

Mohammad Tahir Jatoi vs The State

9. There has been a marked increase in cases of a similar nature. The modus operandi is the same. Usually, a simple and unexposed girl is seduced through the Internet or telephone; one fine day, she leaves home surreptitiously and elopes with her lover; the family registers an F.I.R. for kidnapping, rape and underage marriage; the couple produces a freewill affidavit and a nikahnama (in most cases executed in Punjab); they then come back to Sindh where they make an appearance before the Sessions Court as well as the High Court where the girl professes her love for her “husband” and states that she is an adult and has married with her own free will. The case against the “husband” is dropped based on such appearances and statements. It would all be fine if the girl was an adult and it was a genuine case of love. Unfortunately, this does not seem to be the case in many situations. The girl, having burnt all her boats, is at the mercy of the “husband”; thus, her vulnerability leads her to either an enslaved person’s life or, worse, being trafficked. She cannot go home due to the fear of an honour killing. And given her past conduct, nobody believes that she was kidnapped, raped or trafficked by the “husband”. In some cases, a girl with a supportive family returns home (as in the present case) and takes a complete somersault on her earlier conduct. By then, enough doubt had been created in the case, of which doubt the perpetrators took advantage. Counsels who appear in such matters, as well as the police who investigate, completely lose sight of the possibility of the girl being trafficked through such a modus operandi and mechanically deal with the case. In my view, showing leniency where a minor is involved will only encourage traffickers to continue unabated.

Mukhtiar vs The State

7. The judiciary can play a crucial role in eliminating honour killings by ensuring that existing laws against honour killings are rigorously enforced, with no leniency or impunity for perpetrators. Strict enforcement would contribute significantly to the eradication of honour killings and the promotion of justice and gender equality. However, this remains a complex and persistent problem that requires ongoing efforts to change societal attitudes and protect vulnerable individuals. The

Government of Pakistan, on its part, in the year 2016 enacted the Anti-Honor Killing (Criminal Laws Amendment) Act, which closed legal loopholes that allowed perpetrators to escape punishment by seeking forgiveness from the victim's family. Amendments to the Pakistan Penal Code were introduced to tighten the legal framework and increase penalties for honour killings in Pakistan.

Afzal Khan vs The State

It is indeed rare that a lady from what appears to be a low-income group has come forward and reported domestic violence, although the police have not looked at this case from a gender lens and have entirely overlooked the fact that the allegation of the survivor may fall squarely within the domestic violence legislation. It appears that, as is the trend of the police in domestic violence cases, it has not looked at the allegations from a gender lens. There was no reason for Shehnaz to falsely implicate the applicant as, in all probability, keeping the mindset of society at large in view, she perhaps would be the most impacted.

I am saddened that the learned counsel for the applicant adopted a victim-blaming approach rather than justifying or clarifying the applicant's conduct. When the learned counsel was asked why the wife of the applicant would wrongly accuse him, he responded that this is a habit of the survivor as she frequently marries and then blackmails her husbands. He could not show even an iota of evidence to support his allegation. It is hoped and expected that we as a society refrain from stereotyping and gender bias. It must not be lost sight that Pakistan is a signatory to the Convention Against Elimination of Discrimination against Women, and the State has accepted certain responsibilities under the Convention.

Kiran Shahani vs The State and others

It is not at all appropriate that female officers are not investigating such cases. Gender-based violence cases of such nature must undoubtedly involve a female investigator. In this case, The investigating officer did not collect evidence because of an alleged pardon that the girl had given to all she had previously accused. Keeping the social dynamics broadly spread in especially the rural areas, where violence against women at times is justified on the grounds of tradition and culture, the "pardon" should have in itself raised a red flag for the investigating officer that

he should look more into it to establish whether the victim had been pressurised in any manner to render the “pardon”. I deem it appropriate, therefore, to direct the I.G. Sindh to file his comments on why such investigation lapses are continuously recurring in such cases, why the investigators are so clueless and insensitive about the investigation in gender-based violence cases, and what they can do to improve police investigation in such cases. At the moment, the investigation seems to be a get-out-of-jail-free card for perpetrators.

Habibullah vs The State

9. Lethal violence against women and girls in the house looks to be a more complex problem to solve than killings of women and girls outside the home. One of the most extreme examples of gender-based violence is the murder of women and girls by intimate partners or other family members—people they would typically be expected to trust. These murders frequently result from earlier instances of gender-based violence, which can involve psychological, sexual, and physical assault. The killing of an intimate partner is the ultimate betrayal of trust within a family, and this kind of killing has consequences far beyond the immediate victims; for example, the children, in many cases, are left with one parent dead and the other in prison.

Rafiq vs The State

I am cognizant, however, that this is a rape case, and there could be aspects of trafficking involved in it as well. The discrepancies in the dates pointed out by the learned counsel could also have occurred as a consequence of the stigma involved with the incident and incorrect guidance by the police, which in many cases has not shown the expertise required for investigation in similar instances, especially when the survivor belongs to the underprivileged section of society. The standard and expertise of medical-legal officers in cases of rape is far from satisfactory. Though the findings of the medical-legal officer concerning no tenderness or swelling on the vagina of the survivor does not, upon a tentative assessment, reconcile with the prosecution case, it must be kept in mind that the definition of “rape” in section 375 P.P.C has been greatly expanded by the Criminal Law (Amendment) Act, 2021. While recording the section 164 Cr.P.C. statement, the learned magistrate used the

word “ziadti”. In my view it appears that the language used by the learned magistrate may not necessarily be what Zara recorded as any act of a sexual nature may incorrectly have been brought within the ambit of the word “ziadti” and thus what is thought of as solely vaginal rape. As mentioned above, even if “ziadti” is equated to rape, even then keeping in view the expanded definition of the word “rape”, it may not be necessary that a survivor has tell-tale signs on her vagina of what she has been through.

Maria Rizvi vs The State

During the hearing of the matter, it has also transpired that prima facie, the complainant has been treated in a callous and insensitive manner by the policemen she had to be dealt with on account of her gender. Such discrimination based on gender and victim-blaming cannot be accepted. The police initially delayed lodging her F.I.R. and then showed total apathy in dealing with her case. Investigation conducted prima facie is weak and incomplete with. It also appears that had the police reacted promptly, the victim could have been recovered without much harm, as alleged by her mother, having been caused to her. No woman police officer, as categorically admitted by the SHO of Clifton police station, was even present during the entire process of lodging the F.I.R. and its subsequent investigation. The investigating officers made demands for money from the mother of the victim.