

# RAPE AND MARRIAGE: THE HINDU EDITORIAL ON THE SUPREME COURT'S FAILURE TO PROTECT THE RIGHTS OF WOMEN

Relevant for: Developmental Issues | Topic: Rights & Welfare of Women - Schemes & their Performance, Mechanisms, Laws Institutions and Bodies

A relationship between two individuals, including marriage, is built around love, respect, trust and consent. Within that civilised framework, a violent and exploitative act like rape has no place. Seen in that context, the Supreme Court's latest query to a Maharashtra government employee [asking whether he would marry a girl he was accused of raping repeatedly](#) while she was a minor is insensitive to the core. By offering marriage as a solution to a rape victim, the judiciary failed to protect the rights of a girl. Instead of meting out harsh punishment, the Court asked the lawyer representing the accused to find out whether his client would be willing to marry the victim or risk going to jail. Equal rights activists have always worked hard against misogyny, patriarchal mindsets and other failings such as blaming the victim for rape. This arduous battle for equality becomes even more difficult when people in high offices make offensive remarks. On Monday, the Chief Justice of India (CJI), Sharad A. Bobde, told the lawyer of the rape accused, "We are not forcing you..." The lawyer later told the Court that his client refused to marry the girl because he was already married. In his petition, the accused recounted the allegations that he sexually abused the girl since she was in high school, and also that he had threatened the minor.

In another case, the Bench stayed the arrest of a man accused of rape after falsely promising marriage. The victim said she was promised marriage and was "brutally and sexually abused". The CJI asked the girl's lawyer: "[When two people are living as husband and wife, however brutal the husband is, can you call sexual intercourse between them 'rape'?](#)" In both cases, these crimes attract severe penalties under the [Criminal Law \(Amendment\) Act, 2013](#). On marital rape, though the recommendation was not included in the Act, the Justice J.S. Verma Committee was clear the law ought to specify that a marital or another relationship between the perpetrator and victim cannot be a defence against sexual violation. Citing the judgment of the European Commission of Human Rights in *C.R. vs U.K.*, it endorsed the conclusion that "[a rapist remains a rapist regardless of his relationship with the victim](#)". In [Shimbu & Anr vs State of Haryana](#) (2013), the Supreme Court said the [offer of a rapist to marry the victim cannot be used to reduce the sentence](#) prescribed by law. When the scars of the Nirbhaya case are still raw, and a series of [rape and murders are being reported against minors, especially Dalits, in Uttar Pradesh](#), the judiciary's shocking remarks echo a deep-set prejudice against gender equality. The law should deliver justice, not blatantly tilt the scales against women's rights.

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