

Awarding Capital Punishment for Rape: The Biased Patriarchal Thinking for Penology of Marital Rape

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Abstract:

Awarding death penalty has a very disproportionate effect and implication in our criminal justice system. Death Penalty is awarded to satisfy the collective conscience and society's cry for justice. The society views marital rape with a different set of glasses as compared to the statutory rape, therefore different punishments for both. In this article we will try to discuss the reason of this disparity in approach of the legislature and courts.

Hypothesis:

The attitude of the courts and legislature is impartial in the sentencing policy of general rape and marital rape. In General rape death penalty is awarded and asked for on the basis of the collective conscience and societal cry for justice. This society takes the shelter of conjugal rights while punishing the marital rape.

Research Problem:

There are two questions to be discussed in this article, the first is the validity of the difference in the two types of sexual offence and second is the theory of punishment followed for both. The difference in the penology of both the offences is pertinent to the patriarchal approach of the framers of the law.

Introduction:

The nation is rejoicing the restoration of justice on the early morning hours of March 20th when the four convicts of the gruesome rape and murder of the medical student, Nirbhaya are being hanged to death. In one part of the same country a well educated

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