Tarun Tejpal Case Judgement - Concerns

Why in news?

- The Additional Sessions Judge acquitted a former editor of a news magazine, Tarun Tejpal, of charges of rape.
- The BJP-led government in Goa has filed an appeal in the High Court against this.

What is the case about?

- Tarun Tejpal faces charges of rape of an employee of his firm in November 2013.
- He was tried under sections introduced into the law after the Nirbhaya case.
- This includes him being in a position of power, authority and trust over the young woman concerned.
- He was her boss whom she considered a father figure, the father in fact of her very close friend.
- She was confused as to what her course of action should be since so many relationships were at stake. Her legal battle continues for years now.

What are the concerns with the recent judgement?

- The judgment transforms the accused into the victim and it is the young woman who becomes the accused.
- It says "(Prosecutrix) neither demonstrates any kind of normative behaviour on her own part – that as a prosecutrix of sexual assault might plausibly show."
- The survivor did not fit into the court's preconceived ideas of a rape survivor's behaviour. And so, she is considered a liar.
- This pushes us back to 1979 when a rape survivor had to prove through physical marks on her body that she had not consented.
- Law gives weightage to the statement of a victim of rape with the proviso of it being "credible and sterling".
- The judgment gives a new and dangerous interpretation to this.
- It poses the question, "who is a sterling witness?"
- It then accepts every highly objectionable charge of the defence to prove

that the witness (prosecutrix) was not “sterling”.

What are the other violations made?

- **Privacy** - The full personal details of the survivor were laid out bare in the judgment.
- [Her name and that of her family, her WhatsApp messages, her personal mails, her photographs and her relationships.]
- This is total violation of her right to privacy and have no relevance to the charge of rape.
- In sharp contrast, there is a blanket of protection given by the court to the accused.
- **Evidence** - Even his WhatsApp message referring to “fingertips”, a clear reference of what he had done to the survivor, was ignored.
- The most telling evidence against the accused was his own “personal apology”, the draft of an “official apology.”
- The other is the conversations recorded by the survivor with the senior woman officer negotiating on behalf of the accused.
- These evidences clearly show that there was no ulterior motive behind the complaint.
- But these were not considered in accepting the woman’s arguments.
- On the other hand, witnesses gave evidence that the survivor shared her traumatic experience with them within hours of the incident.
- These prove that it was no afterthought.
- But these were brushed aside on grounds that they are her friends, and therefore biased.
- However, the statements of the accused’s own sister and another female colleague known to be close to him, were accepted as being true.
- Even the right of a survivor to approach activists and lawyers for their help is criminalised in this judgment.
- Senior members of the Bar such as Indira Jaisingh are put in the dock as probable advisers for “doctoring” and also “of adding to incidents”.

Why is the judgement a wrong precedent?

- Larger concern is to do with the nature of sexualisation of women at a workplace.
- It is made possible by not just the accused boss but by women too in positions of authority and the normalisation of such a process by them.
- This judgment is an example of the wrong kind of victim blaming and shaming to benefit the accused.

- The judgment must not be allowed to become a precedent in derailing the workplace safety of women.
- The sooner it is overturned the better.

Source: The Hindu

