# Rape and Marriage - Supreme Court's Unwelcome Remarks

## What is the issue?

- The Supreme Court has asked a man whether he would marry the woman who had accused him of raping her when she was a minor.
- The Court's remarks and decision has drawn criticism from various circles for setting a wrong precedent in terms of women's rights.

## What is the case?

- The apex court was hearing a bail request of a government employee, one Mohit Subhash Chavan.
- He is an employee at the Maharashtra State Electric Production Company.
- He has been accused of raping repeatedly a schoolgirl.
- He faces charges under the POCSO (Protection of Children from Sexual Offences) Act and had sought protection from arrest.
- Chavan reportedly told the Supreme Court that his mother had "offered marriage" with him to the victim when she went to police.
- Although she had initially refused, a document was reportedly drawn up (it is not clear as to between whom).
- In it, Chavan had promised marriage with the minor victim when she turns 18.
- The petition filed by Chavan says that when he refused to marry her once she turned 18, she filed the case.

## What has the Court said?

- The Chief Justice of India S.A. Bobde had asked if he would be willing to marry her now.
- The Court also said that if he was not willing to marry, then he would lose his job and go to jail.
- The accused later reportedly told the court that he could not marry her as he was already married.
    - "Initially I wanted to marry her. But she refused. Now I cannot as I am already married."
- Chavan stressed that he was a government servant and would face automatic suspension if charges are framed against him.
- To this, the Court said, "That's why we have given you this indulgence. We

will stay the arrest for four weeks. Then you apply for regular bail."
- Chavan had earlier been granted protection from arrest by a trial court but that had been quashed by the high court.

## What has the court remarked in another similar case?

- In another case, the Bench stayed the arrest of a man accused of rape after falsely promising marriage.
- The victim said she was promised marriage and was "brutally and sexually abused".
- The CJI asked the girl's lawyer:
  - "When two people are living as husband and wife, however brutal the husband is, can you call sexual intercourse between them 'rape'?"

## Why are these unwelcome?

- A relationship between two individuals, including marriage, is built around love, respect, trust and consent.
- A violent and exploitative act like rape has certainly no place within this civilised framework.
- The bottom line is that rape is the worst form of crime that violates a woman's body, mind and soul.
- Clearly, the perpetrator has to be awarded deterrent punishment.
- He cannot be incentivised by giving legal sanction to a gruesome act by allowing such marriages.
- By offering marriage as a solution to a rape victim, the judiciary fails to protect the rights of a girl.

## What are the available legal provisions?

- In both cases, the crimes attract severe penalties under the Criminal Law (Amendment) Act, 2013.
- On marital rape, the recommendation was not included in the Act.
- But, the Justice J.S. Verma Committee was clear that the law ought to specify that -
  - a marital or another relationship between the perpetrator and victim cannot be a defence against sexual violation
- The idea is that 'a rapist remains a rapist regardless of the relationship with the victim'.
- In a 2013 case (Shimbhu & Anr vs State Of Haryana), the Supreme Court itself had come down heavily against the practice.
  - The Court said the offer of a rapist to marry the victim cannot be used to reduce the sentence prescribed by law.

## What do the cases imply?

- Equal rights activists have always worked hard against misogyny, patriarchal mindsets and other failings such as blaming the victim for rape.
- This battle for equality becomes even more difficult when people in high offices make offensive remarks.
- A series of rape and murders are being reported against minors, especially Dalits, in Uttar Pradesh.
- In this scenario, the judiciary's shocking remarks echo a deep-set prejudice against gender equality.

**Source: The Hindu, The Wire**

