

SUCH LOFTY SYMPATHY FOR A RAPIST!

A Recent Judgment By Justice Krishna Iyer

IN this column, we reproduce legal cases concerning women. This is to educate ourselves not only about legal provisions as they exist but also about how in reality law operates. We invite readers to send in their comments, suggestions, and also the citations and details of any cases they may have in mind.

We have always held Justice Krishna Iyer in great respect for his consistently progressive role within the judiciary so when we by accident came across this case, we were astounded and shocked. We are reproducing this judgment in which the sentence of a rapist was reduced from four years to one year, because we feel it sums up the attitude of all male-dominated power structures to the issue of violence against women. The italics are ours – the phrases so emphasized are significant and need special analysis.

A Philanderer of 22, Phul Singh, *overpowered by sex stress* in excess, hoisted himself into his cousin's house next door, and in broad daylight, *overpowered the temptingly lonely prosecutrix* of 24, Pushpa, raped her in hurried heat, and made an urgent exit, having fulfilled his *erotic sortie*. The screaming victim complained to her mother working in the field... a sentence of four year' rigorous imprisonment was imposed by the sessions court...

Ordinarily, rape is violation with violence of the private person of a woman. In our conditions of escalating sex brutality, a four-year term for rape is not excessive... The two families being close cousins, are ready to take a lenient view of the situation... Punitive therapeutics

must be more enlightened than the blind strategy of prison severity where all that happens in *sex starvation, brutalization, criminal companionship...* and emergence at the time of release, of *an embittered enemy of society and its values, a potentially good person "successfully" processed into a hardened delinquent*, thanks to the penal illiteracy of the Prison System. The court must *restore the man*. A *hypersexed* homo sapien cannot be rehabilitated by humiliating or harsh treatment but that is precisely the perversion of unreformed jail justice which some criminologists have described as the crime of punishment. In prison, treatment must be geared to psychic healing, *realize of stresses, restoration of self-respect and cultural normalization, apart from training to adapt oneself to the life outside*. The current efforts of government to reform jail regimes, we hope, will give a better deal to the *caged community*...

The appellant has no vicious antecedents except this *fugitive randy molestation*... modern Indian conditions are drifting into societal permissiveness... what with womanizing public men, lascivious dating and mating by unwed students, sex explosion in celluloid and corrupt morals reaching a new "high" in high places. The unconvicted deviants in society are demoralisingly large and the State has as yet no convincing national policy on *female flesh and sex sanity*...

We must design a curative course for this prisoner to rid him of his aphrodisiac overflow and *restore him into safe citizenship*. He is a youth barely 22... he has a young wife and a farm to look after. Given correctional courses through



Wilma garver/woman becoming

meditational therapy... his erotic aberration may wither away... He has a reasonable prospect of shaping into *a balanced person*... given techniques of internal stress release or of reformatory self expression.

The task is not done by a reduction in the prison term... More important... is to keep alive the family tie of the person in prison so that he may not deteriorate into a non-person... the state government or the Inspector General of Prisons will ensure that on parole, furlough or on orders, the *young* appellant turns a new leaf of *normal life*.

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This judgment with its seemingly "lofty sentiments" and long-winded sentences that leave the reader befuddled, is in essence saying something very simple: "Rape is caused by the sex drive. The sex drive is natural, especially in young men therefore rape too is at worst the natural mischief of a man. The man is not a criminal. If he is put into prison, he may become a criminal by living in the company of criminals." (Presumably, violence against property is not so "natural" or excusable as it violence against women.)

However half-way through this argument, the judge suddenly changes his tune. The sex drive may be natural but he would like to declare it "immoral" all the same. If he does not, then what about the sexuality of women and children? Does it not require expression too? That would be simply terrible. He hastily declares that sexual freedom of choice is an immoral as is exploitation- the buying

and selling of women as prostitutes. The implication is that sex should be allowed to exist only – within marriage (preferably an arranged marriage). In fact, even rape is not illegal within marriage. That is why Phul Singh should be allowed to go home and “look after” his young wife!

We are told that the two families have decided to take a “lenient view” of the situation. The judge and courts have decided to “restore the man”. Why then mete out “harsh and humiliating treatment” to him ? Are not the “caged community” of women (like the rape victim) there to receive such treatment ?

In response to the Justice’s psychological analysis of the rapist, the question may be asked: If rape is an expression of eroticism, and not a violent assertion of power over women, then how is it that Phul Singh and his cousin’s wife were both married but it was he who attacked her and not she him? How is it that every day thousands of “balanced persons” and “safe citizens” attack women as a matter of course – whether these women are their wives or sisters or strangers on the street ?

As for the social analysis, may we ask: If marriage and the family are the way to “sex sanity” how is it that the greatest number of rapes and molestations take place and are suffered in silence within the family itself ? Is this a “sex sanity” defined by men or by women ? It is no coincidence that the patriarchal family and the courts conspire to hush up those cases of rape within the family which somehow do manage to reach the courts.

Phul Singh is not an “abnormal” criminal. He is a perfectly “normal” criminal in a criminal society which through its institutions, “normally”, routinely, and systematically encourages violence on women. The all-pervasive sympathy for the rapist visible in such judgments as this and the way in which they completely ignore the victim, all point to the fact that we as women will have to define and enforce justice through our own struggle, not hope for it from those who have distorted its meaning to suit their own ends. □

TWO WOMEN

Ahmedabad, Nov. 30 (PTI) – Unable to live in separation after their marriage less than a year ago, two childhood friends, Jyotsna and Jayashree, ended their lives together. The two women committed suicide by jumping in front of a running train. The police recovered the mutilated bodies of the two women near the Gandhigram station here. A joint letter by the two showed that they had entered into a suicide pact.*

*Not in a foreign country
or a fantasy,
but in a small town
some crooked-laned mohalla,
whose life is held up by a railway crossing,
you dared so greatly.
In such a time and place,
under our pitiless sky,
you dared
to declare the unacknowledged,
to call love by its name,
you dared to love – refused to let love die.
Hard to believe,
yes, the truth is hard to understand
that you, my sisters, dared escape
our “natural”, “normal”, predestined predicament
and fought for breath –
battered,
choked,
starved,
mutilated,
you came up for air.
Refusing to “adjust”, “accept”,
writhing in the mind’s torture chamber,
you drank “perversion”
and despair –
you danced.
And so shall I mourn
or rejoice
your choice,
my sisters, whom I never spoke to ?
Shall I say what strength you are –
you, whom I see everywhere –
in the faces of women on the street –
you, imprisoned in our eyes,
our madness and our pain –
waiting for the world to grow sane.*

—Ruth Vanita

* Would some of you living near Ahmedabad investigate and send us a fuller report of this case?