

INDIAN PENAL CODE

Section	Indian Penal Code, 1860	Law Commission Recommendations	Justice Verma Committee Recommendations (JVC)	Criminal Law(Amendment) Act, 2013
100	<p>Right of Private Defence of the body extends to causing death, if the assault is committed with the intention of committing rape or gratifying unnatural lust.</p> <p><i>[Firstly</i> -assault which causes reasonable apprehension of death <i>Secondly</i> - assault which causes reasonable apprehension of grievous hurt <i>Thirdly</i> - assault with the intention of committing rape <i>Fourthly</i> -assault with the intention of gratifying unnatural lust <i>Fifthly</i> - assault with the intention of kidnapping</p>	<p>The <u>42nd Law Commission Report,1971</u> Recommended that Section 100 be amended to read as follows: “100. Right of private defence of the body- (1) Every person has a right to defend his own body and the body of any other person against any offence affecting the human body. (2) If the offence which occasions the exercise of the said right is- a) such an assault as may reasonably cause an apprehension that death or grievous hurt will otherwise be the consequence of the assault or v) an assault with the intention of committing rape or carnal intercourse against the order of nature, or c) an assault with the</p>	<p>Includes right to private defence in case of acid attack.</p> <p>It was drafted as under:- [Secondly- Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault, which shall include a crime Punishable under Section 326A of the Indian Penal Code.]</p>	<p><u>Change as compared to IPC</u> New clause <i>Seventhly</i> which includes acid attack or attempt of acid attack under right to private defence.</p> <p><u>[Seventhly - acid attack or attempt of acid attack (NEW CLAUSE)]</u></p>

Sixthly-assault with the intention of wrongful confinement]

intention of kidnapping or
d) An assault in such circumstances as may reasonably cause an apprehension that an offence punishable under any of the sections 364-369 of this code is being committed. Or
e) An assault with the intention of wrongfully confining a person in such circumstances as may reasonably cause him an apprehension that it will not be possible to have recourse to the public authorities for his release.
The right of private defence of the body extends under the restrictions mentioned in section 99 to the voluntary causing of death or of any other harm to the assailant, And in any other case, it extends under the same restrictions to the voluntary causing to the assailant of any harm other than death.
3) if , in exercise of the right of private defence against an assault which reasonably

		causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk. “		
S. 166A	--	<p><u>The 42nd Law Commission Report, 1971</u> Recommended that a new Section 166A be inserted in the following terms: “166A. Public Servant acting with intent to cause injury to any person- whoever being a public servant wilfully conducts himself in the performance of his functions as such public servant, intending to cause or knowing it to be likely that he will by such conduct cause injury to any person , shall be punished with imprisonment of either description for a term which may extend to one year or with fine or with both”</p> <p><u>The 152nd Law Commission Report, 1994</u> Recommended that a new Section 166A be inserted in the code in the following</p>	<p>New S. 166A: “166A. Public Servant knowingly disobeying direction of law Whoever, being a public servant,— (a) knowingly disobeys any direction of the law which prohibits him from requiring the attendance at any place of any person for the purpose of investigation into an offence or any other matter, or (b) knowingly disobeys, <u>to the prejudice of any person</u>, any other direction of the law regulating the manner in which he shall conduct such investigation, or (c) in relation to an offence</p>	<p><u>Change as compared to IPC</u> New Section 166A has been added to penalise public servants disobeying directions under law which prohibits him from requiring attendance of any person or where he knowingly disobeys the law regulating the manner in which investigation will be conducted or fails to record information given to him regarding cognizable offences of violence against women.</p> <p><u>Change as compared to IVC</u> --Failure to record FIR in case of acid attack has been criminalized --Punishment is lower; being less than six months up to two years [Public servant disobeying direction under law</p>

terms:
 "S.166A : Whoever, being a public servant-

- a) Knowingly disobeys any direction of the law prohibiting him from requiring the attendance at any place of any person for the purpose of investigation into an offence or other matter, or
- b) Knowingly disobeys any other direction of the law regulating the manner in which he shall conduct such investigation to the prejudice of any person shall be punished with imprisonment for a term which may extend to one year or with fine or with both"

172nd Law Commission Report,2000 - Review of Rape Laws
 New section 166A, IPC

punishable under Section 354, Section 354A, Section 354B, Section 354 C(2), Section 376(1), Section 376(2), Section 376(3), Section 376A, Section 376B(1), Section 376B(2), Section 376C, Section 376D or Section 376F does not record information given to him under Section 154(1) of the Code of Criminal Procedure shall be punished with imprisonment for a term which may extend to five years Rigorous imprisonment and fine.

"166A. Whoever, being a public servant,-

- a. knowingly disobeys any direction of the law which prohibits him from requiring the attendance at any place of any person for the purpose of investigation into an offence or any other, or
- b. knowingly disobeys, to the prejudice of any person, any other direction of the law regulating the manner in which he shall conduct such investigation, or
- c. fails to record any information given to him under sub-section (I) of section 154 of the Code of Criminal Procedure, 1973, in relation to cognizable offence punishable under section 326A, section 326B, section 354, section 354B, section 370, section 370A, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or

		<p>recommended "166A. Whoever, being a public servant- (a) knowingly disobeys any direction of the law prohibiting him from requiring the attendance at any place of any person for the purpose of investigation into an offence or other matter, or (b) knowingly disobeys any other direction of the law regulating the manner in which he shall conduct such investigation, to the prejudice of any person, shall be punished with imprisonment for a term which may extend to one year or with fine or with both."</p>		<p>section 509, Shall be punished with rigorous imprisonment for a term which shall not be <u>less than six months but which may extend to two years</u>, and shall also be liable to fine.]</p>
166B	--	--	--	<p>New Section 166B has been added : Punishment for non-treatment of victim It penalizes those in charge of hospitals, whether public or</p>

				<p>private, who contravene S. 357C of Cr.P.C, which provides that all hospitals will provide first aid and medical treatment to victims of acid attack, rape- including marital sexual intercourse without consent and sexual intercourse by someone in authority.</p> <p>Punishment: Imprisonment up to 1 year or Fine or Both.</p>
228A	<p>Disclosure of identity of victim of certain offences etc. (1) In case of rape, forced intercourse by husband with wife when separated, custodial rape by public servant, inducing female inmate to have intercourse by superintendent/manager of jail, remand home or other place of custody, manager of hospital- Identity of victim if made known is punishable</p>	--	--	<p>No substantial change.</p> <p>Includes amended provisions of rape thereby including additional provisions created by this Act.</p>
326A	--	--	New S. 326A Voluntarily	<u>Change as compared to IPC</u>

			<p>causing grievous hurt through use of acid, etc.</p>	<p>New Section 326A has been added on voluntarily causing grievous hurt through use of acid etc.</p> <p><u>Change as compared to JVC</u> No change in substantial section. Change in the punishment section as discussed below.</p> <p><u>Note:</u> Its gender neutral for both the perpetrator and the victim.</p>
--			<p>Punishment: RI for a term which shall not be less than ten years but which may extend to life, and shall also be liable to pay compensation to the victim, adequate to meet at least The medical expenses incurred by the victim.</p>	<p>Punishment: Imprisonment of either description for a term which shall not be less than ten years but which may extend to life and Fine. Fine to be adequate to meet medical expenses. It further provides that any fine imposed under this section be given to victim.</p>

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	--		Explanation 2 - The damage will not be required to be irreversible.	Explanation 2 -The damage will not be required to be irreversible.The explanation was added after S. 326B, and applies to S. 326A and 326B.
326B	--	--	<p><u>S. 326B: Voluntarily throwing or attempting to throw acid, etc.</u></p> <p>“Whoever throws, or attempts to throw acid on any person, or attempts to administer acid to any person, or attempts to use any other means to achieve the purpose of causing permanent or partial damage to any part or parts of the body of a person,</p>	<p><u>Change as compared to IPC</u> New Section 326B has been added which penalizes voluntarily throwing or attempting to throw acid.</p> <p><u>Change as compared to JVC</u> - Changes in drafting.</p> <p>“Whoever throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage <u>or deformity or burns or maiming or disfigurement or disability or grievous hurt to that</u></p>

				<p>person”</p> <p>Note: Its gender neutral for both the perpetrator and the victim.</p>
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354	<p>Assault or Criminal Force to Woman with intent to outrage her modesty.</p> <p>Note: This section is gender neutral with respect to perpetrator, however there has been no case law which shows that a woman has been prosecuted under this section. Therefore, it has historically been used to convict men.</p> <p>This section is</p>	<p>The <u>42nd Law Commission Report, 1971</u> recommended insertion of a new section 354A in the following terms: “354A. Indecent Assault on a minor- Whoever assaults any minor under sixteen years of age in an indecent, lascivious or obscene manner, shall be punished with imprisonment of either description for a term which may extend to three years or with fine or with both”.</p> <p>The <u>85th Law Commission Report, 1980</u> recommended a separate section to deal with Indecent Assault on a</p>	<p>New S. 354: Sexual Assault and Punishment for Sexual Assault.</p> <p>It collapsed the distinction between sections 354 and 509 and brought it within one section.</p> <p>This section included intentional non-consensual touching of a sexual nature as well as words, acts and gestures which create an unwelcome threat of a sexual nature or result in unwelcome advance. It includes display and dissemination of</p>	<p><u>Change as compared to IPC, 1860.</u></p> <p>No change in the substantial section. The punishment was enhanced as discussed below.</p> <p><u>Change as compared to JVC, 2013.</u></p> <p>JVC was not accepted. Retained section 354 as provided in the IPC.</p>

gendered with respect to the victim, being a woman.

minor:
Section 354A Indecent Assault on a minor- whoever assaults any minor under sixteen years of age in an indecent, lascivious or obscene manner, shall be punished with imprisonment of either description for a term which may extend to three years or with a fine or with both.
The 156th Law Commission Recommendation 1997:
Section 354. Assault or criminal force to woman with intent to outrage her modesty- whoever assaults or uses criminal force to any woman, intending to outrage her modesty or to commit sexual assault to her or knowing it to be likely that he will thereby outrage her modesty or commit sexual assault to her, shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to a fine.

pornographic material.

	Punishment: Imprisonment of either description up to 2 yrs. or Fine or both.		Punishment: Graded punishment- tactile offences are punishable up to 5 yrs. RI or Fine or both; non-tactile offences are Punishable up to 1yr imprisonment of either description or Fine or both.	Punishment: Imprisonment of either description for a term which shall not be less than 1yr but which may extend to 5yrs. and Fine.
Sexual Harassment	--	--	--	<p><u>Change as compared to IPC</u> New section 354A has been added which spells out the most common acts of sexual harassment as provided in Vichada and penalizes them. Specifically it penalizes the following:-</p> <ul style="list-style-type: none"> - physical contact and advances involving unwelcome and explicit sexual overtures - demand or request for sexual favours - showing pornography against the will of a woman - making sexually coloured remarks <p>Note: The section is gender specific, being male with respect to perpetrator and gender neutral</p>

with respect to victim.

Punishment: It grades the punishment where offences of unwelcome physical contact, request for sexual favours and forcefully showing pornography are punishable with RI for a term which may extend to 3 yrs. or Fine or Both.

This offence is bailable.

The offence of making sexually coloured remarks is punishable with imprisonment of either description which may extend to 1 yr. or Fine or both.

This offence is bailable.

<p>Assault or use of criminal force to women with intent to disrobe her.</p>	<p>--</p>	<p>--</p>	<p>New S. 354A: Assault or use of criminal force to women with intent to disrobe her.</p> <p>“Whoever assaults or uses criminal force or abets such act with the intention of disrobing a woman or compelling her to be naked in any public place shall be punished...”</p> <p>Punishment: Imprisonment of either description for not less than 3 yrs. which may extend to 7 yrs. and Fine.</p>	<p><u>Change as compared to IPC:</u></p> <p>New S. 354B inserted: Assault or use of criminal force to woman with intent to disrobe has been added.</p> <p><u>Change as compared to JVC</u></p> <ul style="list-style-type: none"> - Perpetrator is a man and the victim is a woman - Is a crime whether carried out in a public place <u>or private place</u> <p>Drafted as herein below:- “Any man who assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked”</p> <p>Punishment: Imprisonment of either description for not less than 3 yrs. which may extend to 7 yrs. and Fine. Retained as in JVC.</p>
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<p>Voyeurism</p>	<p>--</p>		<p>New S. 354B: Voyeurism –</p> <p>“Whoever watches a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator, or by any other person at the behest of the perpetrator”</p> <p>Punishment On first conviction, punishable with imprisonment of either description for a term which shall not be less than 1yr but may extend to 3 yrs. and Fine.</p> <p>On subsequent conviction,</p>	<p><u>Change as compared to IPC:</u></p> <p>New section on voyeurism has been added.</p> <p><u>Change as compared to JVC</u></p> <ul style="list-style-type: none"> - Substantive section includes dissemination of image - changes in the gendering of the section where the perpetrator can only be a man <p><u>Drafted as under</u> “ <u>Any man</u> who watches, or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator <u>or disseminates such image.</u>”</p> <p>Punishment [Retained as in the JVC.] On first conviction, punishable with imprisonment of either</p>
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			<p>punishable with imprisonment of either description which shall not be less than 3 yrs. but may extend to 7 yrs. and Fine.</p>	<p>description for a term which shall not be less than 1yr but may extend to 3 yrs. and Fine.</p> <p>On subsequent conviction, punishable with imprisonment of either description which shall not be less than 3 yrs.but may extend to 7 yrs. and Fine.</p>
Stalking	--	--	<p>S. 354C(1): Stalking- <u>“Whoever follows a person and contacts, or attempts to contact such person to foster personal interaction repeatedly, despite a clear indication of disinterest by such person, or whoever monitors the use by a person of the internet, email or any other form of electronic communication, or watches or spies on a person in a manner that results in a fear of violence or serious alarm or distress in the mind of such</u></p>	<p><u>Change as compared to IPC:</u></p> <p>New section on stalking has been added.</p> <p><u>Change as compared to JVC</u></p> <ul style="list-style-type: none"> - Does not include spying on a person - Changes in gendering of the section, where perpetrator can only be a man and victim can only be a woman - Changes in the punishment <p>Drafted as herein:-</p>

person,
Or interferes with the mental
peace of such person,
commits the offence of
stalking.”

Punishment: imprisonment
of either description for a
term which shall not be less
than **1 year** but which may
extend **to 3 years** and Fine.
The offence is non-bailable.

“1. Any man who—

- I. 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
- ii. monitors the use by a
woman of the internet,
email or any other form
of electronic
communication,
commits the offence of
stalking”

Punishment:

On first conviction- Imprisonment
of either description up to 3 years
and Fine. No minimum sentence
provided.
This offence is bailable.

On subsequent conviction,
Imprisonment of either
description up to 5 years and
Fine. No minimum sentence

				provided. This offence is non-bailable.
370	Buying or disposing of any person as a slave/ Trafficking	<p>The <u>146th Law Commission Report, 1993</u> recommended the insertion of a new section 373A criminalising selling a woman or a minor in the following terms: “373A: Selling a woman or a minor etc.</p> <ol style="list-style-type: none"> 1) Whoever in case not falling under section 372 or section 370 a) Sells , lets to hire or otherwise disposes of for consideration, any person under the age of eighteen years or any woman of any age , or b) Buys, hires or otherwise obtains for consideration the possession of any such 	<p>Replaced with Trafficking – Recruiting, transporting, harboring, transferring or receiving person by means of threat, coercion, and abduction, and deception, abuse of power or inducement for the purpose of exploitation is trafficking.</p> <p>Explanation 1: Exploitation includes prostitution, other sexual exploitation, forced labour, slavery, servitude, removal of organs.</p> <p>Explanation 2: Consent of the</p>	<p><u>Change as compared to IPC</u> This section has been replaced with a section on trafficking.</p> <p><u>Change as compared to the JVC</u> The substantial section remains the same. There are changes in the Explanation and punishment section as follows:-</p> <p>Explanation 1: The word prostitution has been removed, further forced labour has been removed. Both these terms have been replaced by physical exploitation.</p> <p>Explanation 2: Consent of the victim is immaterial to the</p>

		<p>person or any woman, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to a fine.</p> <p>2) The provisions of this section apply in relation to a person of unsound mind as they apply in relation to a person under the age of eighteen years</p> <p>Explanation: Nothing in this section shall apply in relation to the hiring of services of any person.</p>	<p>victim is immaterial to the offence.</p>	<p>offence.</p> <p>Note: Both victim and perpetrator are gender neutral,</p>
	<p>Punishment: Imprisonment of either description for a term which may extend to 7 yrs. and Fine.</p>	<p>--</p>	<p>Punishment: RI for a term which shall not be less than 7 yrs. but may extend to 10 yrs. and Fine.</p> <p>Where two or more persons are trafficked: RI for a term which shall not be less than 10 yrs. but may extend to life imprisonment, with Fine.</p> <p>Where a minor is trafficked: RI for a term which shall not be less than 10 yrs. but may</p>	<p>Punishment: RI for 7 yrs. to 10 yrs. and Fine.</p> <p>Where two or more persons are trafficked: RI for a term which shall not be less than 10 yrs. but may extend to life imprisonment, with Fine.</p> <p>Where a minor is trafficked: RI for a term which shall not be less</p>

			<p>extend to life imprisonment, with Fine.</p> <p>Where two or more minors are trafficked: RI for a term which shall not be less than 14 yrs. but may extend to life imprisonment.</p> <p>Repeated trafficking of minors: Imprisonment for life, without parole.</p> <p>Where police officer or public servant is involved in trafficking <u>of minor</u>: Imprisonment for life, without parole.</p>	<p>than 10 yrs. but may extend to life imprisonment, with Fine.</p> <p>Where two or more minors are trafficked: RI for a term which shall not be less than 14 yrs. but may extend to life imprisonment <u>and Fine.</u></p> <p>Repeated trafficking of minors: Imprisonment for life, without parole <u>and Fine.</u></p> <p>Where police officer or public servant is involved in trafficking of <u>any person</u>: Imprisonment for life, without parole <u>and Fine.</u></p>
Employing of a trafficked person	--	--	<p>S. 370A: Employing of a trafficked person -</p> <p>Ss.(1)Knowingly employing a trafficked child in any form of</p>	<p><u>Change as compared to IPC:</u></p> <p>New S. 370A : Employing of a trafficked person- has been introduced.</p> <p><u>Change as compared to JVC</u></p> <p>There are changes in the substantial section. There are no changes in the gendering or the punishment section</p>

			<p>labour.</p> <p>Punishment: RI for a term which shall not be less than 5 yrs. but may extend to 7 yrs. and Fine.</p> <p>Ss.(2) Knowingly employing a trafficked adult in any form of labour.</p> <p>Punishment: RI for a term which shall not be less than 3 yrs. but may extend to 5 yrs. and Fine</p>	<p>Ss. (1) Knowingly sexually exploiting trafficked child</p> <p>Punishment: RI for a term which shall not be less than 5 yrs. but may extend to 7 yrs. and Fine.</p> <p>Ss.(2) Knowingly sexually exploiting a trafficked person.</p> <p>Punishment: RI for a term which shall not be less than 3 yrs. but may extend to 5 yrs. and Fine</p> <p>Note: Both victim and perpetrator are gender neutral.</p>
375 Rape	Rape	S. 375. Sexual Assault <u>172nd Law Commission Recommendation, 2000,</u> recommended that Rape be substituted with sexual assault	Rape	Rape: Old Section 375 of IPC, 1860 substituted with new Section.
	Perpetrator is male and victim is female	The <u>42nd Law Commission Report</u> : Perpetrator is male and Victim is female. The <u>85th Law Commission</u>	Perpetrator is male and victim is gender neutral	Perpetrator is male and victim is female.

		<p><u>Recommendation, 1980</u> the perpetrator was male and the victim female</p>		
	<p>Limited to penile vaginal penetration as determined by case laws. The statute merely says that penetration is sufficient to constitute sexual intercourse and does not specify the kinds of penetration it covers.</p>	<p>The <u>42nd Law Commission Report</u> : penetration is sufficient to constitute sexual intercourse necessary to the offence of rape.</p> <p>The <u>85th Law Commission Report</u>: penetration is sufficient to constitute sexual intercourse necessary to the offence of rape.</p> <p><u>172nd Law Commission Recommendation, 2000</u>, expanded the kinds of penetration as below :- (a) penetrating the vagina (which term shall include the labia majora), the anus or urethra of any person with - i) any part of the body of another person or ii) an object manipulated by another person except where such penetration is carried out for proper hygienic or medical purposes;</p> <p>(c) introducing any part of</p>	<p>Ss. (a) penetrates the vagina or anus or urethra of a person with— (i) any part of his body including his penis or, (ii) any object manipulated by him, except where such penetration is carried out for proper hygienic or medical purposes; or,</p>	<p>Ss.(a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or Ss. (b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or</p> <p>Change as compared to JVC- Penetration by object or any other body part into <u>mouth deleted.</u></p>

		the penis of a person into the mouth of another person;		
--		Ss. (b) manipulating any part of the body of another person so as to cause penetration of the vagina (which term shall include the labia majora), the anus or the urethra of the offender by any part of the other person's body;	Ss. (b) "manipulates any part of the body of a person so as to cause penetration of the vagina or anus or urethra of another person"	Ss. (c) "manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person" - No change
--		(d) engaging in cunnilingus or fellatio; or	Ss. (c) Engages in cunnilingus or fellatio.	New Ss (d) - applies his mouth to the vagina, urethra, and anus of a woman or makes her to do so to him or any other person.
--		(e) continuing sexual assault as defined in clauses(a) to (d) above	--	--
--			Exception for medical or hygienic purpose made only for penetration by object.	Exception for medical procedures or interventions only. <u>Hygienic purpose deleted.</u>

				“Exception I.—A medical procedure or intervention shall not constitute rape.”
<i>Firstly</i> Against her will.	<p>The <i>42nd Law Commission Report</i> : Firstly, Against her will</p> <p>The <i>85th Law Commission Recommendation 1980</i>: Firstly, Against her will</p> <p>The 172nd Law Commission Recommendation, 2000, <i>First-</i> Against the other person's will.</p> <p>.</p>	<i>Firstly</i> Against the person’s will.	<i>Firstly</i> Against her will.	
<i>Secondly</i> Without her consent.	<p>The <i>42nd Law Commission Report</i>: Secondly, without her consent.</p> <p>The <i>85th Law Commission Recommendation 1980</i>: <i>Secondly: without her free and voluntary consent.</i></p> <p>The 172nd Law Commission Recommendation, 2000: <i>Secondly-</i> Without the other person's consent.</p>	<i>Secondly</i> Without the person’s consent.	<i>Secondly</i> Without her consent.	

	<p><i>Thirdly</i> With consent, where consent is obtained by putting her or any other person in fear of hurt or death.</p>	<p>The <u>42nd Law Commission Report</u> : with her consent when it has been obtained by putting her in fear of death or of hurt, either to herself or to anyone else present at the place.</p> <p>The <u>85th Law Commission Recommendation, 1980:</u> <i>Thirdly:</i> With her consent when her consent has been obtained by putting her in fear of death or of hurt or of any injury either to herself or to any other person or by criminal intimidation as defined in Section 503</p> <p>The <u>156th Law Commission Recommendation 1997:</u> Thirdly- with her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or</p>	<p><i>Thirdly</i> With consent, where consent is obtained by putting the person or any other person in fear of hurt or death.</p>	<p><i>Thirdly</i> With consent, where consent is obtained by putting her or any other person in fear of hurt or death.</p>

		<p>of hurt, <u>or of any other injury.</u></p> <p>The <i>172nd Law Commission Recommendation, 2000:</i> <i>Thirdly-</i> With the other person's consent when such consent has been obtained by putting such other person or any person in whom such other person is interested, in fear of death or hurt.</p>		
	<p><i>Fourthly</i> - rape committed by accused by impersonation of husband</p>	<p>The <i>42nd Law Commission Report:</i> fourthly, with her consent, knowing that it is given in the believe that he is her husband.</p> <p>The <i>172nd Law Commission Recommendation, 2000</i> <i>Fourthly-</i> Where the other person is a female, withher consent, when the man knows that he is not the husbandof such other person and that her consent is given because she believes that the offender is another man to whom sheis or believes herself to be lawfully married</p>	<p><i>Fourthly</i> amended. Rape committed by impersonation expanded to include impersonation by accused of anyone to whom the complainant would have consented.</p>	<p><i>Fourthly</i> - rape committed by accused by impersonation of husband.</p>

	<p><i>Fifthly</i> Where consent is given by reason of unsoundness of mind or intoxication.</p>	<p><u>85th Law Commission Recommendation 1980 :</u> <i>Fifthly</i>-with her consent, if the consent is given by a woman who from unsoundness of mind or intoxication or by reason of the consumption or administration of any stupefying or unwholesome substance is unable to understand the nature and consequences of that to which she gives consent or is unable to offer effective resistance.</p> <p><u>172nd Law Commission Recommendation, 2000:</u> <i>Fifthly</i> With the consent of the other person, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by the offender personally or through another of any stupefying or unwholesome substance, the other person is</p>	<p><i>Fifthly</i> Where consent is given by reason of unsoundness of mind or intoxication.</p>	<p><i>Fifthly</i> Where consent is given by reason of unsoundness of mind or intoxication.</p>
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		<p>Unable to understand the nature and consequences of that to which such other person gives consent.</p>		
	<p><i>Sixthly</i> - the age of consent is sixteen.</p>	<p>The <u>42nd Law Commission Report</u>: Age of consent is 16 years. Sex with a girl under 16 but not less than 12 years is punishable with imprisonment up to seven years and fine.</p> <p><u>The 85th Law Commission Recommendation 1980</u>: <i>Sixthly</i>- with or without her consent when she is less than eighteen years of age.</p> <p><u>The 172nd Law Commission Recommendation, 2000</u>: <i>Sixthly</i>- With or without the other person's consent, when such other person is under sixteen years of age.</p>	<p>Deleted age of consent from the definition of rape, and introduced a new section on underage rape.</p>	<p><i>Sixthly</i>- With or without the other person's consent, when such other person is under 18 years of age</p> <p><u>Change as compared to JVC</u> Amended to increase the age of consent to eighteen years.</p>

	--	--	Introduced new <i>sixthly</i> for cases where the person is unable to communicate consent, expressly or impliedly.	<i>Seventhly</i> for cases where woman is unable to communicate consent.
	Marital Rape Exemption retained, wife not being under fifteen years of age	<p>The <i>42nd Law Commission Report</i> : Insertion of Section 376A , criminalising sexual intercourse with a child wife: "Whoever, has sexual intercourse with his wife, the wife being under fifteen years of age shall be punished</p> <ul style="list-style-type: none"> a) If she is under twelve years of age with rigorous imprisonment for a term which may extend to seven years and shall also be liable to fine and b) In any other case, with imprisonment of either description for a term which may extend to two years or with fine or with both." <p><i>85th Law Commission Report, 1980</i> exception: Sexual intercourse by a man with his own wife, the wife</p>	Marital rape exemption deleted "Explanation III: Consent will not be presumed in the event of an existing marital relationship between the complainant and the accused."	Marital Rape Exemption retained, wife not being under <u>fifteen years of age</u> . [Thus, reduced age of consent for wives to 15, while for unmarried girls it's 18.] [There is an anomaly in this provision as POCSO states that any sexual intercourse between minors is illegal and does not make an exception for married couples.]

		<p>not being <u>under eighteen years of age</u> is not rape.</p> <p>The <i>172nd Law Commission Recommendation, 2000:</i> Exception: Sexual intercourse by a man with his own wife, the wife not being <u>under sixteen years</u> of age, is not sexual assault."</p>		
--	--	--	<p>Positive definition for consent to mean unequivocal voluntary agreement, introduced.</p> <p>"Explanation IV. - Consent means an unequivocal voluntary agreement when the person by words, gestures or any form of non-verbal communication, communicates Willingness to participate in the specific act."</p>	<p>Positive definition for consent to mean unequivocal voluntary agreement, retained as in the JVC.</p> <p>"Explanation II. - Consent means an unequivocal voluntary agreement when the person by words, gestures or any form of non-verbal communication, communicates Willingness to participate in the specific act."</p>
--			<p>Proviso: lack of physical resistance will not amount to consent.</p>	<p>Proviso: Lack of physical resistance will not amount to consent. Retained as in the JVC.</p>

			“Provided that, a person who does not offer actual physical resistance to the act of penetration is not by reason only of that fact, to be regarded as consenting to the sexual activity”	“Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.”
376(1) Punishment for Rape/Sexual Assault	Imprisonment of either description for a term which may not be less than 7 yrs. but may extend to life or for a term which may extend to 10 yrs. and Fine.	The <u>42nd Law Commission Report</u> : imprisonment for a term which may extend to fourteen years and also be liable to a fine. The <u>172nd Law Commission Recommendation, 2000</u> Imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine	RI for a term which shall not be less than 7 yrs. but which may extend to life and compensation for medical expenses.	Imprisonment of RI of description which shall not be less than 7 yrs. but which may extend to life and Fine.
	Punishment for marital sex when wife is 12-15 yrs. of age: Imprisonment which may extend to 2 yrs. or Fine or both.	The <u>42nd Law Commission Report</u> : Punishment for marital sexual assault when wife is under 12 years of age is RI for 7 years and a fine, When the wife is between the	Recognised marital rape by deleting marital rape exemption.	Punishment for marital sex when wife is under 15 yrs. will be covered by S. 376. Lower punishment for marital sexual intercourse between 15 and 18 deleted.

	<p>Age of consent is 16, however marital sex when wife is between 15 yrs. and 16 yrs. of age is not rape, as per the exception to s. 375.</p>	<p>ages of 12 to 15, RI for two years and a fine.</p> <p><u>The 172nd Law Commission Recommendation, 2000</u></p> <p>Punishment for marital sexual assault when wife is below the age of 16: Imprisonment of either description for a term which may extend to three years and shall also be liable to fine.</p>	<p>Age of consent is 16 and thus marital sex with wife of 16-18 yrs. is not punishable.</p> <p>Punishment for marital sex when wife is 16 yrs. of age or below has been given under s.376B under underage rape where no distinction has been made between married and unmarried women.</p>	
<p>376(2) Punishment for aggravated sexual assault</p>	<p>Ss. (a) Rape by police officer of a woman. Whoever,— a. being a police officer, commits rape— i. within the limits of the police station to which he is appointed; or ii. in the premises of any station house whether or not situated in the police station to which he is appointed; or iii. on a woman in his custody or in the</p>	<p><u>The 172nd Law Commission Recommendation, 2000</u></p> <p>Ss. (a) Whoever,- (a) being a police officer commits sexual assault- (i) within the limits of the police station to which he is appointed; or (ii) in the premises of any station house whether or not situated in the police station to which he is appointed; or</p>	<p>Ss. (a) Rape by Police Officer - (2) Whoever,— (a) being a police officer, whether on duty or otherwise, commits rape — (i) within the limits of the police station to which such police officer is appointed; or, (ii) in the premises of any station house; or, (iii) on a person in such police officer's custody, or in the custody of a police officer subordinate to such police officer; or,</p> <p><u>Comment</u></p>	<p>Ss. (a) Rape by police officer Whoever,— a. being a police officer, commits rape— i. within the limits of the police station to which such police officer is appointed; or ii. in the premises of any station house; or iii. on a woman in such police officer's custody or in the custody of a police officer subordinate to such police officer; or</p> <p><u>Comment</u> Retained as in the IPC. Did not</p>

	custody of a police officer subordinate to such police officer; or	(iii) on a person in his custody or in the custody of a police officer subordinate to him; or	Amended it to include situations when the police officer is not on duty provided other conditions are met such as rape being committed within the premises of the police station or station house et al.	accept JVC recommendation.
--	--	--	Ss. (b) being a member of the armed forces is in the area by virtue of deployment by the Central or a State government, and commits rape, Comment Rape by armed forces introduced.	Ss. (c) being a member of the armed forces deployed in an area by the Central or a State Government commits rape in such area
	Ss. (b) being a public servant, takes advantage of his official position and commits rape on a woman in his custody as such public servant or in the custody of a public servant subordinate to him;	<u>The 172nd Law Commission Recommendation, 2000</u> Ss.(b) being a public servant, takes advantage of his official position and commits sexual assault on a person in his custody as such public servant or in the custody of a public servant subordinate to him; or Comment - Sexual assault instead of rape	Ss. (c) being a public servant, commits rape of a person in his custody or in the custody of a public servant	Ss. (b) being a public servant, commits rape on a woman in such public servant's custody or in the custody of a public servant subordinate to such public servant;

		- Perpetrator and victim are gender neutral		
Ss. (c) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution takes advantage of his official position and commits rape on any inmate of such jail, remand home, place or institution	The <u>172nd Law Commission Recommendation, 2000</u> (c) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of women's or children's institution takes advantage of his official position and commits sexual assault on any inmate of such jail, remand home, place or institution; or	Ss. (d) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits rape on any inmate of such jail, remand home, place or institution; <u>Comment</u> Retained the IPC section.	Ss. (d) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits rape on any inmate of such jail, remand home, place or institution. <u>Comment</u> Retained the IPC section.	
Ss. (d) being on the management or on the staff of a hospital, takes advantage of his official position and commits rape on a woman in that hospital;	The <u>172nd Law Commission Recommendation, 2000</u> Ss. (d) being on the management or on the staff of a hospital, takes advantage of his official	Ss. (e) being on the management or on the staff of a hospital, commits rape on a patient in That hospital.	Ss. (e) being on the management or on the staff of a hospital, commits rape on woman in the hospital. <u>Comment</u> The victim need not be a patient in the hospital	

		position and commits sexual assault on a person in that hospital		
--	--	--	Ss. (g) being a relative, guardian or teacher of, or a person in a position of trust or authority towards the person assaulted, commits rape	Ss. (f) being a relative, guardian or teacher of, or a person in a position of trust or authority towards the person commits rape Comment - retained as in JVC with minor changes
--			--	<u>New Ss. (g) Rape during communal or sectarian violence</u>
Ss.(e) commits rape on a woman knowing her to be pregnant	The <u>172nd Law Commission Recommendation, 2000</u> Ss. (e) commits sexual assault on a woman knowing her to be pregnant	Ss.(f) commits rape on a woman knowing her to be pregnant Comment -Retained as in IPC	(h) commits rape on a woman knowing her to be pregnant Comment -Retained as in IPC	

	Ss. (f) Rape of woman when she is under 12 yrs. of age.	The <u>172nd Law Commission Recommendation, 2000</u> Ss. (f) commits sexual assault on a person when such person is under sixteen years of age; or	Removed underage rape from S.376 (2).Introduced new section S. 376B.	(i) Rape of women when the woman is under sixteen years of age. Thus, between 16 to 18, it will be considered rape, while below 16 it will be considered aggravated rape.
	Ss.(g) Commits gang rape	The <u>172nd Law Commission Recommendation, 2000</u> Ss.(g) Commits gang sexual assault	New S. 376C: Gang rape. Removed gang rape from S. 376(2).	New S. 376D: Gang rape. Removed gang rape from S. 376(2) of IPC, 1860.
	--	--	New Ss. (h) Rape on person incapable of consenting due to fear of death or hurt; intoxication or unsoundness of mind; or someone who is unable to communicate.	Ss. (j) Rape on woman incapable of giving consent.
	--	--	--	Ss. (k) Rape by person in position of <u>control or dominance</u> .
	--	--	No separate section on disabilities. However, it is covered in ss. (h).	Ss. (l) Rape on woman suffering from mental or physical disability.

	--	--	Ss. (i) Rape which causes grievous harm or disfiguring or maiming or endangering the life of the person.	Ss. (m) Rape which causes grievous harm or disfiguring or maiming or endangering the life of the woman.
	--	--	Ss. (j) Persistent Rape.	Ss. (n) Repeated Rape.
	Punishment: RI for a term which shall not be less than 10 yrs. but may extend to life and Fine. Provided that courts may for adequate reasons impose a lesser sentence of either description for a term of less than ten years.	Punishment: RI for a term which shall not be less than 10 yrs. but may extend to life and Fine. Provided that courts may for adequate reasons impose a lesser sentence of either description for a term of less than ten years.	Punishment: RI for a term which shall not be less than 10 yrs. but may extend to life and Compensation for medical expenses of victim. Court's discretion to impose a reduced sentence deleted.	Punishment: RI for a term which shall not be less than 10 yrs. but may extend to life, which shall mean <u>imprisonment for the remainder of that person's natural life</u> and Fine. Comment- Court's discretion deleted.
Punishment for causing death or persistent vegetative state due to rape or sexual assault.	--	--	New S. 376(3) Rape resulting in vegetative state or causing death.	Section 376A: Rape resulting in vegetative state or causing death.
	--	--	Punishment: RI for 20 yrs. to life, without parole.	Punishment: RI for 20 yrs. to life, without parole or death penalty.

Rape/ Sexual Assault /Non- consensual intercourse by a husband upon his wife during separation	S. 376A Rape by a husband or wife during separation.	The <u>172nd Law Commission Recommendation 2000</u> :S. 376A Sexual assault by the husband upon his wife duringseparation	Deleted	S. 376B Sexual intercourse without consent by husband upon his wife “Whoever has sexual intercourse with his own wife, who is living separately, whether under a decree of separation or otherwise, without her consent,” <u>Comment</u> Amended provision- Introduced de facto separation. Removed custom or usage.
on	Punishment: Imprisonment of either description which may extend to 2 yrs. and Fine.	Punishment: imprisonment of either description for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine.	--	Punishment: imprisonment of either description for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine.
Sexual Intercourse by a person in Authority.	S. 376B Intercourse by a Public Servant with a Woman in his custody. Whoever, being a public servant, takes advantage of his/her official position and induces or seduces any person, who is in his/her custody as such	The <u>42nd Law Commission Recommendation, 1971</u> : “376C: whoever being a public servant compels or seduces to illicit intercourse any woman who is in his custody as such public servant shall be punished with imprisonment for either description for a term which	S. 376A Intercourse by a person in authority, public servant etc.	S.376C Sexual Intercourse by a Person in Authority.

<p>public servant or in the custody of a public servant subordinate to him, to have sexual intercourse with him/her, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which shall not be less than five years and shall also be liable to fine.</p>	<p>may extend to two years or with fine or with both.” <u>172nd Law Commission Recommendation 2000</u>:S. 376B Sexual intercourse by public servant with person in his custody.- Whoever, being a public servant, takes advantage of his/her official position and induces or seduces any person, who is in his/her custody as such public servant or in the custody of a public servant subordinate to him, to have sexual intercourse with him/her, such sexual intercourse not amounting to the offence of sexual assault, shall be punished with imprisonment of either description for a term which shall not be less than five years and which may extend to ten years and shall also be liable to fine.</p>			
<p>--</p>	<p>--</p>	<p>Ss. (a) Persons in position of authority or in a fiduciary relationship.</p>	<p>Ss. (a) Persons in position of authority or in a fiduciary relationship.</p>	<p>Ss. (a) Persons in position of authority or in a fiduciary relationship.</p>

			Ss. (b) Public servant.	Ss. (b) Public servant.
--			Ss. (c) Superintendent or manager of jail, remand home or other place of custody established by law, or women's and children's institution, Observation homes, beggar homes, or any institution for the reception and care of women or children.	Ss. (c) Superintendent or manager of jail, remand home or other place of custody established by law, or women's and children's institution.
			Ss. (d) Management or staff of a hospital.	Ss. (d) Management or staff of a hospital.
			Situations which will be considered punishable - "abuses such position or fiduciary relationship to induce any person in their custody to have sexual intercourse with them"	Situations which will be considered punishable - "abuses such position or fiduciary relationship to induce or seduce any woman either in his custody or under his charge or present in the premises to have sexual intercourse with him"

	Punishment: Imprisonment up to 5 yrs. and Fine.	Punishment: Imprisonment up to 5 yrs. and Fine.	Punishment: RI for a term not less than 5 yrs. which may extend to 10 yrs. and Fine.	Punishment: Imprisonment of either description for a term which shall not be less than 5 yrs. but may extend to 10 yrs. and Fine.
Rape of an underage Person	S. 375 <i>Sixthly</i> Rape of a woman with or without her consent when she is less than sixteen years of age.	<u>172nd Law Commission Recommendation 2000:</u> S. 375 <i>Sixthly</i> Sexual Assault of a person with or without the consent when the person is less than sixteen years of age.	New S. 376B (1) Rape of an underage person- If a man has sexual intercourse with a person below sixteen years of age with or without that person's consent. Punishment: RI for 10 yrs. to life.	S. 375 <i>Sixthly</i> Rape on a woman with or without the woman's consent when she is less than eighteen years of age. <u>Comment</u> Age of consent increased to 18.
Punishment for causing death or persistent vegetative state in the course of committing rape of an underage person	--	--	New S. 376B (2) Whoever commits an offence under S. 376B (1) and thus inflicts such injury that it leads to persistent vegetative state or death. Punishment: RI for 20 yrs. to life, without parole.	--

<p>Intercourse by superintendent of jail, remand home etc.</p>	<p>Section 376C</p>	<p>The <u>42nd Law Commission Recommendation, 1971:</u></p> <p>“376D: Whoever being the superintendent or manager of a woman’s or children’s institution or holding any other office in such institution by virtue of which he can exercise any authority or control over its inmates compels or seduces to illicit sexual intercourse any female inmate of the institution shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both.”</p> <p><u>172nd Law Commission Recommendation 2000:</u>Section 376C</p> <p>Comment Substantive section remains the same, change- sexual assault in place of rape; gender neutral</p>	<p>Deleted Section 376C, as included in Section 376(2)(c).</p>	<p>Deleted Section 376C, as included in Section 376(2).</p>
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Intercourse by member of management of staff of hospital	Section 376D	<p><u>172nd Law Commission Recommendation 2000:</u>Section 376D</p> <p>Comment Substantive section remains the same, change- sexual assault in place of rape; gender neutral</p>	Deleted Section 376D, as already included in S. 376.	Deleted Section 376D, as already included in S. 376.
Gang rape	S. 376(2)(g)	S. 376(2)(g)	New S. 376C.	New Section 376D
	--		Gang Rape	Gang rape
	--		<p>Punishment: RI for a term which shall not be less than 20 yrs.but which may extend to life and compensation for medical expenses.</p>	<p>Punishment: RI for a term which shall not be less than 20 yrs. but which may extend to life without <u>parole</u> and fine.</p> <p>The fine will be just and reasonable to meet medical expenses and rehabilitation expenses. Any fine imposed under this section will be paid to the victim.</p> <p><u>Comment</u></p> <p>Compensation as introduced in the JVC replaced by fine.</p>

Gang rape causing death or persistent vegetative state	--	--	New S. 376D. Gang Rape followed by death of a persistent vegetative state. Punishment: Life without parole	--
Punishment for repeat offenders	--	--	New S. 376E. Punishment for Repeat Offenders.	New S. 376E. Punishment for Repeat Offenders. – Includes offences committed under Sections 376, 376A and 376D. <u>Thus, Section 376B, Section 376C removed from the ambit of repeat offences.</u> [Therefore sexual intercourse without consent by husband on his wife, and sexual intercourse not amounting to rape by a person in a position of authority not included within the ambit of this section.]
	--		Punishment: Life without parole.	Punishment: Life without parole or death penalty.

<p>376E. Unlawful sexual contact</p>	<p>---</p>	<p>The <u>42nd Law Commission Recommendation, 1971</u>:S. 376E: Whoever, being concerned with the management of a hospital or being on the staff of a hospital has illicit sexual intercourse with a woman who is receiving treatment for a mental disorder in that hospital shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both. “</p> <p><u>172nd Law Commission Recommendation 2000</u>: Section 376E - 376E.</p> <p>Unlawful sexual contact (1) Whoever, with sexual intent, touches, directly or indirectly, with a part of the body or with an object, any part of the body of another person, not being the spouse of such person,</p>	<p>---</p>	<p>---</p>
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without the consent of such other person, shall be punished with simple imprisonment for a term which may extend to two years or with fine or with both.

(2) Whoever, with sexual intent, invites, counsels or incites a young person to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites, or touches, with sexual intent, directly or indirectly, with a part of the body or with an object any part of the body of a young person, shall be punished with imprisonment of either description which may extend to three years and shall also be liable to fine.

(3) Whoever being in a position of trust or authority towards a young person or is a person with whom the young person is in a relationship of dependency, touches, directly or indirectly, with sexual intent, with a part of the body or with an object, any part of the body of such young person, shall be punished with imprisonment of either description which may extend to seven years and shall also be liable to fine.

Explanation: "Young person" in this sub-section and sub-section (2) means a person below the age of sixteen Years."

Breach of Command Responsibility	--	--	<p>New S. 376F Public servant in command, control or supervision of police or armed forces or assuming control lawfully or otherwise and unable to prevent sexual offences committed by persons who are under his or her supervision, command or control.</p> <p>Punishment: RI for 7 yrs. to 10 yrs.</p>	--
S.509: Word Gesture or Act intended to insult the modesty of a woman	S. 509 Word, Gesture or Act intended to insult the modesty of a woman.	<p>The <i>156th Law Commission Recommendation 1997:</i> Section 509. Word, gesture or act intended to insult the modesty of a woman- whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending, that such word or sound shall be heard, or such gesture or object be seen, by such woman or intrudes upon the privacy of such woman, shall be punished with imprisonment of either description for a term which</p>	Deleted, as offences brought under new S. 354	Retained S. 509.

		may extend to three years and shall also be liable to fine.		
	Punishment: SI for a term which may extend to 1 yr. or Fine or both.	The <u>156th Law Commission Recommendation 1997:</u> Imprisonment for 3 years and /or a fine. The <u>172nd Law Commission Recommendation 2000:</u> SI for a term which may extend to 3 yrs. and Fine.	--	Punishment: SI for a term which may extend to 3 yrs. and Fine.

CODE OF CRIMINAL PROCEDURE, 1973

Section	Code of Criminal Procedure, 1973	Law Commission Recommendations	Justice Verma Committee Recommendations	Criminal Law(Amendment) Act, 2013
39(1)	Public to give information of certain offences.	---	Expanded to include newly created offences such as acid attacks.	--

40A	Duty of officers employed in connection with the affairs of a village to make certain report.	---	Made it mandatory on officers in connection with village affairs and persons connected to village panchayats to communicate information to Magistrate or police officer regarding sexual offences.	--
54A	Identification of Person arrested.	---	<p>Added a proviso stating that if a disabled person is identifying the accused, the identification will take place in a manner the person is comfortable with under the supervision of a magistrate.</p> <p>Added another proviso stating that if the person arrested is disabled, the identification will be videographer.</p>	<p><u>Change as compared to the Cr.P.C:</u> Provisos inserted in Section 54A of the Cr.P.C: "Provided that, if the person identifying the person arrested is mentally or physically disabled, such process of identification shall take place under the supervision of a Judicial Magistrate who shall take appropriate steps to ensure that such person identifies the person arrested using methods that person is comfortable with: Provided further that if the person identifying the person arrested is mentally or physically disabled, the identification process shall be video graphed."</p> <p><u>Changes as compared to the JVC:</u> Retained as in the JVC.</p>
154	Information in cognizable cases.	---	Amended proviso: In case of sexual offences, where	<p><u>Change as compared to the Cr.P.C:</u> Provisos inserted in Section 154(l) of the Cr.P.C: "Provided that if the information is given by the woman against whom an offence under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D,</p>

			<p>informant is given by the complainant woman, the information will be recorded by a female police officer and the woman will get legal assistance and the assistance of a healthcare worker and/or a women’s organization.</p> <p>Added another proviso stating that:</p> <p>1) In case the complainant is disabled the information will be recorded at a place convenient to the complainant, in the presence of a special educator or interpreter as the case maybe.</p> <p>2) The recording of information will be video graphed.</p> <p>3) The recording will be done by a judicial magistrate as per new section 164(5) (a).</p>	<p>section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:</p> <p>Provided further that—</p> <p>(a) in the event that the person against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be;</p> <p>(b) the recording of such information shall be video graphed;</p> <p>(c) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (a) of sub-section (5A) of section 164 as soon As possible.”</p> <p><u>Change as compared to the JVC:</u> Accepted the JVC with a few changes.</p>
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				<p>Amended Proviso – In case of sexual offences, where informant is given by the complainant woman, the information will be recorded by a female officer. <u>Deleted</u> the requirement of legal assistance and assistance of healthcare worker and/or a woman’s organization.</p> <p>Retained the other provisos as provided in JVC. Proviso: 1) In case the complainant is disabled the information will be recorded at a place convenient to the complainant, in the presence of a special educator or interpreter as the case maybe. 2) The recording of information will be video graphed. 3) The recording will be done by a judicial magistrate as per new section 164(5A) (a).</p>
160(1))	<p>Police Officer’s Power to require attendance of witnesses. Proviso – “no male person under the age of fifteen years or woman “will be required to attend except in his or her place of residence.</p>	<p>The <u>84th Law Commission Report 1980</u>, recommended that the proviso be amended to “no male person under the age of fifteen years or woman shall be required to attend at any place other than his or her dwelling place”</p> <p>The <u>135th Law Commission Report,1989</u> recommended that the following provision be included after this section:</p>	<p>Police Officer’s Power to require attendance of witnesses.</p> <p>Exception expanded to include male persons below the age of eighteen yrs. and above the age of sixty-five yrs., women, and physically and mentally disabled persons.</p>	<p><u>Change as compared to the Cr. P.C:</u> Amended the age limits set out in Section 160(1) as “no male person under the age of fifteen years or above the age of sixty-five years or a woman or a mentally or physically disabled person” will be required to attend except in his or her place of residence.</p> <p><u>Change as compared to the JVC:</u> Retained as in the JVC</p>

“ Where during investigation the statement of a male person under the age of fifteen years or of a woman is recoded by a male police officer, either as first information of an offence or in the course of an investigation into an offence, a relative or friend of such a male person or woman and also a person authorised by such organisation interested in the welfare of women or children as is recognised in this behalf by the state government by notification in the official gazette , shall be allowed to remain present throughout the period during which the statement is being recorded” .

The ***152nd Law Commission Report, 1994*** recommended that a second proviso be added along the following lines:
“provided that no person shall be required to attend at any place other than his or her dwelling place unless, for the reasons to be recorded in writing by the investigating officer it is

necessary to do so; and every such person shall be so summoned by an order in writing."

The ***172nd Law Commission Report, 2000***, recommended that the proviso to subsection (1) of section 160 be substituted to read as below:
"Provided that no male person under the age of 16 years or woman shall be required to attend at any place other than the place in which such male person or woman resides. While recording the statement, a relative or a friend or a social worker of the choice of the person whose statement is being recorded shall be allowed to remain present. The relative, friend or social worker so allowed to be present shall not interfere with the recording of statement in any manner whatsoever."

<p>161: Examination of witnesses by Police</p>	<p>--</p>	<p>The <u>172nd Law Commission Report, 2000</u>, recommended that the following two sub sections be inserted after Section 160 of the code: "(3) Where under this chapter, the statement of a female is to be recorded either as first information of an offence or in the course of an investigation into an offence and she is a person against whom an offence under sections 354, 375,376, 376A, 376B, 376C, 376D, 376E or 509 of the Indian Penal Code is alleged to have been committed or attempted, the statement shall be recorded by a female police officer and in case a female police officer is not available, by a female government servant available in the vicinity and in case a female government servant is also not available, by a female authorized by An organization interested in the welfare of women or children. (4) Where in any case none of the alternatives mentioned in</p>	<p>---</p>	<p>Proviso added after ss. 3: In case of sexual offences, the statement shall be recorded by a woman police officer <u>or any woman officer.</u> <u>Change as compared to the Cr.P.C:</u> Proviso inserted after 161(3): "Provided further that the statement of a woman against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted shall be recorded, By a woman police officer or any woman officer."</p>
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		sub-section (3) can be followed for the reason that no female police officer or female government servant or a female authorized by an organization interested in the welfare of women and children is available, the officer in charge of the police station shall, after recording the reasons in writing, proceed with the recording of the statement of such female victim in the Presence of a relative of the victim."		
164: Recording of confessions and statements	--	---	Amended Section 164, where it added new sections 164(5) (a) and (b) – In cases of sexual offences, a Judicial Magistrate shall record the complainant's statement as soon as it is brought to the police's notice in the manner set out in ss. (5). Provisos for assistance of special educators and interpreters in case of mentally or physically disabled complainant. Ss. (b) Statement recorded of disabled person to be used in	<u>Changes as compared to the Cr.P.C:</u> Inserted following subsection after Section 164(5): "(5A) (a) In cases punishable under section 354, section 354A, section 354B, section 354C, section 354D, sub-section (1) or sub-section (2) of section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code, the Judicial Magistrate shall record the statement of the person against whom such offence has been committed in the manner prescribed in sub-section (5), as soon as the commission of the offence is brought to the notice of the police: Provided that if the person

			<p>lieu of examination –in-chief, as specified in S. 137 of Indian Evidence Act, 1872.</p>	<p>making the statement is temporarily or permanently mentally or physically disabled, the Magistrate shall take the assistance of an interpreter or a special educator in recording the statement: Provided further that if The person making the statement is temporarily or permanently mentally or physically disabled, the statement made by the person, with the assistance of an interpreter or a special educator, shall be video graphed. (b) A statement recorded under clause (a) of a person, who is temporarily or permanently mentally or physically disabled, shall be considered a statement in lieu of examination-in-chief, as specified in section 137 of the Indian Evidence Act, 1872 such that the maker of the statement can be cross examined on such statement, without the need for recording the same at the time of trial." <i>Changes as compared to the JVC:</i> Accepted the JVC in full and brought both subsections under 164(5A)..</p>
197(1)) Prosecution of judges and public	--	<p>The <i>152nd Law Commission Report, 1994</i> recommended that an explanation be added to the section stating: “Explanation: For the avoidance of doubts, it is hereby declared that the provisions of this section do not apply to any offence</p>	<p>Amended - In case of sexual offences, sanction of the government will not be needed for prosecuting judges, magistrates or public servants.</p>	<p>In case of offences under 166A, 166B, 354, 354A, 354B, 354C, 354D, 370, 375, 376, 376A, 376C, 376D, 509, no sanction will be required for prosecuting public servants. <i>Changes as compared to the Cr.P.C:</i> Explanation inserted after Section 197(1) : "Explanation.—For the removal of doubts it is</p>

servants		committed by a judge or a public servant, being an offence against the human body, committed in respect of a person in custody, or to any other offence constituting an abuse of authority”.		hereby declared that no sanction shall be required in case of a public servant accused of any offence alleged to have been committed under section 166A, section 166B, section 354, section 354A, section 354B, section 354C, section 354D, section 370, section 375, section 376, section 376A, section 376C, section 376D or section 509 of the Indian Penal Code." <u>Changes as compared to the JVC:</u> No substantial change, minor drafting changes.
Cognizance in case of marital rape	--	<p>The <u>84th Law Commission Report, 1980</u> recommended a revision to section 198(6) that read as “No court shall take cognizance of an offence under Section 376 of the Indian Penal Code, where such offence consists of sexual intercourse by a man with his own wife... if more than a year has elapsed from the date of the commission of the offence”.</p> <p>The 172nd Law Commission Report, 2000, recommended the insertion of a new section 198B that reads as follows: "Prosecution of offences under sub-sections (2) and (3) of section 376E of the Indian Penal Code.- No court shall take cognizance</p>	New S. 198B : Cognizance in case of marital rape - No Court shall take cognizance of an offence under Section 376(1) of the Indian Penal Code where the persons are in a marital relationship, except upon a police report of the facts which constitute an offence or a complaint having been filed or made by the wife Against the accused husband.	<u>Changes as compared to the Cr.P.C:</u> New Section 198B inserted: "198B. No Court shall take cognizance of an offence punishable under section 376B of the Indian Penal Code where the persons are in a marital relationship, except upon prima facie satisfaction of the facts which constitute the offence upon a complaint having been filed or made by the wife against the husband."

		of an offence punishable under sub-sections (2) and (3) of section 376E of the Indian Penal Code (45 of 1860) except upon a police report of facts which constitute such offence or upon a complaint made by the person aggrieved by the offence or by his/her father, mother, brother, sister or by his/her father's or mother's brother or sister or, by any other person related to him/her by blood or adoption, if so permitted by the court".		
273	Evidence to be taken in presence of accused.	--	Added Proviso "Provided that where the evidence of a person below the age of eighteen years who is alleged to have been subjected to an offence punishable under Sections 354, Section 354A, Section 354B, Section 354C(2), Section 376(1), Section 376(2), Section 376A, Section 376B(1), Section 376C or Section 376F, is to be recorded, the court may take appropriate measures to ensure that such person is not confronted by the accused	<u>Changes as compared to the Cr.P.C:</u> Added a proviso before Explanation to Section 273: "Provided that where the evidence of a woman below the age of eighteen years who is alleged to have been subjected to rape or any other sexual offence, is to be recorded, the court may take appropriate measures to ensure that such woman is not confronted by the accused while at the same time ensuring the right of cross examination of the accused." <u>Changes as compared to the JVC:</u> Minor drafting changes, Retained substantially.

			while at the same time ensuring the right of cross examination of the accused	
309	<p>Power to postpone or adjourn proceedings</p> <p>Ss. (1) In every inquiry or trial, the proceedings shall be held as expeditiously as possible, and in particular, the examination of witnesses shall be continued from day to day until all the witnesses have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded.</p>	--	--	<p><i><u>Changes as compared to the Cr.P.C.:</u></i></p> <p>Ss. 1 has been amended wherein the proviso states that the inquiry of trial shall be completed within two months from <u>the date of filing of charge sheet.</u></p> <p>“Ss. (1) In every inquiry or trial, the proceedings shall be continued from day to day until all the witnesses have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded.</p> <p><i>Provided</i> that when the inquiry or trial relates to an offence under Ss’ 376 to 376D of the IPC, the inquiry of trial shall be completed within two months <u>from the date of filing of charge sheet.</u>”</p>

	<p><i>Provided</i> that when the inquiry or trial relates to an offence under Ss' 376 to 376D of the IPC, the inquiry of trial shall be completed within two months <u>from the date of commencement</u> to examination of witnesses.</p>			
327	<p>Court to be open, except in rape cases where proceedings will be conducted <i>in camera</i>.</p>	<p>The <i>84th Law Commission Report, 1980</i>, recommended an addition of a proviso to Section 327 of the Cr.P.C.1973 , “Provided further that unless the presiding judge or magistrate, for reasons to be recorded, directs otherwise, the inquiry into and trial of rape or allied offence shall be conducted in camera. Explanation- in this sub section, the expression “rape or allied offence” applies to</p> <ol style="list-style-type: none"> a) An offence punishable under section 354 or section 354A of the Indian penal Code b) An offence punishable under Section 376 , 	<p>Expanded the exceptions where the trial is conducted <i>in camera</i> to include not only rape but all sexual offences.</p>	<p><i>Changes as compared to the Cr.P.C:</i> Amended Section 327 (2) to include Section 376D and Section 376E of the Indian Penal Code”.</p>

		<p>Section 376A or Section 376B or Section 376C of that code</p> <p>c) An attempt to commit, abetment of or conspiracy to commit any such offence as is mentioned in clause (a) or (b) of this explanation.”</p> <p>They further recommended that a subsection be added to Section 327 “2) where any proceedings are held in camera, it shall not be lawful for any person to print or publish any matter in relation to any such proceeding except with the previous permission of the court.”</p>		
357	Order to pay compensation.	<p>The <u>152nd Law Commission Report, 1994</u> Recommended insertion of a new Section 357A in the code regarding compensation to victims of custodial crimes.</p> <p>“357A: 1) notwithstanding the provisions of Section 357 , where the court convicts a public servant of an offence resulting in death or bodily injury, being an offence constituted by an act of such public servant against a</p>	New Ss. 4 - The court when imposing sentence on rape or acid attack will order the convicted person to pay compensation for medical expenses of accused.	<p><u>Changes as compared to the Cr.P.C:</u> This has been introduced within IPC and further clarified in Section 357B provided below.</p> <p><u>Changes as compared to the JVC:</u> Substantially retained, introduced in Section 357B provided below.</p>

		<p>person in his custody, the provisions of this section shall apply.</p> <p>2) The court, when passing judgment in any case to which this section applies, shall order that the government in connection with the affairs of which such public servant was employed at the time when such act was committed shall be liable jointly and severally with such public servant to pay, by the way of compensation such amount as may be specified in the order.</p> <p>3) An order for payment of compensation under this section may also be made by an appellate court or by the High Court or Court of Session when exercising its powers of revision.</p> <p>4) While awarding compensation in any subsequent suit relating to the same matter, the civil court shall take into account any sum paid or recovered as compensation under this section.</p> <p>5) The amount awarded under this section shall not be less than:</p> <p>a) Rupees twenty five thousand in case of bodily injury not</p>		
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		<p>resulting in death;</p> <p>b) Rupees one lakh, in case of death;</p> <p>c) In fixing the amount of compensation under this section, the court shall, subject to the provisions of subsection (5) take into account all relevant circumstances including but not necessarily limited to the following:</p> <p>i) the type and severity of the injury suffered by the victim;</p> <p>ii) the mental anguish suffered by the victim;</p> <p>iii) the expenditure incurred or likely to be incurred on the treatment and rehabilitation of the victim;</p> <p>iv) the actual and projected earning capacity of the victim and the impact of its loss on the person entitled to compensation and other members of the family;</p> <p>v) the extent, if any, to which the victim himself contributed to the injury;</p> <p>vi) The expenses incurred in the prosecution of the case.</p> <p>6) In case of death or permanent disablement of the victim, the</p>		
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court may take into account the estimated annual income of the victim as multiplied by the number of years of his estimated span of life.

7) Pending final determination of the proceeding, the court may award, by the way of interim relief, such compensation as it may think proper in the circumstances of the case at any stage of the case, even before judgment of conviction is passed.

8) The government may recover any amount paid by it as compensation under this section wholly or partly as it may think proper from the delinquent public servant.

The ***154th Law Commission Report, 1973***, outlined a victim compensation scheme in terms of Section 357A as follows:
"Section 357A- Victim Compensation Scheme-

- 1) Every State Government in coordination with the Central Government shall prepare a Scheme for providing funds for the purpose of compensating the

victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.

- 2) Under the scheme the District Legal Services Authority at the district level and the State Legal Services Authority at the State level shall decide the quantum of compensation to be awarded whenever a recommendation is made by the trial court to that effect.
- 3) If the trial court, at the conclusion of the trial is satisfied that the compensation awarded under Section 357(3) is not adequate for such rehabilitation or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may recommend to the District Legal Services Authority if the compensation in its view is less than Rest. 30,000 or to the state Legal Service Authority if the compensation is more than Rs.30,000.
- 4) Where the offender is not

traced or identified but the victim is identified and where no trial takes place it is open to the victim or his dependents to make an application under sub section (2) to the District Legal Services Authority at the district level and the State Legal Services Authority at the State level for award of compensation

- 5) On receipt of such recommendations or on the application under sub section 4) as the case may be, the District Legal Services Authority or the State Legal Services Authority, as the case may be shall after due enquiry award adequate compensation by completing the enquiry within two months.
- 6) The District Legal Services Authority or the State Legal Services Authority, as the case may be to alleviate the suffering of the victim may order immediate first aid facility or for medical benefits to be made available free of cost on the certificate of the police officer not

		below the rank of the Officer in Charge of the police station or a Magistrate of the area concerned or any other interim relief as the appropriate authority deems fit.”		
357B	--	--	--	<i>Changes as compared to the Cr.P.C:</i> New Section added: “357B - Compensation to be in addition to fine paid under S. 326A or S. 376D of IPC. Compensation payable by state government will be in addition to fine paid by accused to victim under S. 326A or 376D (acid attack and gang rape respectively).”
357C	--	--	--	<i>Changes as compared to the Cr.P.C:</i> New section added: “S. 357C Treatment of victims All hospitals whether public or private will provide first aid immediately and free of cost to victims of acid attack and rape (326A, 376, 376A, 376B, 376C, 376D, 376E)”

INDIAN EVIDENCE ACT, 1872

SECTION	INDIAN EVIDENCE ACT, 1872	LAW COMMISSION RECOMMENDATIONS	J. VERMA COMMITTEE RECOMMENDATIONS	CRIMINAL LAW (AMENDMENT)ACT, 2013
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<p>S. 53A Eviden ce of charac ter of previo us sexual experi ence not releva nt in certain cases</p>	<p>--</p>	<p><u>The 84th Report of the Law Commission, 1980</u> had recommended the addition of a new section, section 53A:- "53A. In a prosecution for rape or attempt to commit rape, where the question of consent to sexual intercourse or attempted sexual intercourse is at issue, evidence of the character of the prosecutrix or of her previous sexual experience with any person other than the accused shall not be relevant on the issue of such consent or the quality of consent." The <u>172nd Law Commission, 2000</u> Recommended the Insertion of new Section 53A : "In a prosecution for an offence under Section 376, 376A, 376B, 376C, 376D or 376E or for attempt to commit any such offence, <u>where the question of consent is in issue</u>, evidence of the character of the victim or of his/her previous sexual experience with any person shall not be relevant on the issue of such consent or the quality of</p>	<p>New S. 53A: In a prosecution for an offence under Section 354, Section 354A, Section 354B, Section 354C, Section 376(1), Section 376(2), Section 376A, Section 376B(1) or Section 376C of the Indian Penal Code or for attempt to commit any such offence, evidence of the character of the victim or of his or her previous sexual experience with any person shall not be relevant</p>	<p>Change as compared to Indian Evidence Act, New Section 53A: In a prosecution for an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code or for attempt to commit any such offence, <u>where the question of consent is in issue</u>, evidence of the character of the victim or of such person's previous sexual experience with any person shall not be relevant on the issue of such consent or the quality of consent. <u>Comment</u> Introduced as in the 172nd Law Commission Report.</p>
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		consent.”		
114A	Presumption as to absence of consent in certain cases of rape.	<p>The <u>172nd Law Commission,2000</u> Recommended to make it gender neutral:</p> <p>114A. Presumption as to absence of consent in certain prosecutions for sexual assault.- In a prosecution for sexual assault under (a) or clause (b) or clause (c) or clause (d) or clause (e) or clause (g) of sub-section (2) of section 376 of the Indian Penal Code (45 of 1860) where sexual intercourse by the accused is proved and the question is whether it was without the consent of the other person alleged to have been sexually assaulted and such other person states in his/her evidence before the court that he/she did not consent, the court shall presume that he/she did not consent.</p>	Amended to include newly introduced sections on rape. Added <i>explanation</i> of the meaning of “sexual intercourse”.	<p><u>Change as compared to Indian Evidence Act:</u> Amended to include newly introduced sections on rape. Added <i>explanation</i> of the meaning of “sexual intercourse”.</p> <p>'114A. In a prosecution for rape under clause (a), clause (b), clause (c), clause (d), clause (e), clause (f), clause (g), clause (h), clause (i), clause (j), clause (k), clause (l), clause (m) or clause (n) of sub-section (2) of section 376 of the Indian Penal Code, where sexual intercourse by the accused is proved and the question is whether it was without the consent of the woman alleged to have been raped and such woman states in her evidence before the court that she did not consent, the court shall presume That she did not consent.</p> <p>Explanation.— In this section, "sexual intercourse" shall mean any of the acts Mentioned in clauses (a) to (d) of section 375 of the Indian Penal Code.'</p>

		<p>Explanation: "Sexual intercourse" in this section And sections 376C and 376D shall mean any of the acts mentioned in clauses (a) to (e) of section375. Explanation to section 375 shall also be applicable.</p> <p>Note: Its gender neutral for both the perpetrator and the victim.</p>		<p><u>Change as compared to Indian Evidence act:</u>Includes a larger number of categories in Section114A.</p>
119	<p>Dumb Witnesses A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligible, as by writing or by signs; but such writing must be written and the signs made in open Court. Evidence so given shall be deemed to be oral evidence.</p>	---	<p>Substituted dumb witness for "persons who are unable to communicate verbally."</p> <p>Added proviso that the court shall take the assistance of a special educator or interpreter, and the statement shall be video graphed.</p>	<p><u>Change as compared to Indian Evidence act:</u> Substituted dumb witness for "persons who are unable to communicate verbally."</p> <p>Added proviso that the court shall take the assistance of a special educator or interpreter, and the statement shall be video graphed</p> <p>"119. A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligible, as by writing or by signs; but such writing must be written and the signs made in open Court, evidence so given shall be deemed to be oral evidence: <u>Provided that if the witness is unable to communicate verbally, the Court shall take the assistance of an interpreter or a special educator in recording the statement, And such statement shall be video graphed."</u></p>

				<u>Change as compared to JVC:</u> Retained as in the JVC
146	<p>Questions lawful in cross-examination.</p> <p>When a witness is cross-examined, he may, in addition to the questions hereinbefore referred to, be asked any questions which tend-</p> <p>(1) To test his veracity. (2) to discover who he is and what is his position in life, or (3) to shake his credit, by injuring his character, although the answer to such questions might tend directly or indirectly to criminate him or might expose or tend directly or indirectly to expose him to a penalty or forfeiture:</p>	<p><u>The 84th Report of the Law Commission, 1980</u> had recommended the addition of the following clause after 146(3):</p> <p>"(4) In a prosecution for rape or attempt to commit rape, where the question of consent is in issue, it shall not be permissible to adduce evidence or to put questions in the cross-examination of the prosecutrix as to her general immoral character, or as to her previous sexual experience with any person other than the accused for proving such consent or the quality of consent."</p> <p><u>The 172 Report of the Law Commission, 2000</u> had reiterated the same drafting it as: "(4) In a prosecution for an offence under section 376, 376A, 376B, 376C, 376D or 376E or for attempt</p>	Amended the proviso "It shall not be permissible to adduce evidence or to put questions in the cross-examination of the victim as to his or her general moral character, or as to his or her previous sexual experience with any person."	<p>Addition to the proviso - "no question will be allowed on the general immoral character of the victim or as to his or her previous sexual experience for proving such consent or the quality of consent".</p> <p><u>Change as compared to the Indian Evidence Act:</u> New proviso added: "Provided that in a prosecution for an offence under section 376, section 376A, section 376B, section 376C, section 376D or section 376E of the Indian Penal Code or for attempt to commit any such offence, where the question of consent is an issue, it shall not be permissible to adduce evidence or to put questions in the cross-examination of the victim as to the general immoral character, or previous sexual experience, Of such victim with any person for proving such consent or the quality of consent."</p> <p><u>Change as compared to the JVC:</u> drafting changes.</p>

	<p>Provided that in a prosecution for rape or attempt to commit rape, it shall not be permissible to put questions in the cross-examination of the prosecutrix as to her general immoral character.</p>	<p>to commit any such offence, where the question of consent is in issue, it shall not be permissible to adduce evidence or to put questions in the cross-examination of the victim as to his/her general immoral character, or as to his/her previous sexual experience with any person for proving such consent or the quality of consent.”</p>		
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Protection of Children from Sexual Offences Act, 2012

New Section 42A – This provision states that in case of inconsistency between this Act and any other law in existence, this Act will have an overriding effect on the provisions of any other law to the extent of such inconsistency.

[Perhaps this means that marital rape can be criminalized as under POCSO, it would be a crime and in case of inconsistency between IPC and POCSO, POCSO is to prevail]