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The Phaltan Case and Dignity of the Victim

Mains: *GS-II – Polity & Governance*

Why in News?

The suicide of a young doctor in Phaltan, Satara district, Maharashtra, highlights significant gaps between legal reforms and societal attitudes toward gender-based violence.

What are the key issues highlighted?

- **Failure of administrative systems –** The first crime is her pleas for help were reportedly ignored by administrative systems, highlighting institutional failure.
- **Secondary victimisation by society –** The second crime is the public character assassination that follows when a victim's family begin their quest for justice.
- It was evident in the comments made by the Chairperson of the Maharashtra State Commission for Women, about the victim's private communications and relationships.
- This amounted to character assassination, shifting blame onto the victim and perpetuating patriarchal attitudes.

What are key legal provisions available?

- **Criminal Law (Amendment) Act, 2013 –** Also known as Nirbhaya Act, which specifically designed to dismantle the very foundation of character assassination in rape trials, often used in the public sphere.
- **Section 50 of Bharatiya Sakshya Adhiniyam (BSA), 2023** (Section 53A IEA, 1872) – It legally implies that a woman's personal life, her friendships, messages or habits cannot be used by the defence to argue that she "deserved it" or that her consent should be presumed.
- **Section 48 of BSA, 2023** (Sec 146 of IEA, 1872) – It prohibit questions being put to a victim during cross-examination regarding her "general immoral character or previous sexual experience.
- **Section 72 of Bharatiya Nyaya Sanhita (BNS), 2023** (Section 228A IPC) – It prohibits disclosure of a sexual assault victim's identity.

What are the important SC Judgements that shield the dignity of victims/survivors of sexual violence?

- **Irrelevance of prior sexual history** – In the State Of Punjab vs Gurmit Singh & Ors. (1996), the Court stated that the victim's testimony should not be doubted simply because she is a woman and the.
- It warned against dismissing a victim's evidence based on a perception of "loose

morals", stating that every woman, regardless of her character, has the right to refuse sexual intercourse.

- **Insult to injury –** The Court has repeatedly observed, under wider scope, that subjecting a victim to intense scrutiny, searching for minor discrepancies, and casting aspersions on her character only add "insult to injury" — a clear condemnation of the very essence of victim-blaming.
- **Ban on identity disclosure –** In 2018 and 2019, the Court has mandated that no person shall print or publish the name or any matter that may make known the identity of a sexual assault victim.
    - **Scope of Ban –** This blanket ban extends even to a deceased person unless a competent authority determines otherwise.
    - **Purpose –** To prevent public shaming and character assassination that often follow disclosure.

What are the violations in the Phaltan case?

- **Media Scrutiny –** The victim's dying declaration was subjected to media exposure, violating confidentiality and interfered with the Commission's investigation.
- **Legal Implications –** Such disclosure raises questions about the investigation's progression into abetment to suicide or murder.
- **Prima Facie Evidence –** The dying declaration itself points to abetment to suicide.
- **Impact on Victim's Family**
    - **Restricted Access** – Lawyers for the complainant were denied access to the investigation report.
    - **Secondary Trauma** – The victim's relatives suffered further distress as her personal information was circulated in the media, compounding their grief.
- **Character Assassination in Public Sphere** – The Phaltan case shows how institutional commentary can inadvertently result in character assassination, a practice strictly prohibited in judicial proceedings.
- **Extra-Judicial Victim Shaming** – Public functionaries used details of the victim's personal communication.
- They create a public opinion, ***a "social verdict",*** that tries the victim's character, effectively achieving the 'second crime' that the 2013 Amendment was designed to eradicate from judicial procedure.
- **Legal vs. Moral Breach –** This act, while not technically a violation of the ban on identity disclosure (as the victim's name was widely known), is a ***breach of the spirit of the judicial directions***: to treat the victim with fairness, respect and dignity.
- **Institutional Failure –** It is an *institutional act of de facto character assassination,* undermining the constitutional and legal safeguards designed to protect victims.

What lies ahead?

- **Training & Sensitisation** – The police, prosecutors, and judges must be trained and sensitised to understand and respond empathetically.
- To focus on the trauma that victims endure, especially in sensitive cases that concern sexual assault and domestic violence.
- **End victim blaming –** As a society, need to stop being tolerant of societal attitudes

that question a victim's character.

- There is also a need to transform the investigation culture making it truly victim-friendly.
- **Resource boost –** The new criminal law lays an emphasis on forensic and digital evidence, but there is a lack of infrastructure.
- It is time to expand laboratories, invest in advanced forensic facilities, have dedicated women's desks, and ensure accessible legal aid.
- This will make safeguards such as audio-visual statements and clear victim communication the standard tools of justice.

Reference

The Hindu | The Phaltan case is also about a victim's dignity

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