



Chhattisgarh High Court Take on Unnatural Sex

Why in News?

The Chhattisgarh [High Court](#) has ruled that a man engaging in **sexual intercourse or sexual acts with his wife** does **not constitute rape**. Consequently, if a husband commits [unnatural sex](#) as defined under [Section 377](#) of the [Indian Penal Code](#) with his wife, it also cannot be treated as an offense.

Key Points

- **Case Background:**
 - The Chhattisgarh High Court heard an appeal filed by a resident of **Bastar district** **challenging his conviction** in his wife's 2017 death case.
 - A sessions court had **earlier ruled that the woman became ill and later died due to a forced physical relationship**.
- **Trial Court's Conviction:**
 - The sessions court convicted the appellant under:
 - **Section 377 (unnatural sex)**
 - [Section 376 \(rape\)](#)
 - [Section 304 \(culpable homicide not amounting to murder\)](#) of the Indian Penal Code, 1860.
 - The appellant was sentenced to 10 years of rigorous imprisonment based on his wife's dying declaration.
- **High Court's Ruling:**
 - The court stated that **sexual intercourse or acts by a husband with his wife cannot be termed as rape** if the **wife is above 15 years of age**.
 - It ruled that **lack of consent for unnatural sex loses significance** under these circumstances, making **Sections 376 and 377 inapplicable**.
 - The High Court also expressed skepticism about the correctness of the dying declaration, raising concerns over its reliability.

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BHARATIYA NYAYA SANHITA (BNS), 2023

BNS 2023 replaced Indian Penal Code 1860, incorporating 358 sections (511 in IPC), maintaining most of the IPC provisions, introducing new offences, eliminating court- struck-down offences, and enhancing penalties for various offences.

New Offences

- ▶ **Promise to Marry:** Criminalising “deceitful” promises to marry
- ▶ **Mob Lynching:** Codify offences linked to mob lynching and hate-crime murders
- ▶ Ordinary criminal law now covers **Organized Crime** and **Terrorism**, including a broader scope for terror financing in BNS compared to UAPA
- ▶ **Attempt to Suicide:** Criminalises attempts to commit suicide with intent to compel or restrain any public servant from discharging official duty
- ▶ **Community Service:** Added as possible form of punishment

Deletions

- ▶ **Unnatural Sexual Offences:** Section 377 of the IPC, which criminalised homosexuality among other “unnatural” sexual activities repealed completely
- ▶ **Adultery:** Offence of adultery omitted in consonance of apex court judgement
- ▶ **Thugs:** Section 310 of IPC fully omitted
- ▶ **Gender Neutrality:** Some laws dealing with children modified to bring gender neutrality



Other Modifications

- ▶ **Fake News:** Criminalisation of publishing false and misleading information
- ▶ **Sedition:** Introduced under a new name ‘deshdroh’ with wider definition
- ▶ **Mandatory Minimum Sentence:** In several provisions, mandatory minimum sentences prescribed which may limit scope for judicial discretion
- ▶ **Damage to Public Property:** Carry a graded fine (i.e. fine corresponding to the amount of damage caused)
- ▶ **Death by Negligence:** Elevates punishment for causing death by negligence from two to five years (for doctors - 2 yrs imprisonment)

Key Issues

- ▶ **Criminal Responsibility Age Discrepancy:** Criminal responsibility starts at seven, extendable to 12 based on maturity, potentially conflicting with global recommendations
- ▶ **Inconsistencies in Child Offense Definitions:** It sets child age below 18, but age criteria for offenses like rape differ, causing inconsistency
- ▶ **Retention of IPC Provisions on Rape and Sexual Harassment:** Maintains IPC provisions on rape and sexual harassment, omitting **Justice Verma Committee's 2013** suggestions for gender-neutral rape and recognizing marital rape as an offense.