

Adultery As Root Of Other Crimes

Dr.Sangeeta Thakur

Assist. Prof, UILS, Evalodge,
Chaura Maidan Shimla

Abstract: In the modern period values have changed and as a result there of only monogamy is practiced by all except Mohammedans. Prior to the codification of Hindu Law, polygamy was invoked for a longer time. Practice of polygamy provides legitimate outlets to persons to satisfy their sexual urge and hunger within the family itself. Adultery means sexual intercourse between a married woman and man. It is a criminal offence as well as matrimonial offence. Generally the offence of adultery is committed along with some other offence or offences. Sometimes it provokes the commission of other crimes. This paper deals with few offences which are the result of adultery.

There is intimate connection between law and morals. When religion was strong and law had not emerged as a potent mean of social control, morals were enforced by religion. With the passage of time religion became weak and law became strong, morals were enforced by law. Crime is also defined with reference to sin, morality, religion etc. Crime is said to be an immoral and anti-social act. The element of immorality and harmful nature of the act criminalize the human conduct in case of adultery. It is immoral quality of the act because of which sexual intercourse between a man and married woman has been made punishable. Section 497 IPC which deals with adultery provides:

Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, with both. In such case the wife shall not be punishable as an abettor.

Sexual indiscipline in the society may be the result of many factors. The following observation of Dr. Pranjape deserves to be quoted:

With the advance of science, civilization and culture, the complexities of life have enormously multiplied. Modern mechanization and urbanization has brought about total disintegration of the family institution which has created serious problems in human life. The control of parents over their wards has weakened considerably. In fact it is this

parental negligence which is mainly responsible for growing indiscipline, rowdiness and vagrancy among youngsters. Uncontrollable hooliganism among youths has become a serious problem for enforcement agencies throughout the world. It has rather become a social disease. As a result of this unhappy development, the incidence of sex delinquency in form of unmarried motherhood, abortion, rape, kidnapping, enticement, abduction, adultery, incest, indecent assault, etc. has become too common.

Traditionally, wife/woman had no independent existence and was regarded as belonging to husband. Therefore, under criminal law only husband has been given the right to prosecute the adulterer in India. There is a common axiom which states that "Jar, Joru and Jamin" are the causes of litigation. It is applicable to the offence of adultery also. Illicit sexual relations have often been the cause of many other crimes. Such as murder, culpable homicide etc. Female criminality, blackmailing, etc. also result due to such illicit sexual connections. The offences are committed under grave and sudden provocation and sometimes in cooled and calculated manner.

Thus, this section attempts to study connection between adultery and other crimes. Adulterous relations are responsible for many crimes in society. Few cases have been randomly selected for the proposition.

MURDER

A crime of passion refers to violence, especially murder that perpetrator commits because of sudden strong impulse.

Adultery was the cause of killing the wife in *K. M. Nanavati v. State of Maharashtra*. The Supreme Court has laid down the test of grave and sudden provocation. The basic test is whether a reasonable man belonging to the same class of society as the accused was placed would be so provoked as to lose his self control. In this case the accused, a young officer in Indian Navy due to the nature of job used to go frequently out of Bombay by ship leaving his wife and children at home. Gradually friendship developed between his wife and the deceased and finally culminated in illicit relationship. The accused drove his wife and children to a cinema and left them there. He went to his shop, took a revolver on false pretext, loaded it with six rounds, did some official business and drove his car to the office of the deceased and then to his flat. He went straight to the bedroom of the deceased and shot him dead. The time when he left his house and the time when the murder took place, three hours had elapsed. The court held that there was sufficient time to cool down the passion and regain one's self control. The accused was held guilty of murder as the case was not covered by grave and sudden provocation clause under section 300(1)

In *re Mathappa Gounda*, charge under section 302 of IPC was framed. Allegations were that accused suspected that his wife was in criminal intimacy with one N who was living nearby. On the day of occurrence while the accused was busy in some work in front of his house his wife passed that way in the direction of N's house. When she was asked by accused she replied in defiant tone that, that was her destination. Even after being warned, when she proceeded in that direction the accused caught her by the tuft of her hair and brutally cut her several times with an aruvul resulting in her death. Trial Court found accused guilty under sec. 302 of IPC and in appeal, High Court held that in the circumstances the provocation was not sufficiently grave and sudden so as to bring the case within exception 1 to 300 and, therefore, the offence was one of murder and not culpable homicide not amounting to murder.

CULPABLE HOMICIDE

Because of adultery, culpable homicide not amounting to murder may also result. In *Raj Kishore V State* the appellant was employed in railway loco at Tundla. On 21.9.1949 he was on duty from 4 p.m. to 12 midnight. After finishing his work, he went to his house, finished his meals and lay in the bed outside the house. He had not fallen into asleep when he saw his wife Smt. Sridevi coming out of the house. She had a liaison with a neighbour Chandra Kishore who was then sleeping thereby with his friend. Sridevi and Chandra Kishore went inside the house. The appellant became suspicious and followed them stealthily and heard his wife and Chandra Kishore whispering to each other in the courtyard of a dilapidated house. He stood there quietly and after some time he saw that Chandra Kishore was having illicit intercourse with his wife. He lost his self control and immediately attacked Chandra Kishore with a *danda* who was busy in intercourse with his wife. He became unconscious. He also

assaulted his wife and she also became unconscious. He rushed to his house, brought a razor and cut the nose of his wife. He himself went to the police station and deposited the chopped nose and *danda*. Chandra Kishore died after four days. There is no doubt that the appellant committed the murder of the deceased under the grave and sudden provocation and the case lies within exception 1 to sec. 300 IPC. According to the exception grave and sudden provocation reduced murder to culpable homicide.

In *Balku v. Emperor*, the accused one night saw another man doing sexual intercourse with his wife in a closed room, through a chink. The accused and the deceased (the accused's wife's sister's husband) were sleeping in the same cot in the same verandah. In the night the deceased got up and went in the room and bolted it from inside. The accused also got up and began peeing through chink and found that his wife and deceased were busy in sexual intercourse. The accused waited until the adulterer came outside the room and began dozing on the same cot on which the accused was sleeping and then killed him with knife. It was held by Benet and Verma, JJ. that under these circumstances the provocation was both grave and sudden and exception 1 to 300 applies to this case.

In *re Man Singh Parma Teli*, the appellant at dead of night, found the deceased with his wife alone in the house with the doors chained from inside and losing control of his mind chased the deceased and ultimately killed him. It was held that a person who found his wife and her paramour in *flagrante delicto*, undoubtedly received the highest provocation. In *Narainjan Singh v. Emperor*, the deceased who was the wife of the accused was unchaste. One night when he came home from his field at the dead end of night, he found his wife and her paramour sleeping on the same cot but hearing the footsteps the paramour got up. When the accused tried to seize him he struck him with the knife and escaped by jumping over the wall. However, he dropped the knife which the accused picked up. When the deceased grappled with him to prevent him from running after him, the accused attacked her with knife and inflicted many injuries. The accused bore incised wounds on the palm surface of right little finger which might have been the result of blow given by the paramour. It was held by the court that the accused acted under sudden and grave provocation.

In *re Vedivel Padayachi*, the Madras High Court discussed the principle of provocation. Matter came before the High Court when the trial court convicted accused Vadivel Padayachi for offence under sec. 302 IPC. Accused found his wife and her paramour lying together almost naked in his house picking up axe lying near and killing them. The trial court sentenced accused to imprisonment for life. Appreciating the circumstances and evidence, the High Court reached to the conclusion that since after seeing the wife with her paramour almost in naked position, and axe which he usually carried as a woodcutter, was lying by his side and taking it, he rushed into the room and hacked the couple to death. In these circumstances the High Court was satisfied by grave and sudden provocation. Thus sentence and conviction was altered to that of under sec. 304 part 1 and he was convicted only for sentence for one year and seven months imprisonment which he had already undergone.

Confession of adulterous intercourse by wife may provide grave and sudden provocation which may be pleaded for mitigation of punishment. In re Chervirala Narayan, the accused was a young boy and he had suspicion on the conduct of his wife who was newly wedded to him. She confessed her illicit intimacy and the consequent pregnancy by another. Under these circumstances the provocation was held to be both sudden and grave and the accused, deprived of his power of self control, strangled his wife to death. It was held that the accused was guilty of culpable homicide not amounting to murder.

Adultery, thus is a potent cause of criminal behavior. It generally provides grave and sudden provocation to act and commit offences, such as murder, culpable homicide, grievous hurt, etc. Similarly, some crimes are committed for having

adulterous sexual intercourse, such as, criminal trespass, elopement, blackmail, etc.

REFERENCES

- [1] Hatim Khan V State of J & K AIR 1963 J & K 56
- [2] S.M.A. Quadri, Ahmad Siddique's Criminology: Problems and Perspectives, 121{2005, 5th Ed.}
- [3] Section 497 IPC, 1860
- [4] N.V.Paranjape, Criminology and Penology, 138{2005, Repr.2006, 12th Ed.}
- [5] 1972 CrLJ 1641, see also State of UP v. Lakshmi, 1998 CrLJ 1411.

IJIRAS