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FORUM



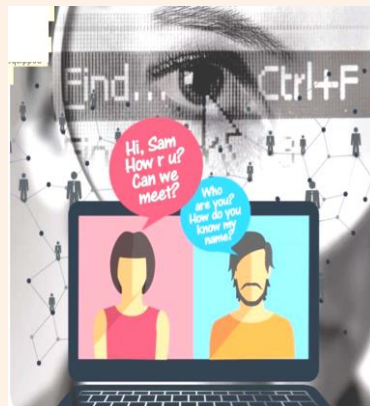
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CYBERSTALKING LAW: ILL-EQUIPPED TO PROTECT WOMEN, NON-EXISTENT FOR MEN



**WHEN A MAN DOES IT, IT'S
STALKING; WHEN WOMEN
DOES IT'S PARESHAN KARNA**

In the current scenario, Indian judiciary has many legal provisions with respect to women dignity and protection. But on the other side, when victim is men, there is paucity of laws, particularly in relation to cyber laws.

This article highlights a case report of a young male entrepreneur, who was a victim of Cyber stalking by women and despite evidence against her, legal action was not resorted and showcases that our laws relating to Cyber Crime is still under-equipped to deal with present and future unseen crimes.

As said earlier, we have so many laws to protect women but few provisions that specify what to do when the man is the victim and woman is the accused. Recently, the case of a young entrepreneur being cyber-stalked by a woman went viral. But the fact that no legal action could be taken despite evidence against the woman, woke up the public to the under-equipped laws against cybercrime in India.

In May, news reports about Mumbai-based entrepreneur Vijay Nair being cyber stalked by a woman had flooded social media. Vijay recounted how an acquaintance stalked him online and harassed him through whatsapp and text messages, often using multiple international numbers for months. At the end, what drew public attention was Vijay's assertion that despite evidence of the woman's involvement in cyber-stalking him and harassing online, the legal recourse available to him was negligible. Legal experts agree that even as cases of women cyber-stalking men are on the rise, Indian law is still clueless about how to handle them.

Victims of cyber-stalking tells us that the only options available to them are an amicable settlement' with the perpetrator or waiting for their stalker to make a threat so that it becomes a `crime'.

50% OF ALL CYBERSTALKING CASES NOW HAVE MALE VICTIMS

Experts say that while cyber-stalking is on the rise, incidents of men being the victim are growing at a faster rate. Cyber law expert and Supreme Court lawyer Karnika Seth tells, “I get at least four-five cases of cyber-stalking every day. Till now, I have seen women being victimized. However, now I see a trend where men are the victims. Till a few years ago, 75% cases of cyber stalking had women as the victim, but now the ratio is 50:50.

Sushant Arora, a consultant, recounts his stalking experience and says, Last year, I got a WhatsApp text from a woman claiming to have met me at a wedding. Even though I couldn't recall her, the description she gave of our meeting was quite vivid and I assumed I must have forgotten. But soon, she started getting really creepy and suggestive, after which I had to stop responding to her. The woman started texting my family members and all my female colleagues and friends, asking them to “stay away from her boyfriend”. It was embarrassing to have to explain to everyone that I had nothing to do with this woman. She even created fake facebook profiles to stalk me and keep a tab on who I hung out with and where. It was really scary.

LAW ILL-EQUIPPED TO DEAL WITH CASES INVOLVING WOMEN CYBERSTALKERS

This might come as a surprise, but there is no legal provision to tackle women cyber-stalkers. In fact, there is no specific law to tackle cyber-stalking in India. Usually, it is covered under Section 67 of the IT Act, but that is applicable only if there has been transmission or online publication of obscene material. For cyber-stalking, police mostly

file a case under Section 354D of the IPC. However, the language of the section makes it clear that it only covers a male accused and a female victim.

Rizwan, a 29 year-old, says, “For three months, this acquaintance of mine stalked all my social media profiles and left random comments. People in my circle had assumed that we knew each other because she was so involved in all my social media activities. The trouble began when she started asking my girlfriend to stay away. I took this woman to the cops. The police asked me what section I wanted them to book her under. I replied, ‘yeh to aapka kaam haina’. That’s when I realized that technically what she had done till now wasn’t a crime!

Legal experts agree that there are no provisions to tackle cyber-stalking by a woman in Indian law, but usually, police and lawyers use sections pertaining to other offences like criminal intimidation and extortion. Seth says, “If, for instance, the case involves a fake profile or it amounts to an identity theft or cheating by impersonation, then other provisions get attached along with stalking. Now, when it comes to cyber-stalking per se, IPC provisions are still there. If there is cyber-stalking coupled with extortion, we can invoke the relevant section, or if there is criminal intimidation where you send a threatening message online, then Section 506 comes into play.” However on the flip side recent peculiar trend in male cyber-stalking has caught the law enforcing authorities unawares. Hence, there is strong need for Amendment to existing IT Act to safe guard the rights of vulnerable male population.

Sec 354D of IPC

Any man who—

- Follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or
- monitors the use by a woman of the internet, email or any other form of electronic communication,

Commits the offence of stalking;

Provided that such conduct shall not amount to stalking if the man who pursued it proves that—

it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or

it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or in the particular circumstances such conduct was reasonable and justified.

While the IT act is clearly under equipped to deal with cyber-stalking, when it comes to complaints by women, the police usually file a case under sec 354D IPC. But the sec deals with stalking and harassment by men only.

Section 67 in the IT Act 2000 - Punishment for publishing or transmitting obscene material in electronic form.

Whoever publishes or transmits or causes to be published or transmitted in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term which may extend to three years and with fine which may extend to five lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to five years and also with fine which may extend to 10 lakh rupees.



Guest lecture by Mrs. Vidyadevi Birdar, Associate Professor, dept. of Information Science & engineering, Nitte Meenakshi Institute of Technology, Bangalore on “Finger Prints - Current medico-legal relevance” dated 24-10-2017.



Introductory talk on medicolegal aspects of Finger Print by **Dr. Satish NT** Associate Professor.



Medical Education Training held in Nov 2017 at AIMS organized by St John’s Medical College.

PUBLICATIONS

- 1. Shivaramu MG. A case of fatal laproscopic tubectomy in a young woman – Case Report. SJAMS 2017;5 (10A):3826-3828.**
- 2. Vijay KAG. “Kounis Syndrome – A retrospective Post-mortem study”. Int J of Forens Sci. 2017;2(3): 32-6.**
- 3. Vinay J. Identification and Interpretation of artifacts encountered during medico-legal autopsies. Med leg update. 2017;17(2):41-3.**

MEDICAL EDUCATION TRAINING PROGRAMMES

- 1. Dr M G Shivaramu, attended Medical Education Training on 10thOct-13thOct 2017 organized by St John’s Medical College.**
- 2. Dr Kumar U, attended Medical Education Training held in Nov 2017 at AIMS organized by St John’s Medical College.**

CONFERENCE ATTENDED

- 1. Dr M G Shivaramu, attended KAMLS-25 2017 held in BMC, Bengaluru on 1st Dec - 3rd Dec 2017.**
- 2. Dr Vinay J, presented “A case of Fatal Laproscopic Tubectomy in a young women – Case Report”. In the SIMLA Conference 2017 held in Gandhi Medical College, Secunderbad, Telangana on 21st - 23rd Sep 2013.**
- 3. Dr Vinay J, presented “Fatal Iatrogenic Bladder Injury – Case Report”. In the KAMLS -25 2017 held in BMC, Bengaluru on 1st Dec- 3rd Dec 2017.**
- 4. Dr Satish NT, attended KAMLS-25 2017 held in BMC, Bengaluru on 1st Dec- 3rd Dec 2017.**