

The Medico-Legal Aspects of Sexual Offences

R.L. GUPTA

2nd Edition

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THE MEDICO-LEGAL ASPECTS OF SEXUAL OFFENCES

by

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"Guide to Police Law" etc.

2nd Revised and Enlarged Edition



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Publishers' Note

This popular publication has been in great demand and was out of publication for a pretty long period. We have great pleasure in releasing the 2nd edition of this publication which has been thoroughly revised and made up-to-date. Several important decisions of the Supreme Court and of the various High Courts have come in the meanwhile and have been incorporated at their proper places. The arrangement and sequence of the matter has been suitably amended.

We hope readers will find this edition as useful as the previous one. We welcome all suggestions for further improvement.

—*Publishers*

PREFACE TO THE FIRST EDITION

In common parlance sexual offences constitute the most shocking crimes against conscience and morality. The sufferings of a girl raped, abducted, or kidnapped excel that of a man committing the offence. In spite of our much wanted talk of social justice, reformation and equality between man and woman in every walk of life, the fate of the victim in sexual offences becomes sealed for ever making her a social outcast ostracised from the elementary rights and privileges of an honourable social existence. The depraved passion of a sexual neurotic which seeks to gratify itself through force or fraud, quite contrary to the natural course of mating by mutual consent and in accordance with established social principles, constitutes the root cause in almost every sexual offence.

It is with the avowed object of providing such an independent study that the present booklet has been designed. Each of the main topics relating to sexual offences forms part of a separate chapter. The ingredients of the substantive law pertaining to a topic along with the essentials of practice and procedure based on the relevant law and the proof required, have been fully dealt with and commented upon in the light of the very important decided cases of India and also the legal position regarding the topic in foreign countries. In order to correctly appreciate and analyse substantive laws relating to sexual offences some elementary knowledge of the medical aspects is important, which has been incorporated in the book. This need has been fulfilled by chapters devoted on sexual functions of male and female together with the definitions of legal and medical terms relevant for the subject.

The commentaries under the chapters have been divided into various heads and sub-heads just to provide a systematic study. The language employed in the book is simple and clear, making the book useful not only for the Bench and the Bar but also for police, other officers and lay-men. The first six chapters have been devoted to medico-aspects of sexual offences and contain valuable information on the subject. All attempt have been made to make the work a handy companion for day to day work, containing all that is required to be known, on, or relating to these subjects. I express my sincere gratitude to Sri Chandra Deep Singh and Sri Tarun Chandra Tewari who extended their active co-operation in writing the book. It is fondly and reasonably hoped that the work will receive the apprecia-

tion of all concerned but I cannot claim the book to be exhaustive, and every suggestion towards its improvement would be received with great thanks, for being incorporated in the next edition of the book.

RAM LAL GUPTA

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Chapter I

STATUTORY PROVISIONS

SYNOPSIS

1. Crimes against Human Conscience and Morality.
2. English Common Law of Sexual Offences.
3. Matrimonial Causes Act, 1937 and Divorce (Scotland) Act, 1938.
4. Divorce (Insanity and Desertion) Act, 1958.
5. Sexual Offences Act, 1956 of England.
6. Criminal Law Amendment Act, 1885 of England.
7. Indecency within Children Act of England.
8. Criminal Law Amendment Act, 1922 of England.
9. Indian Penal Code, 1860.
10. Code of Criminal Procedure, 1973.
11. Hindu Marriage Act, 1955.
12. Suppression of Immoral Traffic in Women And Girls Act, 1956.
13. Child Marriage Restraint Act, 1929.
14. Converts' Marriage Dissolution Act, 1966.
15. Indian Christian Marriage Act, 1872.
16. Parsi Marriage and Divorce Act, 1936.

1. Crimes against Human Conscience and Morality

Sexual offences, especially rape and kidnapping, constitute the most shocking crimes against human conscience and morality as a murder is against human body. The accused in a rape, abduction or kidnapping case suffers with the sentences of imprisonment but the suffering of the victim *i. e.* the girl excels that. Despite our much vaunted talks of social justice, reformation and equality of men and women in every walk of human life, her fate becomes sealed for ever, and in most cases, she remains for the rest of her life a social outcaste completely ostracised from the elementary rights and privileges of an honourable social existence. The ravisher, the seducer, the despicable, betrayer, all have a safe return to our social fold but not those thousands of unfortunate girls who are either ravished, or deceived, enjoyed and then betrayed in the sacred name of love. It is because of the social and moral background in India that false accusation in cases of such offences are rare. Undoubtedly, in the lower strata of the society there are some cases where false accusations are made but in respectable societies such chances are rare.

2. English Common Law of Sexual Offences

At common law in England the crime of rape consists in having carnal knowledge of a woman without her consent. Although the offence is usually effected by violence, it has been decided that rape can be committed without the use of any violence, the essential point being that the woman's free and conscious permission has not been obtained. Subsequent statutory modifications have been replaced by the Sexual Offences Act, 1956 [S. 1(i)], which