sup>

When a partner in a dating relationship forces non-consensual sexual activity on the other partner, it is referred to as Date Rape. It is important to note that date rape mostly refers to a sex offence committed by a perpetrator who had earlier gone out on a date with the victim or been involved in a romantic relationship with the victim in the past.<sup>4</sup>

Date rapes are often catalysed in social circuits. These are breeding grounds for predators with ill-intent to prey on high-spirited youngsters geared up for fun and frolic. Alcohol by itself plays an important role since the victim who is 'under the influence' is not capable of thinking straight. All that it takes for the culprit is to spike the drink of the victim. Everything else is taken care of. The victim has no recollection of the Date Rape the next day. A common Date Rape chemical used (and strangely, readily available, is *Flunitrazepam* — also known as *Narcozep*, *Rohypnol*, *Rohipnol*, *Roipnol*, *Rufies* or *Roofies*. Apart from Drugs, Other drugs include Rohypnol, GHB (gamma-hydroxybutyric acid), and Ketamine are used for date rape, and are untraceable to the naked eye. When mixed with dark-coloured drinks like Colas, they are easily camouflaged.<sup>5</sup>

In India, many people, both male and female are suffering from the date rape by their own partner. They believe that everything will be normal with time due to the family or social pressure and gradually take up the abuses as normal. Due to the lack of courage to share these with parents or

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<sup>3</sup> Dude, Annie. "Date rape". *Encyclopedia Britannica*, 22 Oct. 2020, <https://www.britannica.com/topic/date-rape>

<sup>4</sup> Meghna, *I,m dating you doesn't mean you can rape me*, <http://www.legaldrift.com/im-dating-you-doesnt-mean-you-can-date-rape-me/>

<sup>5</sup> Dr. KK Aggarwal, *Beware of date rape drugs*, 8 Jun, 2004, <https://www.hindustantimes.com/india/beware-of-date-rape-drugs/story-aGuU4TBQOKnJNJDBmZmmSP.html>

elders, they silently face everything. In many cases, they don't share these serious experiences in shame or fear of being insulted or social comments.

The sections that can be used for Date Rapes and Acquaintance Rapes are S. 375, S. 376, S. 376A, S. 366 of the Indian Penal Code.

In certain cases where the girl is a minor and gets enamoured by a predator who seduces her into a “dating relationship and earns her trust. In these kinds of cases, a dating partner of ill intent can con the girl into thinking that they can run away to another city and get married. The naive girl believes the dating partner and willingly flees with him to what she hopes will be a “happily ever after” marriage in another city – only to find that she been duped and that her boyfriend has in fact “sold” her in the flesh trade market.

Sections such as S. 366A, S. 366B, S. 372 and S. 373 of the IPC can be used in such cases.

In the case of ***Shivam Trivedi v. State of UP***<sup>6</sup>, also known as the “***Unnao Rape Case***”, Shivam Trivedi was the fiancé of the victim. Under the pretext of marriage, he had assaulted her on many occasions and finally had a few friends over and had gang raped the victim at gunpoint. Aside from the fact that they had gang raped her, they had also recorded the rape and used it to blackmail her. Finally, the accused parties had set her on fire when she was on the way to her relatives' house. The court had given a judgement for imprisonment, but the accused were out on bail a while later.<sup>7</sup>

In the case of ***Chandan Panalal Jaiswal v. State of Gujarat, Bijal Joshi***<sup>8</sup> - the gang rape victim - had gone with her boyfriend to a New Year Eve party in a Hotel Room. The boyfriend had his friends come over for the party and had spiked the victims drink and had raped her one by one. The accused were given a punishment of life imprisonment.

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<sup>6</sup> Crime No. 113 of 2019

<sup>7</sup> Prashant Srivastava, *Unnao woman set on fire knew accused, he had raped her on pretext of marriage, says family*, 6 Dec, 2019, <https://theprint.in/india/unnao-woman-set-on-fire-knew-accused-he-had-raped-her-on-pretext-of-marriage-says-family/331226/>

<sup>8</sup> Special Criminal Application Appeal No. 182 of 2004

## **SEXUAL COERCION – HELPLESS AND HAPLESS**

Dating involves a high level of comfort with respect to physical proximity as well as intimacy. Actions such as hugging, holding hands, public display of affection (PDA) - and often even sexual intercourse - come with the territory.

All this, however, remains acceptable and comfortable only as long as one has control over the extent to which one's partner takes liberties with them. The minute the partner starts overstepping the line, and crossing boundaries, comfort levels start to vanish. What may have been a fond gesture suddenly turns into an ugly overture.

In certain Dating relationships, partners make the victims feel obligated to them and force them into sexual activities that they are neither ready for nor do they desire. This phenomenon is referred to as **sexual coercion**. While exerting sexual coercion, people may use pressure, alcohol or drugs, or force the other person to have sexual contact with someone against his or her will. They could make “persistent attempts to have sexual contact with someone who has already refused.”<sup>9</sup>

Sexual coercion can be verbal and emotional as well building in a sense of shame or guilt. Sometimes, people use blackmail (nude photographs or some other embarrassing incident) to sexually coerce the dating partner into repeated sexual acts over a prolonged period of time.

It has been noticed that women are more often the victims of sexual coercion. In addition, teenagers as a category are more gullible and get coerced into extending sexual favours to their dating partners or their friends or others who are predatory in nature. They get trapped by the abuser who shows love and affection to them and gradually starts avoiding them, and slowly the teenagers in fear of losing their loving partners start doing everything as asked or demanded by their partners. Other than teenagers, many people stay in an abusive relationship due to their conflicting emotions of love, fear, low self-esteem, and even social or cultural pressure.<sup>10</sup>

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<sup>9</sup> O'Sullivan, (2005), *Sexual coercion in dating relationships: Conceptual and methodological issues*, 20(1):3-11 [https://www.researchgate.net/publication/237713017\\_Sexual\\_coercion\\_in\\_dating\\_relationships\\_Conceptual\\_and\\_methodological\\_issues](https://www.researchgate.net/publication/237713017_Sexual_coercion_in_dating_relationships_Conceptual_and_methodological_issues)

<sup>10</sup> Temmerman, M. et. al. (2012). *Sexual coercion among in-school adolescents in Rwanda: Prevalence and correlates of victimization and normative acceptance*. African Journal of Reproductive Health / La Revue Africaine De La Santé Reproductive, 16(3), 140-154., <http://www.jstor.org/stable/23485702>

Sections that can be used are: S. 15, S. 354A, S. 383 and S. 354B of the IPC.

## **DIGITAL DATING VIOLENCE – FROM INTIMACY TO EXTORTION**

In the generation of internet, social media, smartphones and a wide array of dating and other apps, technology seems like child's play. But it is equally dangerous to make technology a toy in the hands of teenagers and young adults, who are unaware of how light-hearted dating relationships can well turn into a veritable harassment leveraging technology. It is relatively easy for a tech-savvy partner in a relationship or an acquaintance to track you through apps that can monitor your location; be an imposter and project you online. A person may continuously keep tabs on the other by calling or texting to try to keep tabs on him/her. Dating Digital Abuse encompasses threats, nasty remarks, and spreading of scandal on social properties. In more intimate relationships, a person may pressurise the partner into sexting at uncomfortable frequencies or sharing revealing or nude pictures (and thereafter threatening to “share” them when the relationship goes sour).

There are also certain aberrant behaviours in a dating relationship which fail to get flagged as Digital Dating Abuse. This includes overtly offensive behaviours such as getting intrusive by demanding to know the partner's passwords; showing an unhealthy interest in the partner's call log; reading text / WhatsApp messages / or private Chats on Facebook or email etc. Sometimes, one of the partners in such a relationship gets so “controlling” that they even direct the online interactions of the partner e.g., who she/he becomes “friends” with on social media or ‘chats’ with online etc. It has been found that, among young couples in relationships, almost 20 per cent have been victims of digital dating violence in the form of excessive monitoring. Despite seeming like a “softer” aspect of “abuse”, Digital Dating Violence, too, is very debilitating due to the intense psychological and social pressure - and often, causes irreparable reputation damage.

## **REVENGE PORN – PERVERTED PAYBACK**

Any couple that was dating has enjoyed its special moments. Sometimes those moments are not restricted to platonic shows of affection. They could translate into intimate moments of passion exchanged between the two. Moments that ought to be savoured only in the privacy of a bedroom.

However, when a dating relationship goes awry, the equation between the partners rapidly changes. What was once passion turns into power? The power to hurt the partner. The power to wreak revenge using the ugliest of weapons. The very proof of love most pure now gets misrepresented as lust in its ugliest form: Revenge Porn.

Revenge Porn means posting explicit/pornographic images and videos of a person without their consent. Revenge porn is a tool for vengeance, so if a person was in a relationship, and decides to call it off, but the partner doesn't take it in a good way and decides to take revenge, he or she could share explicit images/videos that were taken when they were together.

In the case *State of West Bengal v. Animesh Baxi*<sup>11</sup>, initially, when the offender was in a relationship with the victim, he had received intimate pictures of her and they were also supposed to get married. Later, the victim had broken off the relationship and the offender had uploaded the intimate pictures along with videos onto pornographic sites and mentioned her name along with her fathers' name. The court had punished the offender with 5 years of imprisonment, a fine of Rs. 9000 and had treated the victim as a rape survivor by saying that she had suffered from “virtual rape”, and had compensated her for that too.

There are laws relating to the punishment for posting “revenge porn” in many countries, but it is no “specific” law in India. However, Revenge Porn can be dealt with certain sections from the Indian Penal Code, the Information Technology Act, 2000 and in some instances, the Indecent Representation of Women (Prohibition) Act, 1986.

The sections that can be applied are: S. 292, S. 354, S. 354 A, S. 354 C, S. 506, S. 120B, S. 509, S. 406, and S. 499 of the Indian Penal Code, 1860; S. 66E, S. 67, S. 67A and S. 72 of the

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<sup>11</sup> C.R.M. No. 11806 of 2017

Information Technology Act, 2000 and S. 4 and S. 6 of the Indecent Representation of Women (Prohibition) Act, 1986.

## **ACID ATTACKS – A VITRIOLIC REALITY**

“Hell, hath no fury” ... like a man scorned! Rejected suitors and discouraged boyfriends simmer over with rage when the lady in question turns them down. Somewhere in the murky depths of a jilted suitor’s heart, there stems a hatred so intense that it burns with obsessive intensity.

According to DIU News (indiatoday.in), there have been almost 1,500 acid attacks in five years in India. All because some imbalanced suitor was denied a marriage proposal, a jilted lover couldn’t handle rejection, or a boyfriend was dumped by the girl he was dating.<sup>12</sup>

Imagine... heartlessly dousing acid onto the very face of the victim, who had earlier enchanted the perpetrator, only to scar her for life. All this violence and hatred just to assuage the male ego. And to ensure that the lady in question remembers the slight to the perpetrator every time she glances at a mirror.

This is one Dating related violence which perpetrators show a gender bias for - the victims are mainly women. What’s more, the easy availability of acid in shops makes it a ‘convenient weapon’ used to tarnish the identities of women.

### **Case Study:**

Today, Laxmi Agarwal has become an active campaigner for victims of Acid attacks.

There was an horrific instance in 2005 when a 15-year-old girl named Laxmi Agarwal thwarted a marriage proposal of a 32-year-old acquaintance named Naeem Khan. Spurned by Laxmi, Naeem Khan accosted her in Khan Market in Delhi, where he flung acid on her face. Laxmi collapsed and was lying on the ground weeping due to the unbearable pain. She was taken to Safdarjung hospital

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<sup>12</sup> Pulaha Roy, *India saw almost 1,500 acid attacks in five years*, 12 Jan, 2020, <https://www.indiatoday.in/diu/story/india-saw-almost-1-500-acid-attacks-in-five-years-1636109-2020-01-12>

by a kind taxi driver, hospitalised for months and had to undergo several cosmetic surgeries to salvage what was left of her face. For months after discharge, Laxmi didn't have the courage to look at her face in the mirror. What's more is, she was the object of social ridicule and blame – more so from other women, who felt she was to blame for the entire incident.<sup>13</sup>

In 2006, Laxmi Agarwal filed public interest litigation in the Supreme Court of India seeking total ban on sale of acid. In 2013, the Supreme Court ruled in her favour and imposed restrictions on sale of acid. She has been one of the crusaders who have been fighting to end acid attacks in India. While a lot has been done to bring awareness about acid attacks, especially on women, there is still a lot more that needs to be done.

Laxmi began a campaign in *Hindustan Times* covering a series on acid attack victims; she has since established grassroots campaigns for tackling the surge of acid attacks; one of her petitions has led the Supreme Court to order the central and state governments to regulate the sale of acid and the Parliament to enable easier prosecutions of acid attack perpetrators. Laxmi, the former director of an NGO called Chhanv Foundation, received the International Women of Courage award at the hands of First Lady Michelle Obama in 2014.

Sections that cover this topic are as follows: S. 100, S. 326A and S. 326B of the IPC.

### **STALKING ‘ –SHADOWS ’ THAT SEND SHIVERS**

The term “stalking” is used when an individual or a group of individuals keep spying on a person, without their consent and sometimes making them feel frightened and uncomfortable. To understand how this stalking can be very unsettling to a person who has been the recipient of unwelcome advances and does not wish to take the relationship further into a Dating Relationship (i.e., who spurns a suitor), let us examine the Priya Mattoo case. This infamous case, also known as the ***Santosh Kumar Singh v. State***<sup>14</sup>, throws light on the ugly nature of stalking and the decision to treat it as a crime in India from year 2013 onwards.

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<sup>13</sup> *The real story of Chhapaak: When 32-year-old Naeem threw acid on 15-year-old Laxmi's face because she refused his marriage proposal*, 8 Jan, 2020, <https://www.opindia.com/2020/01/laxmi-agarwal-deepika-padukone-chhapaak-acid-attack-story/>

<sup>14</sup> (2010) 9 SCC 747

In this case, Priyadarshini Mattoo, a law student from Delhi University was stalked, and later on raped and murdered in her own house by Santosh Singh who was the son of a former IPS Officer. The police (in both the Vasant Kunj and RK Puram Stations) did not take any action even after multiple complaints that were lodged against Santosh Singh for stalking. Priyadarshini Mattoo was raped and killed by Santosh Singh on the 23<sup>rd</sup> January, 1996, when she was alone at home. The case was then given to the CBI. The High Court had held Santosh Singh liable, and had given him a death penalty; but the Supreme Court had overruled the High Court and had given him a sentence with life imprisonment.

In the year 2013, there was an amendment in the Criminal Law called the “Criminal Law Amendment Act, 2013. This amendment added a section under S. 354 and S. 509 that is related to Stalking. Now, staking is clearly identified as a “bailable and a non-compoundable” offence. The definition of stalking and the punishment provided is in S. 354D.

In case of *Shri Deu Bajju Bodake v. The State of Maharashtra*<sup>15</sup>(2016) the woman who had committed suicide claimed that it was due to constant harassment and stalking. The accused was reported by the victim for constant stalking at her work place, and the accused apparently kept forcing her to marry him. The High Court had awarded him with a punishment under S. 354 D along with a charge for abetment to suicide.

## **ONLINE HARASSMENT – THE INVISIBLE ENEMY**

It is possible that when a couple dates each other, one of them can start harassing the other. This harassment can take either the traditional offline / physical route or the more recent technology-enabled route adopted by new-age lovers. This particular form of online harassment in a dating relationship goes way beyond the euphemistically referred to “eve-teasing”. With the advent of social media and the craze associated with it, a partner in a relation can potentially start harassing

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<sup>15</sup> Crime no. 185 of 2016

the victim by making embarrassing threats on public (digital) forums by making lewd comments etc.

. Being free-for-all, any airing of dirty laundry on these media can cause reputation damage. Any accusation made on online forums (false or otherwise) tend to garner more attention since they literally reach everyone's mobile held device. Partners who are out to harass their better half (or those who have been thwarted by the other party) can also begin whisper campaigns targeting the victims. Harassment can take many forms – public humiliation, posting of unnerving material; disturbing 'chat' messages, humiliating the other person to the extent that the harassment becomes unbearable. In certain instances, the culprit also disturbs the balance of the victim by hacking or vandalising the sites of the victim. On the whole, online harassment – either by phones, or by emails, or through the social media – are very disturbing to the victim. A common occurrence is when many friends of the dating partner gang up against the victim, and collectively harass him/her. These results in a desperate sense of helplessness and loneliness, lowered states of self-esteem, and ultimately plunges the victim into depression and desolation. In extreme cases, this kind of online harassment drives the victim into committing suicide.<sup>16</sup>

Cyber stalking could amount to online sexual harassment if it has sexual overtones. However, a stalker is usually an anonymous person unlike a sexual harasser who is unlikely to hide his or her identity.

In the case of ***Kalandi Charan Lenka v State of Orissa***<sup>17</sup>, we see how a student of Women's College Pattamundai, Orissa, refused a proposal for marriage from the accused, who then started harassing her to take revenge for his unrequited love.

The jilted lover flooded her phone with obscene messages and began a character assassination campaign in her school. What's stranger was that, even her father received pornographic messages from an unknown number to defame her character in her family.

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<sup>16</sup> Maeve Duggan, *Online Harassment*, 11 Jul, 2017, <https://www.pewresearch.org/internet/2017/07/11/online-harassment-2017/>

<sup>17</sup> BLAPL No.7596 of 2016

The accused not only bombarded the victim with a barrage of obscene letters, but also publicised scandalous emails of the victim and actually went to the extent of printed defamatory pamphlets about her in an effort to harass her. There were communications heavy with sexual innuendo, implicating the girl and her character. The messages implied that the girl in question (who had declined the boy's proposal) was, in fact, a loose character and had sexual relations with multiple partners.

The Cyber Cell of the Crime Branch had investigated the same issue, and the High Court held that the accused was prima facie liable for sexual harassment offenses, cyber stalking, identity theft, impersonation and for electronic transmission of obscene and sexually explicit content. Therefore, the application for the bail was also rejected.<sup>18</sup>

Sections that can be used in this are: S. 35A, S. 354D, S. 499, S. 354C, S. 503, S. 507, S. 509 and S. 288(a) of the IPC, S. 72, S. 67, S. 67A and S. 66A of the IT Act and S. 2(n) of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 ("POSH Act").

## **CYBER STALKING – INVADDED BY THE INTERNET**

Stalking need not be in physical scenarios only; it can also happen on online platforms as well. As the technology keeps developing, the scope of stalking has encompassed. Cyber Stalking is the typical stalking of a person, only it is carried out through the internet. In Cyber Stalking, the “Stalker” can track a person's location, spying on them using their social media etc. Cyber Stalkers normally find their victims on online platforms, and the stalker sends the victim threatening messages, trolling their pages, hacking their emails, or even morph pictures of them and threatens to leak those pictures.<sup>19</sup>

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<sup>18</sup> Sexual Harassment – Court Judgements - Disciplinary and Transparency Forum – India (dfn.in)

<sup>19</sup> Anubhav Pandey, *Laws Punishing Cyber Stalking and Online Harassment*, 13 Jul, 2018, <https://blog.ipleaders.in/cyber-stalking/>

The Information Technology Act, 2000 (also known as the IT Act) has categorised cyber stalking into three forms, they are as follows:

1. Email Harassment: the stalker can send the victim unsolicited messages, threats, etc.
2. Internet Stalking: the stalker uses the internet to defame and jeopardise the victim. This type of cyber stalking has a tendency to fall into the personal space, even though the stalking is on the public domain.
3. Computer Stalking: the stalker misuses and manipulates the performance and efficiency of the internet and the operating system (Windows) and takes control of the victim's computer.

In the year 2017, the Supreme Court lawyer, Karnika Seth had mentioned that 4 out of 5 cases that were received earlier were female victims, but now there is an equal distribution of 50-50 where the victim is male, apart from the female victims.<sup>20</sup>

The case of ***Kalandi Charan Lenka v State of Orissa***<sup>21</sup> illustrates how a relationship went sour when the girl rejected a marriage proposal from her partner. What followed was an ugly scenario of Cyber Stalking and Cyber Harassing which called for the victim to appeal to the Judiciary. This case will be discussed in greater detail in the section on Cyber Harassment.

The case of ***State of West Bengal v. Animesh Boxi***<sup>22</sup>, is an example of cyber stalking and Revenge Porn and the case will be discussed in the section of “Revenge Porn”.

Apart from women being cyber stalked, there are chances of men being cyber stalked too. But the S. 354D of the IPC does not come under consideration since it only mentions women. Nevertheless, there are possibilities of using other provisions from the IPC and the IT Act.

The sections that can deal with Cyber Stalking are as follows: S. 354D, S. 499, S. 507, S. 354A, S. 500, S. 503, S. 506 and S. 507 of the IPC, S. 66, S. 66C, S. 66D, S. 67 and S. 67A of the IT Act.

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<sup>20</sup> (Mathur, 2017)

<sup>21</sup> BLAPL No.7596 of 2016

<sup>22</sup> C.R.M. No. 11806 of 2017

## **CYBER BULLYING – TERROR BY TECH THUGS**

Since the Internet has become all-pervasive, it is not surprising that abusive behaviours in a Dating Couple (or by a thwarted suitor) can manifest on the digital platform.

When one of the partners in a dating relationship bullies the victim using any kind of electronic medium, it is referred to as cyber bullying. The instruments used to inflict this kind of cyber bullying are mobile phones, computers and laptops. The miscreant bullies the dating partner (or former dating partner) by sending offensive texts and WhatsApp messages; intimidating email or threatening phone calls.<sup>23</sup>

Cyber bullying is the intentional aggressive act by an individual or a group of people done repeatedly over the electronic form of contact. This is an act that one partner (and his/her group of friends can indulge in when the intention is to undermine the other partner in a dating relationship. The abusive partner may also bully the victim on several digital platforms such as instant messengers, social media platforms and or chat rooms. It ranges from the posting of hurtful words, derogatory comments, fake information on public forums or blogs to threats to rape or kill. The effect of such online behaviours is that the innocent party in the dating relationship suffers immense mental torture.

Some popular methods adopting by Cyber Bullies involved in dating relationships or failed ones, are:

- Usage of inflammatory or vulgar language while attacking the partner
- Sharing of inappropriate content through digital medium with the intent of creating distress
- Hacking accounts to mentally disturb the partner and agitate them

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<sup>23</sup> Vinod Joseph & Mitali Jain, *India: Anti-Cyber Bullying Laws In India - An Analysis*, 1 Oct, 2020, <https://www.mondaq.com/india/crime/989624/anti-cyber-bullying-laws-in-india--an-analysis>

- Becoming privy to the partners private correspondence and conversations (either with or without their knowledge) and thereafter blackmailing them
- Threatening someone to commit acts of violence
- Threatening to use footage of intimate moments between the couple for the purpose of pornography
- Stalking someone and sending targeted messages.

Cyberbullying causes psychological agitation of romantic interest of the bully, who sadistically creates hostility despite being in a relationship with the person. The victim suffers from acute stress, deep sense of deprivation of self-esteem and a high sense of vulnerability. Since it is a dating relationship, there would be other overriding factors, such as a sense of desperation due to inability to escape from such a toxic relationship with one's significant other. It would be more demeaning if the victim is trapped in the relationship and is also expected to share intimacy with the person. In extreme cases, this form of torment may lead the hapless partner to drown his / her sorrows in alcohol. Rather than standing up to the bully, the person is likely to retreat into a shell.

The truly regrettable part about Cyberbullying is that it is not governed by any law, nor there is any specific statutory law that deals with the same. While there are no specific laws that deal with cyber bullying, but a few sections like S. 66, S. 66A, S. 66B, S. 66C, S. 66D, S. 66E, S. 67, S. 67A, S. 67B and S. 67C from the IT Act, S. 292A, S. 354A and S. 509 IPC and the Protection of Children from Sexual Offences Act, 2012 deals with similar issues.

In the case of *Shreya Singhal v. U.O.I.*<sup>24</sup>, two women were arrested because they posted “offensive and objectionable” comments on Facebook as the city of Mumbai had shut down after a political leader had passed away. When the two girls were released and the prosecution was dismissed, they had filed a petition challenging that the S. 66A of the IT Act, 2000 violates the right to freedom of expression. The Supreme Court initially prohibited the arrest of any person under this section

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<sup>24</sup> (2013) 12 S.C.C. 73

unless a senior officer had approved the request, and had said that the S. 66B and S. 67C of the IT Act and a few provisions of the IPC were acceptable to deal with these kinds of crimes.

In the case of *Sharat Babu Digumarti v. Govt. of NCT of Delhi*<sup>25</sup> there was an explicit video purposely put under the category of “e-books” that was up for sale. A few copies of the explicit video were sold before it was disabled. It is to be noted that there was a conflict between the provisions of the IT Act and the IPC. The Supreme Court had ruled that any crime that comes under any electronic supervision would come under the per view of the IT Act as the Act was intended to curtail such activities. They also said that if there were any conflicts between the two (IT Act and the IPC), the special law would surmount the general law. It has been stated in Section 81 of the IT Act that those provisions made in the IT Act will continue to hold weightage despite any inconsistency that may feature in any other law that comes into force at any other period of time.

The first case that dealt with “cyberbullying” as an issue was *The Ryan Halligan Case*<sup>26</sup>. In this case, the victim (a 13-year-old boy) had committed suicide after being cyberbullied by a girl. The court didn’t hold the girl liable as criminal law couldn’t be applied.

In recent times, cyber bullying has increased for people in the spectrum on social media. Cyberbullying leads the victims into social isolation, depression, and sometimes even suicidal depression.

## **FINDINGS**

From the above case laws, laws and Acts, we can see that India doesn’t have many laws pertaining to “Dating Related Violence”. Countries like the USA, UK, etc. have laws that deal with “dating” as a separate category, one that is not merged with domestic violence.

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<sup>25</sup> Criminal Appeal No. 1222 Of 2016

<sup>26</sup> Vermont (2003)

## **SUGGESTIONS:**

India should create separate laws for the people in the dating spectrum, so if they do get involved with someone who has violent tendencies, they can get appropriate help. The laws that are present today do help, but the people in the dating spectrum are normally teenagers and young adults.

In certain laws such as S. 354 D, they mention that stalking can only be done by men, but in reality, any person can stalk anyone. The laws should be modified to the scenarios of this day and age, and for the future generations.

Similarly, in sections that are related to rape, it's mentioned that there should be penetration, but in cases that come under the LGBTQ+ category, it is not always possible to show penetration. So, the laws relating to rape should also be modified.

## **CONCLUSIONS**

Dating related violence is becoming a recurring occurrence among this generation. Adolescents and Young Adults tend to get abused and face the brunt of the violent behaviours of their partners. Unfortunately, most of the cases are not being reported unlike other countries.

Countries like USA and UK have laws and provisions that address the topics like “Dating Violence” as it has always been a part of their culture. But in India, dating is always shunned and the “openness” about anything that's related to dating is not really mentioned and addressed at homes and schools.

With the generations changing so rapidly, it is wise to bring changes in the acts and laws and add provisions and laws that are more apt for the future generations.