

## CRIME AND CONSENT: A FEMINISTIC REVISITATION

Crime and consent in recent past has occupied both the intellectual as well as social space. It has generated a debate as to the import and implication of consent in criminal law, more so in cases of sexual offences. At a time, when society is in a state of flux and newer predicaments keep the court engaged demanding a just response, we need to pause and ponder over the possible *consequences* such predicaments and judicial response to them will have both from the perspective of a lawman as well as a layman. Consent in cases of sexual offences necessitates a searching analysis as regards its *content* and *consequences* thereof. Mere textual reading of various provisions and precedents may not be many a time sufficient. We may be required to unsettle the settled in view of the newer realities. Besides the visible societal changes, the imperceptible transition sweeping every strata of the society demands a revisit of some of the time-honored *precepts* and *practices* in legal arena to understand the ways that would keep the criminal laws in tune with the present. We can no longer ignore the stark and emerging realities which may be factual or normative.

In recent past, the Delhi high court judgment in *Mahmood Farooqui v. State*<sup>1</sup> has generated a debate as regards the question of consent in cases of rape. The elements of *willingness* and *consent* so crucial to understanding the intricacies of rape law in India need to be appreciated *legally* as well as *normatively*. One way of looking at the entire spectrum of rape laws in India is to analyze them from a very feminist perspective raising questions that pertain to the *consequences* that a woman has to go through.

Therefore, reading, misreading and re-reading of consent in cases of rape and more so in cases of marital rape will be prime focus of the present seminar that aims at deliberating upon the intricacies of consent under IPC in general and in sexual offences in particular. Consent under criminal law and its interpretation have a direct bearing upon rights of women that criminal law purportedly seeks to protect under its various provisions. The forthcoming seminar will be an occasion to understand dynamics of consent under IPC, especially with regard to sexual offences in India.

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<sup>1</sup> 2017 SCC OnLine Del 6378