

Lokesh Mishra vs State Of Nct Of Delhi on 12 March, 2014

It is appalling to see that rape rears its ugly facade almost every day. 'Rape' is one such dark reality in the Indian Society that devastates a women's soul, shatters her self-respect and for a few, purges their hope to live. It shakes the insight of a woman who once was a 'happy person', and had no clue of being a victim of the said horrifying and nightmarish encounters where the daughter had been raped by none else but her own progenitor. A daughter always looks up to her father as a shield of her dignity and honour which is an intrinsic facet of a family especially of father-daughter relationship. It shocks human conscience when the sanctity of father and daughter relationship is ravaged in such a sordid manner and the protector becomes the violator. In such a case the offence assumes a greater degree of vulnerability which shall not go unpunished. There can never be a graver heinous crime than the father being charged of raping his daughter. It is the gravest sin, where the most platonic relationship is shattered by an extreme pervert and shameful act of nonetheless but one's own father. The moral values of individuals of the society have gone down to such a level that every day we hear similar news which shudders our mind and soul. We have become accustomed to saying that females are not safe outside the house but in few cases, it is seen that they are not even safe inside their homes, where the epitome of God's beautiful creation, a child is ravished by her own father for his momentary sexual needs and pleasure which is heart-rending and odious.

3. The change would not merely come from increasing policing, giving harsher punishments etc. but the required change lies in upgrading the moral values inside all of us and imbibing an essential value that women are not an object of sexual gratification. This Court previously in *Beeru vs. State*, Criminal Appeal No.1079/2010 held as under:

"31. The barbarity of the offence of rape cannot be overemphasized, especially when we have witnessed the most gruesome and horrific instances of the same in the recent past. The indifference that was created towards feral men with the quotidian reporting of rape was followed by a furor bringing the heinousness and depravity of the offence once again into the forefront, awakening the yet hitherto dormant attitude of the society. On flipping of the pages of the newspaper or the channels of the television, the only resonating sound is a new incident of rape. The argument being advanced is that the incidents of rape have increased manifold but in reality it is also due to the metamorphic change the society is undergoing, that of

the new found willingness of the survivors to report the offence rather than being hapless victims like before. However in the face of this positive development, we cannot turn a blind eye to the fact that the consequences of this monstrous act remain as devastating as ever, but may be the societal prism which shamed and blamed the survivor has changed angles. The women as a whole, cutting across status, class, culture, creed or sex are a vulnerable group but a minor child is most susceptible of the lot. The tender years of innocence where the children are taught to have faith in the goodness of humanity and nurturing relationships with trust fall apart when the same child becomes a prey in the hands of the lusty and unscrupulous men. It is also brought to light by the recent statistics that the rapists are strangers also but are more often than not people known to the family or in a position to trust with the survivor. The present case is a sordid story of both the factors at play where the minor girl was raped by her own uncle. The beastly act of ravishing a child for exerting his position of male dominance and violating her physical and mental well-being, is attitude of a savage tribe and not of a civilized society. To fathom the aftermath of the sentence of the happening of such tormenting act on the person is to add yet another monumental blow to her dignity. In most cases that this court comes across, the offender is the sole bread winner of his family with parents, wife and children etc. to take care of. The remorse that sets in after the realization of the dastard act committed by him is put on a backburner and what is vociferated are the so call mitigating circumstances. The criminal who dared to indulge into such a venomous act now wants to walk away as he has to take care of his family and provide for them. The perturbing question that bedevils us is that was he unmindful of these 'mitigating circumstances' when he committed the act. The answer is an unfortunate affirmative which brings us to the core of the problem, the mindset of the common man that the law cannot touch him and nothing will happen. This notion of the law being feeble and the offender being actually punished being remote is what needs a tectonic shift. The criminal law amendment act, 2013 has given a new ray of hope to the women and teeth to the law and should act as a deterrent. The need for every person to know the legal ramifications of his vicious acts is important, especially that of rape. The most potent tool is to educate the public of the new law and create awareness about the rights of the victims and at the same time the severity of the punishment of the offence committed. The men folk need to be gender sensitized from the very beginning from school to colleges to treat women not as sex objects but as an equal human being. The emboldening of the law should act as a deterrent to

the prevalence of flouting the law with impunity. This can only be done through mass awareness and the media has a big role to play in this movement of great change in society. The print and television media, both public and private participants have to be partisans of this change. The government has to be the torchbearer to create the fear of law in the minds of the people that they have to think a million times before committing this immoral act. The common man should be daunted by the law and it can only come by ingraining in them the repercussions of their acts. Much has been achieved by the showing of the clipping in theatres of the harmful effects of tobacco and we suggest the same should be done to apprise the people of the new law relating to sexual offences. Such programs should be run on television and radio also. Everyone today has a mobile phone. Be it a rickshaw wala or a jhuggi dweller to the top-notch people in the society and, therefore, the people can be educated about these laws through SMSs as well.

32. Hence the appropriate Government Authorities are advised to consider our aforesaid suggestions and we earnestly hope that in the larger societal interest they will take effective steps in this direction or other steps as they find suitable to sensitize people and create awareness amongst them about the latest amendments and other laws dealing with the various sexual offences and the punishments provided for such offences. The Registrar General of this Court is directed to send copy of this order to the Secretary, Ministry of Information and Broad Casting, Secretary, Ministry of Woman and Child Development and Lt. Governor of NCT of Delhi for necessary action at their end."