

श्रीमान्, इन कानूनों के लागू न होने से नतीजा यह हुआ है कि आज ईंटों की कमी की वजह से खासकर, बिहार, यू० पी० हरियाणा और दिल्ली, में उनकी कमी हो गई है, जिससे कि कंज्यूमर्स जो इनको इस्तेमाल करते हैं, परेशान हो रहे हैं। इसलिए जो इन कानूनों को लागू नहीं करते हैं, वह एक तरह से लोगों को और सरकार को ब्लैकमेल कर रहे हैं। इसलिए सरकार और मंत्री महोदय सदन में वक्तव्य दें कि इनको लागू करने में कितनी प्रगति हुई है और इसके लिए वे क्या प्रयत्न कर रहे हैं ?

#### REFERENCE TO THE HUGE LOSSES REPORTED SUFFERED BY ITDC HOTELS

SHRI SURESH KALMADI (Maharashtra): Sir, the Minister of Tourism made a very shocking revelation yesterday in Parliament that out of 24 hotels run by the ITDC 21 are running in a loss. In the first half of 1983-84, against the budgeted loss of 43 crores of rupees, they have already lost Rs. 4 crores which is a very alarming situation. The occupancy in Ashok Hotel, New Delhi is 30 per cent, in Ashok Hotel, Bangalore, it is 26 per cent, in Kovalam Beach Resort it is 30 per cent, in the Lalita Mahal Palace Hotel, Mysore, it is 30 per cent and at Hotel Samrat, New Delhi, 24 per cent. Now the ITDC has drawn up some more plans to build hotels in other places and, I think, we will go into further loss. My suggestion is that the ITDC, instead of going in for five-star hotels, should leave it to the private sector to run them because one Taj Mahal Hotel is making more profit than all the ITDC hotels in the country put together. The private sector knows better what to do. But I would like to point out that the ITDC hotel, Ashok Yatri Niwas, which is a one or two-star hotel, has an occupancy rate of 90 per cent; it is running on profit. The ITDC

should not go in for five-star hotels. It should go in for one or two-star hotels.

My other suggestion is that these 21 hotels of the ITDC which are running in loss should be handed over to the private sector. They will be able to get over a thousand crores for them and with these thousand crores they should build low-budget hotels, one or two-star hotels for the middle class and for the common man.

MR. DEPUTY CHAIRMAN: Now we take up the Criminal Law (Amendment) Bill. This has been considered yesterday also. I would request hon. Members to complete their discussion by 3.45 and the Home Minister may reply at 3.45 because we have to complete this Bill at 4 p.m. and take up another Bill. Shri Suraj Prasad.

#### THE CRIMINAL LAW (AMENDMENT) BILL, 1983—(Cont'd)

श्री सुरज प्रसाद (बिहार) : यह जो बिल आया है मैं इस बिल का समर्थन करता हूँ इसलिये कि इस बिल के जरिये अभी जो महिलाओं की असमत् लूटने का कोशिश की जाती है उस संबंध में सरकार ने जो कुछ मजबूत कदम उठाने की दिशा में प्रयास किया है उसे खास कदम कहा जा सकता है।

[उपसभाध्यक्ष (श्री आर० आर० मोरारका)  
पीठासीन हुए]

लेकिन इसको देखने से पता लगता है कि जितना कठोर कदम उठाने के लिये ला कमीशन ने इस सम्बन्ध में सिकांरिश की थी उस तरह का कठोर कदम इस बिल के अन्दर दिखाई नहीं पड़ता है। इस बिल के अन्दर अधिक से अधिक 7 से 10 वर्ष तक दंड देने की व्यवस्था है। किसी न किसी केस में जो पुलिस क

[श्री सूरज प्रसाद]

हिरासत में या दूसरे किस्म के सरकारी कर्मचारी की हिरासत में अगर सामूहिक बलात्कार का केस होगा उसमें और भी अधिक दण्ड देने की व्यवस्था की गई है। लेकिन जितना ला कमीशन की सिफारिश है कि 14 वर्ष तक दंड दिया जाए, वैसी बात इस बिल में नहीं कही गई है। मैंने इस सम्बन्ध में संशोधन भी दिया है।

दूसरा मैं एक सुझाव देना चाहता हूँ कि महिलाओं पर जब बलात्कार होता है तो वहाँ के थाने में केस फाइल करना अशभव हो जाता है। हरिजनों के साथ बलात्कार के केस भी अलग थाने में फाइल करने की व्यवस्था की गई है। मैं सरकार से यह जानना चाहूँगा कि इस सम्बन्ध में सरकार का क्या दृष्टिकोण है, इस प्रकार के केस कहाँ फाइल कराने पर विचार किया जा रहा है? जब भी महिलाओं के साथ बलात्कार का केस होता है तो महिला का उसका पति भी बहिष्कार करता है, माँ-बाप का प्यार भी उसे नहीं मिलता। ऐसी स्थिति में उनके सामने बहुत बड़ी समस्या पैदा हो जाती है। इसलिये मैं सरकार से यह जानना चाहूँगा कि अच्छा यही होता कि इस बिल के अन्दर में इस तरह का प्रावधान होता कि अगर इस प्रकार के केस में किसी महिला का बहिष्कार होता है, माँ-बाप से उसका सम्बन्ध टूटता है तो उसकी क्षतिपूर्ति देने की व्यवस्था होगी। लेकिन बिल के अन्दर इस तरह की कोई व्यवस्था नहीं है। अगर क्षतिपूर्ति की व्यवस्था होती तो महिला को अपने को पुनर्वासित करने का एक अच्छा मौका मिलेगा। लेकिन मैं समझता हूँ कि इसमें सिर्फ दण्ड देने की व्यवस्था की गई है। सिर्फ दण्ड देना ही काफी नहीं है।

बहुत तरह के केसेज में जिनमें दण्ड देने की व्यवस्था है, फिर भी अपराध बढ़ते जा रहे हैं। आप जानते हैं कि देश के अन्दर इस प्रकार का प्रावधान है कि अगर कोई हत्या करता है तो उसके लिये मृत्यु दण्ड की व्यवस्था की गई है। लेकिन फिर भी देश के अन्दर काफी जानें मारी जाती हैं और यह भिन्नसिला कानून के चलते बढ़ता जा रहा है। इसलिये कानून की व्यवस्था कर देंगे मात्र से या इस तरह की व्यवस्था कर देने मात्र से अपराधों को नहीं रोका जा सकता है। इसलिये आज जरूरत इस बात की है कि समाज के अन्दर कुछ ऐसी व्यवस्था की जानी चाहिए जिसमें जो औरतों के प्रति दृष्टिकोण हो उसमें कुछ परिवर्तन आए। अभी देखने में यह आ रहा है कि समाज के अन्दर जो पुराने मूल्य थे वे ढूँढ़ते जा रहे हैं और औरतों के प्रति लोगों के पहले की तरह के भाव में परिवर्तन नजर आता है। इसलिये मैं समझता हूँ कि देश के अन्दर कोई ऐसी व्यवस्था की जानी चाहिए कि आदमियों के बीच में, पुरुषों के बीच में एंटीट्यूड में, प्रवृत्ति में कोई परिवर्तन हो ताकि देश के अन्दर जो अपराध बढ़ते जा रहे हैं उनको रोका जा सके। कुछ लोगों ने यह सुझाव दिया है कि देश के अन्दर नैतिकता का ह्रास हो रहा है, इसलिये ये अपराध बढ़ते जा रहे हैं। लेकिन इसका कारण यह नहीं है। देश के अन्दर आज आर्थिक और सामाजिक परिवर्तन हो रहे हैं जिसके चलते इस तरह की बातें देखने को मिल रही हैं। पश्चिमी देशों में भी इस तरह की बातें देखने को मिलती हैं। इसलिये आज जरूरत इस बात की है कि इन समस्याओं का स्थायी समाधान निकालने के लिये, परमानेंट सोल्यूशन निकालने के लिये, देश के अन्दर, सामाजिक और आर्थिक व्यवस्था में कुछ बुनियादी परिवर्तन

किये जायें ताकि जो मनुष्य का मनुष्य के प्रति एंटीट्यूड है, जो भावना है, जो प्रवृत्ति है, उसमें परिवर्तन लाया जा सके और इन समस्याओं का कोई स्थायी हल निकाला जा सके। इन शब्दों के साथ मैं इस बिल का समर्थन करता हूँ और चाहता हूँ कि मैंने जो सुझाव दिया है और दण्ड की अवधि बढ़ाने की बात कही है उस पर सरकार विचार करे और अन्य बातों पर भी सोचने पर विचार करे।

श्री असद मदन (उत्तर प्रदेश) :  
जनाब वाइस-चैयरमैन साहब, आज यह किमिनल प्रोसीजर कोड (अमेंडमेंट) बिल हमारे सामने है। जिना—जैसे जरायमों को रोमाने के लिये यह बिल लाया गया है और उसी सिटिसिले में इसमें सजा की तजवीज की गई है। हमारे मुल्क में इस तरह के जुर्मों में इजाफा हो रहा है और इन जुर्मों की तरफ रुखान बढ़ रहा है। इसलिये यह मुनासिब है कि इस तरह के जुर्मों के लिये सजा बढ़ाई जाये और हालात को नार्मल करने की कोशिश की जाये। लेकिन इस के साथ इसमें जो सजा की तजवीज की गई है, जिन चीजों को जुर्म करार दिया गया है उनमें अगर जिना रजामन्दी से किया गया हो तो उसको शामिल नहीं किया गया है और दूसरी तरफ जो चीज जिना नहीं है बल्कि रजामन्दी से शादी हुई है और उसके बाद शौहर और बीबी के ताल्लुकात में किसी तरह की नाराजगी हो जाये तो उसको भी जिना में शामिल किया गया है, रेप में शामिल किया गया है। उसके लिये भी सजा की तजवीज की गयी है। मैं समझता हूँ कि यह मुनासिब नहीं है। मां-बाप से बड़ा हमशर्द लड़की का कौन दूसरा हो सकता है, यह बात समझ में नहीं आती है। लड़की की अकल जवानी की उम्र में अपने मुस्तकबिल के बारे में

काबिले-इतमाद नहीं समझी जा सकती है। मां-बाप को जिन्दगी का तर्जबा होता है। इसलिये मां-बाप अगर कोई रिश्ता करते हैं तो उस पर ऐतमाद किया जाना चाहिए। अपनी औलाद की जिन्दगी को वर्बाद करने का कोई इकदाम करे, यह बात समझ में नहीं आती है। इसके बावजूद ऐसे ताल्लुक अगर विलफर्ज रजामन्दी के न हों तो यह हक दिया जा सकता है कि वह जवान होने के बाद अगर ना-मुनासिब समझती है तो उस रिश्ते को छोड़ दे, ताल्लुक को खत्म कर दें। लेकिन अगर वह ताल्लुक खत्म नहीं करती है तो फिर इस तरह के ताल्लुकात का इस्तेमाल जिनाबिल जब करार देकर उसको यह ऐतदाम सजा देना यह बिल्कुल ना-मुनासिब है। मेरा यह मुतालबा है कि इस कलाज को नि-काल दिया जाय, हमारे परसनल ला के खिलाफ है। इसको इस तरह से पास नहीं करना चाहिए। यह बात ना-मुनासिब होगी, इससे गलत असर पड़ेगा।

†[اشرحی اسعد مدنی (انٹرویو)]:

جناب وائس چئیرمین صاحب آج یہ کریملنل پروسیچر کوڈ (امینڈ میلٹ بل) ہمارے سامنے ہے۔ زنا جیسے جرائموں کو روکنے کے لئے یہ بل لایا گیا ہے اور اسی سلسلے میں اس میں سزا کی تجویز کی گئی ہے۔ ہمارے ملک میں اس طرح کے جرموں میں اضافہ ہو رہا ہے اور ان جرائم کی طرف رجحان بڑھ رہا ہے اس لئے یہ مناسب ہے کہ اس طرح کے جرائم کھلے سزا بڑھائی جائے اور حالات کو نارمل کرنے کی کوشش کی جائے۔ لیکن اسی نے ساتھ اس میں جو سزا

[شری اسعد مدنی]

کی تصویز کی گئی ہے۔ جن چیزوں کو جرم قرار دیا گیا ہے ان میں اگر زنا رضامندی سے کیا گیا ہو تو اس کو شامل نہیں کیا گیا ہے اور دوسری طرف جو چیز زنا نہیں ہے بلکہ رضامندی سے شادی ہوئی ہے اور اس کے بعد شوهر اور بیوی کے تعلقات میں کسی طرح کی ناراضگی ہو جائے تو اس کو بھی زنا میں شامل کیا گیا ہے۔ ریپ میں شامل کیا گیا ہے۔ اس کے لئے بھی سزا کی تصویز کی گئی ہے۔ میں سمجھتا ہوں کہ یہ مناسب نہیں ہے۔ ماں باپ سے بڑا ہمدرد لڑکی کا کون دوسرا ہو سکتا ہے۔ یہ بات سمجھ میں نہیں آتی ہے۔ لڑکی کی عقل جوانی کی عمر میں اپنے مستقبل کے بارے میں قابل اعتماد نہیں سمجھو جا سکتی ہے۔ ماں باپ کو زندگی کا تجربہ ہوتا ہے۔ اس لئے ماں باپ اگر کوئی رشتہ کرتے ہیں تو اس پر اعتماد کیا جانا چاہئے اپنی اولاد کی زندگی کو بہتر بنانے کا کوئی اقدام کرے یہ بات سمجھ میں نہیں آتی۔ اسکے باوجود ایسے تعلقات اگر بالفرض رضامندی کے نہ ہوں تو یہ حق دیا جا سکتا ہے کہ وہ جوان ہونے کے بعد اگر نامناسب سمجھتی ہے تو اس رشتہ کو چھوڑ دے۔ تعلق کو ختم کر دے۔ لیکن اگر یہ تعلق ختم نہیں کرتی ہے تو پھر اس

طرح کے تعلقات کا استعمال زنا بالجبر قرار دے کر اس کو یہ اقدام سزا دینا یہ بالکل نامناسب ہے۔ میرا یہ مطالبہ ہے کہ اس کلاز کو نکال دیا جائے ہمارے پرمٹل لے کے خلاف ہے۔ اس کو اس طرح سے پاس نہیں کرنا چاہئے۔ یہ بات نامناسب ہو گی۔ اس سے غلط اثر پڑے گا۔]

SHRI AMARPROSAD CHAKRABORTY (West Bengal): Mr. Vice-Chairman, Sir, I undoubtedly welcome the Bill. I was a Member of the Joint Committee. I shall not go beyond the points which I gave in my dissenting note.

The Bill as a whole is necessary. But the moot point is there. From our experience and from different books written by different writers, we know the characters of different leaders in our country. If this is not curbed, I think people cannot be educated to restrain themselves. So, Sir, I also stress on the importance of this sort of education. This sort of culture should grow. Otherwise, by the Act only you cannot stop this offence. It is a heinous offence. There should be cultural development. The character of the leaders and top people who are ruling the country, wherever they may be, their conduct, their behaviour, their private life, these things should be proper. And also people should be educated.

Secondly, Sir, the punishment should be such that everybody should be afraid of it. Sir, you see in Pakistan and some Arabian countries the punishment is very serious. Here, I think if death punishment is suggested, rather I think it will create some effect, it would restrain a bit. The Government was worried, the Government was trying to bring this Bill. But regarding punishment, I think, the Government should be more stringent. The hon. Minister was a Member of our Committee, and

he participated in the deliberations with us. So, we also impressed upon him that there should be stringent punishment.

Now, Sir, only two more things. I will not take much of your honour's time. Sir, in section 228A you are restraining the publication of the name of the person who is guilty of the offence. You are not restraining the publication of the girl's name or the victim's name. Sir, section 228A says:

"228A. (1) Whoever prints or publishes the name or any matter which may make known the identity of any person against whom an offence under section 376, section 376A, section 376B, section 376C or section 376D is alleged or found to have been committed (hereafter in this section referred to as the victim) shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine."

In our society only the male members are given some important positions. They take advantage of this. But we are prohibiting, we are not allowing, printing and publishing of their names. So, Sir, I vehemently object to this. You will remember the case of the Orissa journalist. His wife was gang-raped and butchered. Now nothing could be published. If it is published, they will be hauled up and punished. So the Bill is restraining or prohibiting the publication of the name of the person who is the accused. I think at least some leniency should be shown by the hon. Minister and they should be allowed to publish the name of the accused.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. VENKATASUBAIAH): Excuse me, Mr. Chakraborty. It is not against the accused. It is against the victim. The victim's name should not be published. Please read it carefully.

SHRI AMARPROSAD CHAKRABORTY: You kindly read this line;

"...the identity of any person against whom an offence under section 376..."

You kindly read it. (*Interruptions*)  
So, Sir, I only point out that the hon. Minister should think over this and make some amendment in this regard. I have given my note of dissent also.

Secondly, regarding section 376(2), about persons on the management or on the staff of hospitals, etc., I have made a suggestion that the nursing homes also should be included since nursing homes are growing like anything in our country. So I suggest that the words "nursing home" should be incorporated after the word "hospital" wherever that word appears in the amendment Bill. I have suggested this because everybody knows that in big cities like Calcutta, Bombay and Delhi, these nursing homes are growing like mushrooms. Some MBBS doctors are opening these nursing homes, but some other things are going on there. So nursing homes also should come under the purview of the Act along with the hospitals. Otherwise in the nursing homes some male members may molest or rape the women. So nursing homes should be added here.

Lastly, there is a legal lacuna in section 114A of the Indian Evidence Act. If, as it is, the girl's evidence is taken *prima facie* as correct, there is a risk of false prosecution because it happens; everybody knows. Suppose you are sitting in your chamber or you are sitting in your home and a girl enters with a man. The girl embraces and kiss you and the man takes photographs and then she charges you saying, "He tried to rape me". Sir, if this statement *prima facie* is taken as evidence, then I do not know where our Members will be. Sir, from my experience, I can tell you...

AN HON. MEMBER: From your experience!

**SHRI AMARPROSAD CHAKRABORTY:** From my experience of legal matters. I have been in the bar for the last 33 years. Not from physical experience, but from my legal experience. I would have been happy if that experience had been acquired by my learned friend. I say, legal experience.

**SHRI P. VENKATASUBBAIAH:** We accept your explanation.

**SHRI AMARPROSAD CHAKRABORTY:** With these words, I support the Bill.

**SHRI B. KRISHNA MOHAN** (Andhra Pradesh): Mr. Vice-Chairman, while associating myself with the views expressed by my honourable friends in support of the Bill I take the opportunity of congratulating the Government for bringing amendments to the Indian Penal Code, the Criminal Procedure Code and the Evidence Act with good objectives concerning the offence of rape. We are everyday reading in the newspapers reports of crime against women. The crime against women is increasing day by day in alarming proportions. This has been revealed by a survey conducted by the Bureau of Police Research and Development. They have made very valuable suggestions. One of the suggestions made by them was that at the time of trial of rape cases a social psychiatrist may also be involved. I appeal to the honourable Minister to get those recommendations and see that the recommendations are implemented. In my own State the state of Andhra Pradesh offences against women have greatly increased now. Our Chief Minister before and after coming to power was telling that he is for the self repeat of the Telugu People. He said he was for the dignity and decorum of the Telugu women. But, in Andhra Pradesh after he assumed office as Chief Minister, offences like rape against women have increased. I may say his own party MLA, when he tried to outrage the modesty of a woman in the MLAs' hostel, no action was taken by the Government. The only action taken was that the MLA was

suspended from the party. You may bring any number of amendments to make the law more stringent and to make punishment more deterrent, but unless a machinery is created for speedy investigation and speedy conduct of such cases, no useful purpose will be served. As a public prosecutor of my district I had the opportunity of conducting a good number of cases. But from the stage an FIR is lodged to the stage of its committal to the Sessions, it is taking a lot of time, say five to six years. Therefore, you should create a machinery for speedy investigation and conduct of rape cases so that the woman victim is not kept long with agony and mental torture. And then, most of the Sessions cases are not ending in conviction simply because the police spoil the cases in the very first information report itself. When I conducted 10 or 15 cases, I could get conviction hardly in a few cases because the police have spoiled the cases from the very beginning, from the stage of FIR itself, and the courts were reluctant to give punishment on the mere testimony of the victim as they wanted corroboration. When the rape victim herself testifies, what more evidence is required? Fortunately the Supreme Court has made it very clear that the sole testimony of the rape victim is enough for ordering conviction and imposing punishment. So it should be the guiding principle to all courts. I hope they will give due credence to the evidence of the rape victim and see that adequate punishment is given to the accused. In Sections 376 (b), (c) and (d)—intercourse of public servant with a woman in custody, intercourse of superintendent of jail or remand house and intercourse of manager of a hospital with any woman in the hospital, is made a bailable offence. I would suggest to the honourable Minister that offences under all these sections, viz. 376 (b), 376 (c) and 376 (d), should also be made non-bailable because if the public servants, by virtue of their dominating position, commit heinous crimes, they should be regarded as the most undesirable and unworthy people on the earth and the offence com-

mitted by them should be made non-bailable. The punishment prescribed for offences mentioned in Sections 376B, 376C and 376D is only five years of imprisonment. I suggest that the maximum punishment for such offences should be imprisonment for life or ten years.

With these few words, I fully support the Bill.

**THE VICE-CHAIRMAN (SHRI R. R. MORARKA):** Shri Rameshwar Singh. Shri Rameshwar Singh. Shri Rameshwar Singh. Shri D. G. Patil. Mr. Rameshwar Singh, now you will have to wait till Shri Patil finishes his speech. I called you thrice. You did not respond. Now, please wait.

**SHRI DINKARRAO GOVINDRAO PATIL (Maharashtra):** Mr. Vice-Chairman, Sir, I rise to support the Criminal Law (Amendment) Bill, 1983 and wish to make some important suggestions.

Recently rape offences are increasing day by day. As an Advocate from rural area, I have conducted some rape cases as a defence lawyer on behalf of guilty persons and I found that most of the persons are acquitted not because they are not guilty, but for some lacunae in the law to which I want to invite the attention of the Home Minister through you.

There are three lacunae in the law. The first lacuna is the bail. The second lacuna is in evidence. And the third lacuna is the weakness of the poor, unfortunate woman.

The first and *prima facie* lacuna in the Criminal Procedure Code is the bail under section 437. The offence of rape committed under section 376 is in fact non-bailable and it is exclusively triable by the Sessions Court. Still I find that even in non-bailable offences under sections 437, the accused gets bail on a very low surety, as if the accused has not committed any offence.

Secondly, after his release on bail, he uses all his means to make the

witnesses hostile by giving them money and by bringing political influence on them. Therefore my suggestion is that there should be a provision in the Criminal Law (Amendment) Bill that generally the accused should not be released on bail easily. If at all he is released on bail, a heavy surety must be taken against his release. Thirdly, such released guilty person should be required to give his attendance daily in the Police station till his trial commences. And if he breaks the law or the conditions of bail, he should be immediately kept in jail. This lacuna in section 437 of the Criminal Procedure Code should receive the attention of the Home Minister at the time of passing this Bill.

The second lacuna is in regard to medical evidence and expert evidence. Rape offences increase because of the lacuna in medical evidence. The lacuna in medical evidence is because the stains of blood and semen found on the clothes of the woman and on the clothes of the culprit at the time of sexual intercourse vanish in a short period. The woman's clothes are washed because of the shy nature of the woman because of her status in society. The guilty person washes his clothes immediately to save himself from the clutches of the law. Under the circumstances, my suggestion is that the medical expert, that is, the doctor and the chemical expert, that is, the chemical examiner, in taking the groups of blood and semen, must search for even the slightest strain leading to the guilt. Sometimes the groups of semen and blood create confusion by which the guilty person gets the benefit of doubt and he is acquitted.

My next suggestion is this: The important factor is with regard to the injuries. The injuries to a raped woman due to violence are sometimes found to be only minor injuries like scratches, abrasions and bruises and because of her shy nature and her status in society, she tries to avoid taking treatment in the hospital. Therefore, the medical expert,

[Shri Dinkarrao Govindrao Patil]

that is, the doctor is required to search out even the minor injuries even after a gap of some time relating to the guilt. Then, Sir, even in the evidence, medical evidence, the solitary testimony of the single witness of the raped women should be presumed under section 114 of the Act and the person should be held guilty. There should be no need for any corroboration to the testimony of a single raped woman.

My next point is about the weakness of the poor innocent women. Generally, Sir, I have found in the rural areas that she is economically backward and she is unprotected and unsheltered and her slackness in going to the police station and her shy nature and her status in the society are all responsible for her not coming out to lodge a complaint. Therefore, under the Criminal Procedure Code, the machinery, the investigating machinery, must be prompt, active and sincere in finding out such evidence without waiting for the complaint from the poor lady. My another suggestion is that the Government should provide all means for the livelihood of economically backward women who become victims of such offences.

My next important suggestion is that there should be a provision for compensation in the court to give her justice. Under the amending section 228A of the Cr. PC, printing and publishing the offence of rape is punishable. I do not agree with Advaniji who said yesterday that the agitations and publicity in the Press are responsible for bringing forward this amendment in the House. I may submit humbly here that it is because of the leader of this country, the Prime Minister of this country, Shrimati Indira Gandhi, who raised her voice on behalf of women, that this amendment has been brought forward in Parliament. Therefore, my submission in this connection is that even after the accused is convicted, there is no harm in printing and publishing his name and the incident re-

garding the offence without publishing the name of the raped woman so that the public could know that he is a guilty person and he is an anti-social element. Also, under this amending section, there should be a provision for summary trial. It appears that the sentence under this section is severe.

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): Please conclude now.

SHRI DINKARRAO GOVINDRAO PATIL: Yes, Sir. Only two points more. Sir, under section 375, clause four reads as: "...her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married." I would suggest that under this section the person should not be held guilty because there is the consent of a lady and she is an adult and her belief in that person shows her love for that man. Therefore, my suggestion is that he should not be held guilty.

Then, the last point, under the Criminal Procedure Code if a wife is separated after giving divorce to her husband she is entitled to get maintenance separately from her husband. My suggestion is that even after the wife is living separately from him under a decree of separation, he should not be held guilty under section 376A for having illicit connection with his separated wife in case she gives her consent. Therefore, my submission, my last small point, is that inducement and seduction is a kind of rape in law under section 376B and 376C. It should also be treated as offence. And my last point...

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): You have so many 'last points'. (Interruptions)

SHRI DINKARRAO GOVINDRAO PATIL: Rape offences are happening because of the cinema where naked dances are shown and even the rape incident is also shown. In such cases there must be a provision for strict censorship in cinemas and also in weeklies and other magazines.



**श्री रामेश्वर सिंह (उत्तर प्रदेश) :**

उपसभाध्यक्ष महोदय, यह बिल बहुत रोचक बिल है। रोचक बिल इस मामले में है कि सरकार आए दिन कोई न कोई बिल, कोई न कोई कानून बनाती रहती है। मैं मंत्री महोदय से इस बिल के सम्बन्ध में दो-तीन सवाल पूछना चाहता हूँ। यह अच्छी बात है कि इस बिल की आवश्यकता आपने महसूस की, देश ने महसूस की और आपने कहा कि प्राइम मिनिस्टर के कहने पर आप यह बिल लाए। प्राइम मिनिस्टर इतनी चिंतित है देश में जो रैप की घटनाएँ घट रही हैं जिसकी वजह से इस बिल को लाया गया है, यह बहुत अच्छी बात है। लेकिन दो-तीन सवाल पूछना चाहता हूँ कि प्राइम मिनिस्टर ने इस बात को क्यों नहीं महसूस किया कि यह घटनाएँ क्यों घटती हैं? प्राइम मिनिस्टर को इस बात पर भी ध्यान देना चाहिए था कि यह घटना घटने के पीछे क्या कारण हो सकते हैं। किन-किन परिस्थितियों में ये आदमी काम करते हैं; पहली बात तो यह कहना चाहता हूँ कि आपने देश को ऐसी जगह पर ला कर खड़ा कर दिया कि आप लाख कानून बनायें आप इसको नहीं रोक सकते। तब तक नहीं रोक सकते जब तक इंसान की प्रवृत्ति, इंसान का मन जो है उसमें परिवर्तन नहीं लाते। जब तक इंसान को सदाचारी, जब तक समाज में सदाचारी की बात नहीं करेंगे, जब तक समाज में स्वस्थ वातावरण नहीं देंगे, तब तक यह काम नहीं रुकेगा। उपसभाध्यक्ष महोदय, मैं मंत्री जी से जानना चाहता हूँ कि इस बिल के लाने के पहले आपको क्या यह बिल लाना नहीं चाहिए था? आपने जिक्र किया है, आप वकालत भी करते हैं और आपने बहुत अच्छी दलील भी दी

है, कानूनी मुद्दा आपने उठाया है, मैं कानूनी बारीकी में नहीं जाना चाहता क्योंकि मैं कानून का विशेषज्ञ नहीं हूँ। मगर जो देखता हूँ उसका कानून से बहुत ताल्लुक रहता है। आज भी सिनेमा में खुल्लमखुल्ला नौजवान लड़के और लड़कियाँ आपको देखने को मिलेंगी कि किस तरह से वे बलात्कार करते हैं, किस तरह से नंगी तस्वीरें वहाँ दिखाई जाती हैं। किस तरह से लोगों की मनोवृत्ति को भड़काया जाता है। इस पर कभी आपने गौर किया? गृह मंत्री जी अभी आपने इस पर सोचा है कि इस का मूल कारण क्या है? आप अखबारों में पढ़ते होंगे तो आपने देखा होगा कि कोई क्रिमिनल पकड़ा गया है वह यह कहता है कि मैंने सिनेमा में डकैती करते हुए देखा था कि किस तरह से डकैती की जाती है और फिर मैंने जाकर इस काम को किया। किस तरीके से, सिनेमा में मैंने देखा था कि मर्डर किया जाता है तब जाकर मैंने यह मर्डर किया था। उपसभाध्यक्ष महोदय, बहुत ही गम्भीर बात है और मैं चाहता हूँ कि इस बिल को वापस लिया जाय। एक तरफ तो हमारे देश में फैशनपरस्ती बढ़ती जा रही है और दूसरी तरफ सिनेमाओं में भड़किली पिक्चर्स दिखाई जाती हैं। नंगे लड़के और लड़की को पर्दे पर प्रदर्शित किया जाता है। नवजवान लड़कों और लड़कियों पर इसका बुरा असर पड़ता है। मैं नहीं जानता कि श्री कल्प नाथ जी के देखने में यह बात आती है या नहीं। मैं नहीं जानता कि गृह मंत्री जी के देखने में ये बातें आती हैं या नहीं। यह प्रवृत्ति आज हमारे देश में क्यों फैल रही है? यह बात लोग क्यों नहीं सोचते हैं कि श्रीमती मोनिका दास कैसे रहती हैं? रामेश्वर सिंह कैसे

[श्री रामेश्वर सिंह]

रहता है, प्रधान मंत्री कैसे रहती हैं ? इनके रहन सहन पर लोग क्यों ध्यान नहीं देते हैं ? इस देश के अन्दर खुलमखुल्ला शराब की छूट दी गई है। मैं जानता चाहता हूँ कि अंग्रेजी राज के दिनों में कितनी शराब बिकती थी ? अंग्रेजी राज में शराब की बिक्री नगण्य थी। मैं आपको बताना चाहता हूँ कि बचपन में हम लोग गांव में रहते थे। मुझे अब 32 साल हो गये हैं गांव छोड़े हुए। कभी कभी जब मौका मिलता है तो मैं गांव में जाता हूँ। वहां पर हमको यह देखने को मिलता है कि गांवों में शराब पानी की तरह से मिलती है और जगह-जगह पर शराब की दुकानें खोल दी गई हैं। हर चौराहे पर शराब की दुकानें हैं। जो नवजवान एम० ए० और बी० ए० पास होते हैं, जिनको कोई रोजगार नहीं मिलता है वे अपने मां-बाप की कमाई शराब में गंवा देते हैं। इसलिए जब तक आप शराब की बिक्री नहीं रोकते हैं तब तक यह अपराध रुकने वाला नहीं है।

जैसा मैंने कहा, दूसरी चीज जो देखने में आ रही है यह यह है कि हमारे देश में फैशनपरस्ती बढ़ती जा रही है। चाहे शहर हों या गांव जब हमारे लड़के पोस्टरों में नंगे लड़के और लड़की को चिपका हुआ देखेंगे तो उन पर क्या पड़ेगा ? इस प्रकार के पोस्टर अब गांवों में भी जाने लगे हैं। ऐसी हालत में जब तक आप इस अश्लीलता को नहीं रोकेंगे तब तक रेप के अपराध रुकने वाले नहीं हैं। आपने डकैती को रोकने के लिए कानून बनाया है, लेकिन क्या डकैती रुक गई है ? सिर्फ कानून बना देने से कोई अपराध रुक नहीं जाता है। मर्डर के लिए आप कड़ी सजा देते हैं, लेकिन क्या मर्डर होने बन्द हो गये

हैं ? इसलिए मैं इस संबंध में कुछ सुझाव देना चाहता हूँ। जब तक इस देश में शराब की खुली छूट रहेगी तब तक रेप को नहीं रोका जा सकता है। जब तक आप सिनेमाओं में लड़के और लड़की को चिपके हुए प्रदर्शित करेंगे तब तक इस तरह की घटनाओं को नहीं रोका जा सकता है। इसका कारण यह है कि हमारा देश अमेरिका या यूरोप नहीं है। यहां पर लोगों को खाने को नहीं मिलता है, कड़ा नहीं मिलता है और बेरोजगारों की संख्या में दिन-ब-दिन बढ़ोत्तरी होती जा रही है। भुखमरी की संख्या में भी वृद्धि होती जा रही है। ऐसी स्थिति में जब नव-जवानों को रोजगार नहीं मिलेगा, खाना नहीं मिलेगा तो स्वाभाविक तौर पर उनका ध्यान इस प्रकार के अपराधों की तरफ जाएगा। इसलिए मैं बुनियादी बात कहना चाहता हूँ कि आप फैशन-परस्ती को रोकिये। आपने मिलावट रोकने के लिए कड़ा कानून बनाया है, लेकिन क्या मिलावट रुक गई है ? चर्बी के मामले में देश में क्या हुआ है, यह सब जानते हैं। करोड़ों-करोड़ लोगों को मिलावट के कारण चर्बी खानी पड़ी। कानून बना है कि मिलावट अपराध है। यह कानून आपने बनाया। लेकिन क्या आपने हिन्दू, मुसलमान, सिख, ईसाई, पारसी, देश के इन 50-60 करोड़ लोगों को गाय और सुअर की चर्बी मिलाकर नहीं खिलाई ? कानून क्या मिलावट रोक सका है ? मैंने दो बातें कहीं और अब मैं तीसरी बात पर आना चाहता हूँ। मैंने बहुत सोचा है और हम लोग भी सोचते रहते हैं। ऐसा नहीं है कि इस सदन में हम आये हैं तो हम केवल बिल पास कर दें। हम इस सदन में आये हैं जनता की भावनाओं को बताने के लिये। (समय की घंटी) दो मिनट का समय मुझे देने की कृपा करें।

उपसभाध्यक्ष (श्री आर० आर० मोरारका) : कृपया समाप्त कीजिये ।

श्री रामेश्वर सिंह : उपसभाध्यक्ष महोदय, अब स्थिति क्या है। आप अगर देखें तो आप पायेंगे कि इस देश में पापुलेशन बढ़ गई है, हर जगह रेप होते हैं, जेल में भी रेप हो जाते हैं, यहां तक कि पुलिस भी रेप करती है। यहां तक कि कई लोग चार-चार बीबी रखे हुए हैं। आपके कांग्रेस (आई) के एम० एल० ए० की बीबी रहते हुए भी उन्होंने दूसरी बीबी रख दी और चार महीने में बच्चा पैदा हो गया। मुना है आपने? मैंने पहले भी इस का हाउस में जिक्र किया था... (व्यवधान)... हमारे ऊपर भी कहिये। लेकिन जब तक समाज में स्वस्थ वातावरण नहीं बनता तब तक यह स्थिति नहीं सुधर सकती। खुद प्रधान मंत्री कहती हैं कि लड़कियों को रेप किया जाता है। हजारों हजारों लड़कियों... (व्यवधान) प्रधान मंत्री को चिंता हो गई है...

श्रीमती उषा मल्होत्रा (हिमाचल प्रदेश) : यह जनता सरकार के वक्त आ सकता था। उस वक्त क्यों नहीं लाये? ज्वाइंट सलेक्ट जो बनी है उसने यह मुझाव दिया था, यह मैं आपको बता दू।

श्री रामेश्वर सिंह : आप लोग उन्हें खाते रहे, बर्दाश्त करते रहे।

श्रीमती उषा मल्होत्रा : हम लोगों को डंडे नहीं लगते, आप लोगों को लगते होंगे।

श्री रामेश्वर सिंह : मैं जो बता रहा हूँ सत्य बता रहा हूँ। आप लोग आँखें बन्द किये बैठे हैं... (व्यवधान)...

उपसभाध्यक्ष (श्री आर० आर० मोरारका) : आर्डर प्लीज।

श्री रामेश्वर सिंह : क्या यह सत्य नहीं है कि माया त्यागी के साथ पुलिस ने रेप किया। हमने कहा कि पुलिस वालों को सस्पेंड करो आपने नहीं किया। हमने कहा कि जो रिपोर्ट बागपत कांड की है उसको पेश करो लेकिन नहीं किया। जब इस तरह से होता रहेगा तो कानून बनाने से रेप नहीं सकेगा। इसलिये मैं आपके द्वारा इस सदन में भारत सरकार से कहना चाहता हूँ, आपसे कहना चाहता हूँ कि इस बिल को वापस लो, फैशन-परस्ती, शराबबाजी, सिनेमा में नंगी तस्वीरें दिखाना बन्द करो। लड़कियां जो कांडे पहनती हैं तो मालूम ही नहीं होता कि कपड़े पहने हैं (समय की घंटी) उपसभाध्यक्ष महोदय, एक रोज मैं अपने दो साथियों के साथ जा रहा था...

श्रीमती उषा मल्होत्रा : प्वाइंट आफ आर्डर। इन्होंने कहा कि वापस लो इस बिल को। इससे मालूम होता है कि उनकी नीयत अच्छी नहीं है।... (व्यवधान)...

उपसभाध्यक्ष (श्री आर० आर० मोरारका) : नो प्वाइंट आफ आर्डर।

श्री रामेश्वर सिंह : उपसभाध्यक्ष महोदय, ये दोनों लड़कियां हमारी बगल से जा रही थीं। मैंने समझा कि लड़के हैं हाथ आगे बढ़ाकर यह समझकर कि लड़के हैं कहा कि जल्दी चलो तो जब उन्होंने हमारी तरफ घूरकर देखा तो मैं डर गया। तब मालूम पड़ा कि ये लड़कियां हैं। उपसभाध्यक्ष महोदय, मैं कहना चाहता हूँ कि आज देश किस दिशा में जा रहा है। आप इस देश को

[श्री रामेश्वर-सिंह]

महात्मा गांधी का देश बनाइये, भगवान बुद्ध का देश बनाइये, राम का देश बनाइये, कृष्ण का देश बनाइये। ऐसे लोगों का देश न बनाइये जो शराब के नशे में 12 वर्ष की लड़कियों का क्या, 5-6 वर्ष की लड़कियों के साथ भी रेप करते हैं, ऐसी खबरें अखबारों में निकलती हैं क्योंकि उनको होश रहता नहीं है। सिनेमा में तस्वीर देखेंगे, खुल्लमखुल्ला देखेंगे कि वहां चिपकते हैं तो रास्ते में वे भी चिपक जाते हैं। इसलिये मेरा कहना है कि इसको वापस लीजिये और इस बिल के संबंध में सारी बातों का अध्ययन करके लायें तो यह ज्यादा अच्छा होगा।

SHRI AJIT KUMAR SHARMA (Assam): Mr. Vice-Chairman, Sir, we are debating a Bill which is urgently called for by the situation in the country. But while bringing the Bill, the Government seems to be of a very hesitant mind and the result is a weak Bill presented before the House. The teeth of the Bill which ought to have been sharp to prevent criminal aggression on the weaker set have been taken out by the Home Minister. This weakness was pointed out yesterday, firstly by Advaniji and again by hon. Roda Mistry. Sir, Shrimati Mistry's point is very relevant. This relates to the prohibition with regard to publicising the rape cases. Here there is a contradiction in the Bill. The Bill wants to prevent criminal act in the shape of rape; but at the same time it also wants to punish those who bring the cases of rape to public forum and to the notice of the Government. It is as if the Government wants to prevent it but at the same time it wants to prevent disclosure of the information about rape. So, this aspect has to be remembered by the Home Minister.

Second reference made by hon. Roda Mistry is very vital. It relates

to the undesirability of keeping of an accused woman in the police lock-up. In his introductory statement yesterday the Home Minister referred to certain executive directions meant for the police. To quote him, he said:

"I may mention in this connection that there is already an instruction that no woman should be arrested between sunset and sunrise and if an arrest has to be made during the night, the police officer must obtain prior permission from his next superior officer and furnish written reasons thereof. He must also report about the arrest to his next superior officer without delay. Similarly, instructions have also been issued that if an arrested woman has to be detained in police custody, it should be ensured that she is kept in female lock-up at the police station and where a separate lock-up is not provided for females, she should be kept in a separate room. In addition, a relative of the arrested woman should be permitted to stay on the premises and the arrested woman should be within his or her view."

Now, this very statement reveals the weakness of the Bill. These directions should have been the part of the Bill as specific provision of law. I would specially request the Home Minister to reconsider and bring these directions within the purview of the Bill as provisions of law. I may mention two incidents to show how these executive directions have failed. In view of what the police have been doing everywhere, it is necessary that these directions be incorporated as provisions of law. Otherwise police crimes against women will continue. Let me now cite two incidents to draw the attention of the Home Minister. On the 11th and 12th November, at Gauhati, when the Prime Minister was there in the city, two police officers, one DSP and one Inspector, went to the residence of a professor of the Veterinary college at 8 P.M. They enquired about the professor. He was absent. They broke the

windows and doors of the house, forcibly entered the bedroom and took hold of the wife by her hair, dragged her to the police car, put her into the police car and took her to the Dispur lock-up, where they removed her clothes and beat her mercilessly in that lock-up. Then, they took her to another lock-up at 10 P.M. and to a third lock-up at 12 O'clock and after keeping her in this lock-up, at 2 A.M., a police officer came, unlocked the door and threatened to rape her. This case has been reported. Specific complaints against one superintendent of police one DSP and two inspectors were submitted to the Government. The Cabinet discussed it but, not even an enquiry has been ordered into this uptill now. I would draw the attention of the hon. Home Minister to this and I would ask him to immediately make an enquiry into this. If he is sincere about this law, if he is sincere about preventing crimes against women, I would like that he should immediately order an enquiry into this case and take stringent action against the guilty police officers.

Then, another case happened in the same city on the 19th November. A respected lady was arrested at 1 A.M., in the night; she was handcuffed and tied to a rope, dragged on to the police thana and kept there for the whole night. I would like the Home Minister to enquire into these two cases and take appropriate preventing action. Otherwise, just passing a law will not help the society. Let me also add that Government must have a political will. It should develop and sustain a political culture which will efficiently prevent Ministers, police officers and other persons of authority and influence and power from committing this kind of crimes in society.

Sir, with these words, and with a request to the Home Minister to order an immediate enquiry into these two particular cases which I have mentioned, I support the Bill.

THE VICE-CHAIRMAN (SHRI R.

R. MORARKA): Mr. Shiva Chandra Jha. Only two minutes.

श्री शिव चन्द्र झा (बिहार) : उपसभाध्यक्ष महोदय, बहुत सी बातें कही गयी हैं क्रिमिनल ला विधेयक के मुताल्लिक लेकिन जिस रूप में यह ज्वाइंट कमेटी के द्वारा स्कीन्ड हो गया है, जिस रूप में वड्डेड है, इसकी वर्डिंग है, यह लिखा गया है तो मुझको शक है कि कहीं डेविल से बचने के लिये डीप सी में तो नहीं जा रहे हैं। एक अपराध को रोकने के लिये कहीं इस विधेयक के जरिये कोई दूसरा अपराध तो नहीं हो रहा है। मैं समझ रहा हूँ कि दूसरा अपराध हो रहा है। वह अपराध है फ्रीडम आफ द प्रेस पर हमला हो रहा है। फ्रीडम आफ द प्रेस का क्या मतलब होता है। यही नहीं कि सरकारी रेस्ट्रिक्शन न हो, मालिक का रेस्ट्रिक्शन न हो बल्कि उसका मतलब अब यह हो गया है कि मिनिमम इन्फारमेशन सिटीजन को हो जैसे कि बात आई है राइट टु इन्फारमेशन वाली। जैसे स्वास्थ्य के लिये इतनी केलोरीज की जरूरत है, इतने विटामिन्स की जरूरत है, एक सजग नागरिक के लिये एक मिनिमम इन्फारमेशन की भी जरूरत है। अब जिस रूप में यह विधेयक है जिसमें दूसरे क्वाज में है कि आइडेंटिटी डिसक्लोज न हो, कोई छपा नहीं जाय, पब्लिश न किया जाये। रेप का मामला है तो क्या छापेगा रिपोर्टर? मान लीजिये कोई घटना हुई दिल्ली में, कैसे उसको रिपोर्ट करेगा, क्या कहेगा? रेप कैसे हपेन इन दिल्ली? तब उससे आगे जानकारी देने के लिए कहेगा, दिल्ली के एक म्हुल्ले में। वहां जायेगा तो ज्यादा जानकारी होगी। उससे ज्यादा जायेगा कि फलां रोड में हुआ, उसमें घटना हुई। अब बात आयेगी कि उस रोड में उस आदमी की आइडेंटिटी निकल आयेगी। यह बात न हो लेकिन इतनी इन्फारमेशन वह देगा कि नहीं देगा तो इतनी

[ श्री शिवचन्द्र झा ]

इन्फार्मेशन, खबर वह देगा तो नेचुरली आईडेंटिटी मिल जायेगी। इसका मतलब है

Anything that is published concerning rape उसको सजा होगी। यानी फ्रीडम आफ प्रेस पर बलात्कार। एक रेप को रोकने के लिये दूसरा रेप हो रहा है, फ्रीडम आफ द प्रेस पर रेप। एक मेजर थर्स्ट जो विधेयक में है उसमें एतराज नहीं है वह समर्थन के लायक है। लेकिन जो रामेश्वर जी बोले उसमें यह बात नहीं है कि तथ्य नहीं है। जो वातावरण बनाया जा रहा है हमारे एक कामर्शियल कल्चर का या वेस्टर्न छाप का जो कल्चर बनाया जा रहा है उससे यह भावना पैदा की जा रही है। इसी लिये इस बीमारी को रोकने के लिये बिल ही नहीं बल्कि एक प्राम्प्ट अटैंक की जरूरत है और इस सब पर हमें काम करना होगा। आपने अमरीका जैसे मुल्क में भी देखा कि वहां एक जज ने फैसला दिया कि अभियुक्त को या तो जेल में रहना होगा या फिर उसे कांस्ट्रेट कर दिया जाये। इसी तरह से इंग्लैंड में एक केस में फैसला हुआ, जिसके लिये वहां मूवमेंट भी चल रहा है कि जब तक उसकी कन्सेंट न हो जाय तब तक हो ही नहीं सकता था। ऐंड ही वाज रिक्लीज्ड। तो यह सब बातें हो रही हैं दुनिया में। इसलिये कमर्शियल या कैपिटलिस्ट कल्चर जो चल रही है उसका मेजर थर्स्ट जो है उसके लिये हमें कुछ करना चाहिए। एक अपराध से बचने के लिये दूसरा अपराध—फ्रीडम आफ द प्रेस को आप कर्ब न करें। अब इस में जो पुलिस का आदमी करता है या कोई पब्लिक सर्वेंट यह करता है तो उसके लिये प्राविजन होना चाहिए कि उसका इम्पीडिएट सस्पेंशन हो जाय। आप के एक्जीक्यूटिव रुल्स में यह होगा लेकिन इसमें भी आप कर दीजिए कि जब वह साबित जाय कि बेगुनाह है तभी वह अपनी

ड्यूटी पर जा सकेगा। लेकिन इसमें ऐसा नहीं है। तो मेरे कहने का मतलब है कि सजा आप दस साल की दीजिये या सात साल की इसमें हमें एतराज नहीं, लेकिन इसकी वार्डिंग ठीक नहीं है। इसलिये आप इसको विदवा न करें लेकिन इससे ज्यादा कोई कांफिडेंसियल बिल लायें और उसमें इन सब बातों का समावेश करें तभी यह सार्थक होगा। इन शब्दों के साथ मेरा इसको क्वालीफाइड सपोर्ट है।

श्री पी० एन० सुकुल (उत्तर प्रदेश) : मेरा भी नाम इस में था।

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): Hon. Minister.

SHRI GHULAM RASOOL MATTO (Jammu and Kashmir): My name was there.

श्री पी० एन० सुकुल : मुझे भी इस में बोलना था। मेरा नाम था इस में।

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): You were not here. I looked to your seat. You have come now, but now the time of the debate is over, let the Minister reply.

श्री पी० एन० सुकुल : मैं तो यहीं पर था।

SHRI P. VENKATASUBBAIAH: Mr. Vice-Chairman, Sir, large number of hon. Members have participated in the debate with regard to this amending Bill. I will broadly categorise the points which have been raised and will try my best to answer the points raised by the hon. Members.

The first point that has been made by Shri Advani is the sluggishness, the tardy manner in which this Bill has been brought forward by the Government. Sir, I refute this allegation. There was no mala fide intention on the part of the Government to delay the introduction of this Bill in both the Houses of Parliament. There has been no avoidable delay

in this connection. I can chronologically explain the events that led to this delay, but I do not want to take much time of the House. I would only say that the Government had best of the intentions to bring forward this Bill as immediately as possible. Due to certain procedural and administrative difficulties this Bill has been delayed, but when it was introduced in the Parliament during the previous session, it could not be discussed because of various other important matters. Hon. Members of both the Houses thought it fit to give priority to those items.

**SHRI LAL K. ADVANI** (Madhya Pradesh): Mr. Vice-Chairman, yesterday I clarified that I did not attribute any *mala fides* but I insisted that to take four years for this matter to be brought before Parliament when the Law Commission had done it in one month was certainly evidence of tardiness—that is all, no *mala fides*.

**SHRI P. VENKATASUBBAIAH**: Another important matter is about section 228A. Shri Advani has given a note of dissent also in this connection. Sir, there seems to be a slight misunderstanding with regard to this particular section 228A. There is no blanket ban that is envisaged in this Bill at all. I would like to again read out for the benefit of this House this section:

“228A. (1) Whoever prints or publishes the name or any matter which may make known the identity of any person against whom an offence under section 376, section 376A, section 376B, section 376C or section 376D is alleged or found to have been committed (hereafter in this section referred to as the victim) shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

(2) Nothing in sub-section (1) extends to any printing or publication of the name or any matter which may make known the iden-

tity of the victim if such printing or publication is—

(a) by or under the order in writing of the officer-in-charge of the police station or the police officer making the investigation into such offence acting in good faith for the purposes of such investigation; or

(b) by, or with the authorisation in writing of, the victim; or

(c) where the victim is dead or minor or of unsound mind, by, or with the authorisation in writing of, the next of kin of the victim:

Provided that no such authorisation shall be given by the next of kin to anybody other than the chairman or the secretary, by whatever name called, of any recognised welfare institution or organisation.”

So, there is no blanket ban and under these circumstances the publication can be made. Sir, it only prohibits the name of the victim or any other matter which may make known the identity of the victim. The rest of it is not precluded from being given publicity in the press. Mr. Advani wanted that the name of the victim may be omitted, but the words “any matter which may make known the identity of any person” should be deleted. My contention is, suppose we agree to Mr. Advani's contention, then I would like to quote an example. The victim's name may be Kamla. That name has not been mentioned in the press, but if we exactly understand the point in having the words any other matter connected with that, Kamla's name is not mentioned, but “daughter of some Mr. Rao, residing in such and such place, at such an address in a city” could, according to Mr. Advani, be published. If that is done, then what is the purpose of omitting the name of the individual? It will be made known from the other parti-

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culars of the individual; only her name is not being published; but if all these facts that will lead to the identification of the individual are allowed to be published, then the very purpose is lost. The reason for the introduction of this clause is to save the woman from social stigma, to save her reputation. Under some very extraordinary circumstances, against her will, she has been subjected to this kind of heinous crime. But the society, constituted as it is today, looks down upon her the moment the victim's identity is made known. As a matter of fact, there will be a social boycott, although she is innocent of the crime. That is why we have taken ample care to see that social stigma is not attached to the victim. But at the same time we will give all facilities to such of those people who want to assist in the matter of bringing the accused to book. This is our intention and I will only say on this occasion let us give a fair trial to the working of this Act. In course of time if we find that there is any difficulty in achieving the objectives for which the Bill is intended, at any time this can be reviewed. So I would only request hon. Members to understand the implications, to know for what purpose this particular clause has been inserted.

Sir, another factor that has been made out is that the Bill is not comprehensive. I wish to inform the august House that this Bill is very much limited in its scope. It is a Bill intended to safeguard the chastity of women, to bring to book people who indulge in such crimes.

Several suggestions have been made and also a mention has been made about the general recommendations which the Government is carefully considering. Some executive instructions have already been issued. The hon. Member who mentioned about the general recommendations has said, why not the executive Order be incorporated in the Bill? He was referring to the arrest of women

between sunset and sunrise and about keeping a woman in a police station in a separate room where there is no female lock-up. Sir, these are matters that do not directly have a bearing on the present Bill. There are several other Bills that are being brought forward in this House and these suggestions could be more relevant when those Bills are discussed in this House.

Sir, another point raised by Shri Advani is that there is a provision under section 375 that "Sexual intercourse by a man with his own wife, the wife not being under fifteen years of age, is not rape." He is of the view that this provision should go; in other words, sexual intercourse by a man with his own wife should not be rape irrespective of age. Sir, this is intended for the simple reason that Mr. Advani also knows. When this matter was discussed in the Joint Select Committee, there was a divided opinion about this particular clause. Sir, the Joint Committee wanted that the age also should be raised to eighteen years. The Law Commission had also suggested it. The Joint Committee, however, felt that fifteen years was a reasonable age and, in view of the fact that Government was very keen to discourage child marriages, this provision should be retained. It is from this point of view that this particular provision was made in exception to section 375.

Sir, another matter raised by Advani ji is that in section 114A a change was made in the original provision by the Joint Committee by adding "by the accused" where the provision is made about sexual intercourse being proved, and his apprehension is that in a gang rape case a person standing trial may take advantage of the expression "by the accused." Sir, I may draw his attention to the relevant provision in the Act where gang rape also is mentioned. In this, it is not only the person, in a gang rape, who commits the rape but also the other accomplices who will get similar punishment as is for gang rape.



Sir, I will read out the relevant *Explanations*—

"1. Where a woman is raped by one or more in a group of persons acting in furtherance of their common intention, each of the persons shall be deemed to have committed gang rape within the meaning of this sub-section."

So, Sir, 114A will satisfy the point that has been raised by Mr. Advani.

Sir, Mr. Chakraborty—he was one of the members of our Joint Committee—also raised some points. Not only has he mentioned the report but also has spoken. He said that in the explanation of 'hospital', nursing homes should be included. Explanation 3 at page 4 of the Bill may be seen in this connection. It has been given a definition in this Bill. Hospital includes nursing home also. (*Interruptions*) I may read it out to you. "hospital" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation. Sir, nursing homes will also come under this explanation.

SHRI AMARPROSAD CHAKRABORTY: Nursing home is a private institution Hospital precincts'...

SHRI P. VENKATASUBBAIAH: Whether it is a private nursing home or otherwise.

Mrs. Roda Mistry has raised one point. She said that the evidence of top police officers must also have been taken. She asked whether their opinion had been taken by the Committee. Sir, we have taken the evidence of top police officers also in this connection.

Another point she raised was that the rape complaint that reaches the police station should go to a senior officer and medical examination should be done immediately. The Government is separately considering the question of making amendments

to the Cr.P.C., including the provision for prompt medical examination of the rape victim as well as the accused. It was said that women should not be called to a police station, their evidence must be taken at a place of her choice, in front of people who are related to her, so that there is no exploitation. Sir, section 161 Cr. P.C. also prohibits the police requiring appearance of a woman at any place other than her residence for the purpose of examination by the police.

Sir, another hon. Member also said about the incidents at Gauhati. I will certainly get into contact with the Assam Government and find out the real facts about this matter. He also wanted that the rape victim who is thrown out of her house by her husband, by her family members, etc., be given some sort of relief by making the culprit pay. Sir, the Joint Select Committee has made a general recommendation to this effect. We are separately considering making provision in IPC, along with other amendments, for compensation by the culprit to a victim of certain offences, including rape. As a matter of fact, Sir, compensation is already provided in the Act.

Another hon. Member, Shri Dhabe—ne was also a member of the Joint Select Committee—also mentioned about 228A. Since I have explained the position, I think that will satisfy him.

SHRI SHRIDHAR WASUDEO DHABE (Maharashtra): My point was about section 354(3). In any case, you have to punish him. Minimum 3 months' punishment is prescribed. The offence prescribed for it is more than one year punishment. Therefore, in every case, he will be convicted and given 3 months' imprisonment.

SHRI P. VENKATASUBBAIAH: Sir, he said that whosoever violates section 228A must not be punished with two years of imprisonment but should be let off with a fine. Sir, this

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matter also has been very much debated in our Committee and the collective wisdom of the Committee is that there should be some sort of a deterrent punishment. Sir, he also said that there is no provision about the cases happening in offices, in rural areas where women work in the fields and offences are committed by landlords, and in cases of offence committed by employees on women working as stenographers. Sir, about this matter, such rapes will not be aggravated rape but ordinary rape. The penalty for ordinary rape is stringent enough. For any rape, Shri Dhabe knows that the minimum punishment is seven years and for a custodial rape the minimum is for ten years.

Sir, he also said that gang rape should be punished with death penalty. Sir, I would like to explain to the House that if the death penalty is imposed, there is a danger of the accused killing the victim. That danger is there. That is why, to avoid that danger, we have not prescribed capital punishment for this type of offence.

Sir, Dr. Rudra Pratap Singh said that the consent of a woman to sexual intercourse should be vitiated if she had consented on account of promise of promotion or economic assistance. Sir, with all my humility I may say, Sir, that if a woman succumbs to this sort of inducements, we cannot say that she is a woman of high character. So, Sir, these are some of the weaknesses that are inherent in our society. By an Act we will not be able to eradicate them. These are certain circumstances, and in the society there must be social awakening in all these matters.

Sir, there are several other suggestions that have been made. And I will deal with some of the points raised by some hon. Members.

One important mention has been made about the pronouncement of the recent Supreme Court judgement. Sir, the Supreme Court judgement has got its own limitations. The

Supreme Court judgement has been quoted by several of the Members. For the information of the hon. Members I may read out the Supreme Court judgement in this case, only a part of it. I will not take much of the time. Sir, I quote:

"We are, therefore, of the opinion that if the evidence of the victim does not suffer from any basic infirmity and the probabilities factor does not render it unworthy of credence, as a general rule there is no reason to insist on corroboration except from the medical evidence where having regard to the circumstances of the case medical evidence can be expected to be forthcoming subject to the following qualifications:

Corroboration may be insisted upon when a woman having attained majority is found in a compromising position and there is a likelihood of her having levelled such an accusation on account of instinct of self-preservation or when the probabilities factor is found to be out of tune."

Sir, in my humble opinion, the judgement only says that the evidence of the rape victim should be accepted if it does not suffer from any basic infirmity without insisting on corroborative evidence other than available medical evidence, and that too when the probabilities factor does not render the victim's evidence unworthy of credence. The court has also said that corroboration may be insisted upon when the woman, if she is major, is found in a compromising position and there is likelihood of her having levelled the charge of rape on account of instinct of self-preservation.

Sir, the directions are only to the courts. The Supreme Court was making this observation in the context of the lower courts having insisted upon corroborative evidence. Even now it is not always essential that every evidence should be corroborated. If the evidence of any

person is unshaken and is not unworthy of credence, the court may always accept the evidence without corroboration. This is so far as the Supreme Court judgment is concerned.

Sir, another hon. Member, Shri Patil said that if the wife is living separately and if there be consent, no offence should be made out. Sir, only when the consent is not there, it is offence. When there is consent, there is no offence at all.

Shri Krishna Mohan said that a special machinery should be evolved for speedy disposal of these cases. Sir, I am not able to say anything at this stage, but our intention is that these cases must be speedily disposed of in whatever manner it is possible. If it could be achieved by executive orders, then we will certainly consider this point.

Shri Suraj Prasad has said that there should be a separate police station for registering such crimes. Sir, I have already said that if in a particular police station, the police officer refuses to register the case, a complaint could be made to the higher officer and the case will be registered. And if the particular police officer is found to have been guilty of dereliction of duty, departmental action will also be taken against him.

Shri Patil also said that the bill should be stringent and they should not be released on bail. As I said, this Bill is very limited in its scope. All these matters cannot be brought into this. As a matter of fact, there is a separate column in this Bill where the offences have been classified and the hon. Members are aware of this. More than that, I don't think there is any point in going through all these matters which have already been put in the Bill. The categories of crimes and the action to be taken, all those things are enumerated in this Bill.

Some misgivings have been expressed about section 114A. Mr. Chakra-

borty said that he may also be hauled up and that, Sir, when you are in your chamber, some lady with some gentleman may come and take photographs. It is not as simple as that. Section 114A says:

"In a prosecution for rape under clause (a) or clause (b) or clause (c) or clause (d) or clause (e) or clause (g) of sub-section (2) of section 376 of the Indian Penal Code, where sexual intercourse by the accused is proved..."

It is not taking photographs of kissing. Only when the sexual offence is proved, only then this section will apply. So, Sir, flimsy grounds or the things that Mr. Chakraborty imagines will not be taken cognizance of.

I have dealt with death penalty and all those things. In conclusion, I thank all the hon. Members for their valuable suggestions.

श्री रामेश्वर सिंह : श्रीमन्, मेरा प्वाइण्ट आफ आर्डर है ।

THE VICE-CHAIRMAN (SHRI R. MORARKA) : What is your point of order, please?

श्री रामेश्वर सिंह : उन्होंने यह कहा है कि हम खत्म करने जा रहे हैं। मैंने दो तीन बातें उठाई हैं। मैंने कहा कि...

THE VICE-CHAIRMAN: (SHRI R. R. MORARKA): What is the point of order, please??

श्री रामेश्वर सिंह: मेरा प्वाइण्ट आफ आर्डर यह है कि जो आदमी शराब के नशे में बलात्कार करता है। यह मैं आपको फोटो दिखा रहा हूँ। (व्यवधान) प्रधान मन्त्री : जो पोशाक पहनी हुई है (व्यवधान)।

THE VICE-CHAIRMAN (SHRI R. MORARKA): There is no point of order. Mr. Rameshwar Sin please take your seat.

श्री रामेश्वर सिंह : जरा सुन लीजिये। उनकी यूरोप की पोशाक है (व्यवधान) उस पर दुपट्टा नहीं है... (व्यवधान)

THE VICE-CHAIRMAN (SHRI R. MORARKA): I have heard you.

श्री रामेश्वर सिंह : सिनेमा में नंगी तस्वीरें बन्द करिये। नशे में यह सब काम होता है। (व्यवधान)

SHRI P. VENKATASUBBAIAH: Sir, this is most reprehensible. This must be expunged from the record.

श्री रामेश्वर सिंह : यह मेरा प्वाइंट ऑफ ऑर्डर है। जब प्रधान मन्त्री इस तरह से करेंगी... (व्यवधान) तो क्या होगा मुल्क में। शराब बन्द करवाइये वेंकटसुब्बाया जी।

THE VICE-CHAIRMAN (SHRI R. MORARKA): The question is—

“That the Bill further to amend the Indian Penal Code, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872, as passed by the Lok Sabha, be taken into consideration.”

*The motion was adopted.*

THE VICE-CHAIRMAN (SHRI R. MORARKA): We shall now take up the clause-by-clause consideration of the Bill.

Clause 2: Insertion of new section 228A

SHRI LAL K. ADVANI: Mr. Vice-Chairman, before you take up the amendments to the Clause, I stand up to oppose the Clause itself *in toto*. I wish that the Minister of State for Home Affairs in his reply had been fair to me when he referred to my objections to Clause 2, that is, to section 228A. My first submission was that I am completely opposed to the Clause and it is only as a compromise that I am willing to agree if the embargo is confined only to

name. The reply given was only to the compromise formula that I suggested that if I agree only to an embargo on the name, it is always possible for someone to write things in a manner that does not mention the name but everything else is disclosed. He will say the daughter of so and so, living at such and such place, etc. was raped. My approach is that in this regard the Law Commission's Report is very sound and there is no reason why the Government should depart from the Law Commission's Report. Instead of replying as to why he found fault with the Law Commission's Report, he replied only to the minor point that I made that in case you are not willing to omit it *in toto*, kindly agree to omitting the subsequent part of it that “any matter which may lead to the disclosure of the identity of the victim...” May I indicate very briefly the L.C.'s view because it has been succinctly put at page 99 of the Law Commission's Report—Rape and related offences. They have decided this issue of the victim's anonymity in two parts. They say, “We have considered the question of anonymity under two heads: (1) anonymity of the victim and the accused at the stage of investigation and before trial commences; and (2) anonymity of the victim and the accused as regards proceedings in court at the trial stage. As regards the stage of investigation we do not propose to make any recommendation for statutory amendment or for the enactment of separate legislation...”. As a journalist, as a person who has been following the functioning of Indian journalism, I would say that even without any embargo, by and large, the newspapers in the country exercise restraint. Generally speaking, you will not find any names. There is no embargo today in law. But when you see any heading or report, it merely says a girl was raped or a five-year-old girl was raped or molested, and so on; no names are mentioned, no father's name is mentioned. But there are occasions when giving

details of the episode may be imperative. For instance, how did this Bill itself come about? Its genesis lay in the agitation on the Mathura case. Mathura's name is known. There was subsequently an agitation in Mr. K. P. Singh Deo's State on what is called the Chabirani case. Chabirani's name is known. But I am of the view that if you put this embargo that any matter which leads to the disclosure of the identity of the person cannot be published then virtually you are putting a lid on the coverage of rape incidents. After all, a newspaper cannot just report that a man raped a woman. Then is no report. There has to be something more and this might lead to the disclosure of the identity. And therefore, the Law Commission very rightly said that "though we appreciate that the victim and the members of her family find it embarrassing that the name of the victim is given publicity, we would leave the matter to the good sense of the journalistic profession and to such provisions of the existing law as may be applicable so far as the investigation stage is concerned". Only in regard to the proceedings stage they have provided for trial in camera. I am of the view that this recommendation of the Law Commission should be accepted. My objection therefore is to clause 2 *in toto*. Since you are not willing to accept it, I proposed: "All right, you put the embargo only on publication of the name and omit the second part of it." Otherwise, I am totally opposed to clause 2. In his reply at the first reading the Minister gave the impression that I wanted only this minor amendment. It is not so. My objection is *in toto* to the clause.

SHRI SHRIDHAR WASUDEO DHABE: Sir, I move:

"That at page 1, lines 6-7 the words or any matter which may make known the identity be deleted."

[The amendment also stood in the name of Shri Lal K. Advani]. It is a very serious infringement of the freedom of the press and I would

in all humility plead with the Hon. Minister to consider this seriously because it is a question of giving punishment of two years of imprisonment to the journalists. Please do not treat them as criminals. The Law Commission has gone into this question very seriously and they have decided to leave it to the good sense of journalists. You kindly read the Explanation. It reads:

The printing or publication of the judgment of any High Court or the Supreme Court does not amount to an offence within the meaning of this section.

Even the printing of the judgement of the Sessions Judge or publication thereof becomes an offence. This is very serious. No statute can stop a journalist from publishing it. This is a blanket prohibition. Under Section 354(3) if a person commits an offence, the Magistrate has to give the minimum punishment of three months. If it is less, he has to give his reasons for that. And take it from me that no Magistrate is going to take the trouble of giving reasons. Therefore, he will always give three months. The whole case hinges on adverse publicity. I agree there is stigma. If such publication helps investigation against persons who are in power and police officers, they will be happy because it will be interpreted to protect the official machinery. It is for this reason I have suggested my amendment to the clause. Let the punishment be a fine of Rs. 1,000/- if the publication is not in good faith. You should not go beyond what is stated by the Law Commission in their 84th report. But the Minister has not said anything why there is departure from the recommendations. I do not understand why journalists and newspaper editors are to be punished in this way. I think this is worse than the Bihar and Tamil Nadu Press laws. I will plead with the Minister that he should reconsider the whole thing. I will request the House to support my amendment and not to pass Section 228A as it is.

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): You may speak on your other amendment to Clause 2.

SHRI SHRIDHAR WASUDEO DHABE: Sir, I move:

2. "That at page 1, line 9, the words 'alleged or' be *deleted*."

3. "That at page 1, lines 10 to 12, for the brackets and words '(hereafter in this section referred to as the victim) shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine' the words 'during the trial and when such printing and publication is not made in good faith or in public interest shall be punished with a fine upto one thousand rupees' be *substituted*."

4. "That at pages 1-2, lines 13 to 17 and 1 to 15, respectively be *deleted*."

5. "That at page 2, line 17, for the words 'before a court' the words 'held in a court in camera' be *substituted*."

6. "That at page 2, lines 19-20, for the words 'with imprisonment of either description for a term which may extend to two years and shall also be liable to fine' the words 'with a fine upto one thousand rupees' be *substituted*."

7. "That at page 2, lines 21-22, for the words 'of any High Court or the Supreme Court' the words 'of any court including any High Court and the Supreme Court' be *substituted*."

The amendment to clause 2 that I have suggested is this: It is punishable only when it is not done in good faith or in public interest. I have added these words. Then alone he may attract any action under the law. Again, when the newspapers publish an item in the interest of the society, the journalist should not be held up. Another suggestion that I have made

in this regard is that printing and publication should not be allowed if it is held in camera. Now, if the proceedings are not held in camera, what is wrong in publishing it? That is why I have added the words "held in a court in camera". Then, Sir, it should be with the permission of the court. If it is not held in camera, it should be allowed to be published.

SHRI AMARPROSAD CHAKRABORTY: Mr. Dhabe, with regard to the proceedings in camera, there is a separate provision.

SHRI SHRIDHAR WASUDEO DHABE: Now, there is another thing also. The trial or the proceedings can be in camera. But the judgment cannot be in camera. How can you put a total ban on publication? Therefore, I would request that my amendments to clause 2 may be accepted.

*The questions were proposed.*

श्री शिव चन्द झा : श्रीमन्, इसी में मेरा भी संशोधन था । देरी हो गई इसलिए वह सकुलेट नहीं हो सका । ला कमीशन ने लिमिटेड स्कोप में इंफार्मेशन डाइवल्ज करने की बात कही है । मैं कहना चाहता हूं कि उसमें भी फीमेल का नाम, आईडेंटिटी डिस्कलोज नहीं होनी चाहिए लेकिन मेल का नाम छापने में कोई एतराज नहीं हो । इस तरह का प्रावधान होना चाहिए ।

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): Yes, Mr. Minister, do you want to say anything on this?

SHRI P. VENKATASUBBAIAH: Sir, I repeat only what I have said, but with these observations: We are not suspecting the journalists at large or the newspapers. What I say is that there is a danger of some of the yellow journalists taking advantage of this and trying to scandalise and publishing such details as may go against the victim and I have also qualified it. I know that Mr. Advani wanted that the entire section 228A should go. I only appeal to him to bear in mind that it is not a blanket

ban and it is not intended to prevent the Press from publishing the news and it is not our intention to penalise the journalists or such of those papers as have taken up these cases.

Then, Sir, about the other thing which Mr. Advani mentioned, I stand corrected. He wanted that 228A should go, but in case it was to remain, he said that certain amendments should be accepted. I again say that there is no blanket ban and under certain conditions they can get the permission and I have enumerated them.

SHRI LAL K. ADVANI: Under this provision would the police have permitted publication of the Mathura case? No one would have permitted it and this Bill would not have been born.

SHRI P. VENKATASUBBAIAH: Then, Sir, Mr. Dhabe said about the publication in relation to any proceedings before the court without the previous permission of the court. We have only qualified it and if they take the permission from the court, nobody will come in the way of publishing it. About the other points which have been raised by Mr. Dhabe, I have already said and there is nothing more to add.

SHRI SHRIDHAR WASUDEO DHABE: What about the judgment of the sessions court?

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): The question is:

(1) "That at page 1, lines 6-7, words "or any matter which may make known the identity" be deleted."

*The motion was negatived.*

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): The question is:

(2) "That at page 1, line 9, the words "alleged or" be deleted."

*The motion was negatived.*

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): The question is:

(3) "That at page 1, lines 10 to 12, for the brackets and words "(hereinafter in this section referred to as the victim) shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine" the words "during the trial and when such printing and publication is not made in good faith or in public interest shall be punished with a fine upto one thousand rupees" be substituted."

*The motion was negatived.*

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): The question is:

(4) "That at pages 1-2, lines 13 to 17 and 1 to 15, respectively be deleted."

*The motion was negatived.*

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): The question is:

5. "That at page 2, line 17, for the words "before a court" the word "held in a court in camera" be substituted."

*The motion was negatived.*

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): The question is:

(6) "That at page 2, lines 19-21 for the words "with imprisonment of either description for a term which may extend to two years and shall also be liable to fine" the words "with a fine upto one thousand rupees" be substituted."

*The motion was negatived.*

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): The question is:

(7) "That at page 2 lines 21-22 for the words "of any High Court" be substituted."

[Shri R. R. Morarka]

or the Supreme Court" the words "of any court, including any High Court and the Supreme Court" be substituted."

*The motion was negatived.*

THE VICE-CHAIRMAN (SHRI R. MORARKA): The question is:

"That Clause 2 stand part of the Bill."

*The motion was adopted.*

SHRI SHRIDHAR WASUDEO DHABE: Sir, since my amendments relating to the new section 228A are not accepted and since the Government is not withdrawing that Clause, I walk out in protest.

*(At this stage, the honourable Member left the Chamber.)*

SHRI LAL K. ADVANI: In this provision I feel particularly aggrieved. It is not only because it is violating the freedom of the Press, but also because the campaign we want to build up among the people in respect of offences against women, in respect of rape, we are preventing it and we are preventing the society from agitating in this regard. It is a wrong approach, and I would also like to register my protest against it by walking alongwith my colleagues.

*(At this stage, some honourable Members left the Chamber.)*

श्री शिव चन्द्र झा : दूसरे क्राइम्स भी हो रहे हैं। फ्रीडम आफ द प्रेस भी सरकार नहीं चाहती है इसलिये मैं भी वाक-आउट करता हूँ :

*(At this stage, the honourable Member left the Chamber.)*

श्री रामेश्वर सिंह : मैं भी वाक आउट करता हूँ ।

*(At this stage, the honourable Member left the Chamber.)*

SHRI K. MOHANAN (Kerala): We also protest against it and we also walk out.

*(At this stage, some more honourable Members left the Chamber)*

श्री लाडली मोहन निगम (समझ प्रवेश):

यह बिल आप संख्या के बल पर पास करवा सकते हैं। आपके माध्यम से गृह मन्त्री जी से कहना चाहता हूँ कि यह पहला मौका है कि इस सदन में अखबार की आजादी, लिखने की आजादी पर लड़ाई लड़ी गई थी, आज संसद के उस अधिकार पर भी कुठाराघात किया जा रहा है। इससे अखबारों की आजादी को खतरा बन सकता है। मैं बहुत नम्रता से कोशिश करूंगा कि आप भले ही संख्या के बल पर पास करा लीजिए लेकिन आज का दिन, क्योंकि आप इस पर पाबन्दी लगा रहे हैं, यह याद रहेगा। जब आप ऐसा कर रहे हैं तो मुझ जैसे का इस सदन में बैठना शोभा नहीं देता। इसलिये मैं वाक आउट करता हूँ।

*(At this stage, the honourable Member left the Chamber)*

SHRI P. VENKATASUBBAIAH: Sir, I once again submit that it is not the intention of the Government to restrict the freedom of the Press. We value the freedom of the Press, and I do not subscribe to the views expressed by my hon. friends of the Opposition.

Clause 3: (Substitution of new sections for sections 375 and 376)

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): Now, we shall take up clause 3. There are several amendments. Amendment Nos. 8, 11 and 13 by Shri Suraj Prasad. He is not there. Not moved. Then, Amendment Nos. 9, 10 and 12 by Shri Dhabe. He is also not here. Not moved. Mr. Sukul.

SHRI P. N. SUKUL: Mr. Vice-Chairman, Sir, I am glad that you have given me a chance now. Although I support the Bill entirely, there seem to be some infirmities in the Bill which I take it to be my duty to point



out to the Government so that in future no complications arise on their account.

In section 3 you have given definitions. The first definition is "against her will", and the second definition is "without her consent". I entirely fail to understand the logic of splitting the two. Suppose this is 'against her will' but 'with her consent', what will you say? It will not be a crime. And if it is not against her will and still she says, 'no, my consent is not there', then it will be a crime. The will is known only from the consent. There is no other thermometer or barometer to know what is the exact will of the lady. It is the consent only. So only 'with consent or without consent' should have been there.

The second point that I would like to make is as regards amendments to section 376(2). If a police officer commits rape within the limits of the police station to which he is appointed then he gets 10 years. Suppose he commits it in his house or suppose he commits it in some other circle, contiguous circle, he will get only 5 years. What is this law? The same man, the same woman. You are providing loopholes to escape deterrent punishment. Similarly, in the case of hospitals you say if he commits rape on a woman in the hospital—and you define 'hospital' separately—suppose the doctor asks the patient to come to his house for taking medicine or for examination and there he rapes her, he would get 5 years, whereas he should have got ten years. Again you are providing loopholes in the legislation. Similarly, I would also like to submit here that you have not taken note of another fact. Suppose that barbaric act is committed with a child—we read in newspapers about such things; the child is 3 years, 4 years or 5 years—even then he will get 5 years' imprisonment. Personally I feel that a maniac who commits rape on a child must be hanged till death. That should be the provision here so that no one is able to commit such a heinous crime.

[Shri P. Venkatasubbaiah]

It is only the minimum punishment. We have prescribed—7 years or 10 years. When it is a heinous crime as he says, nobody prevents the court from giving the maximum punishment.

SHRI GHULAM RASOOL MATTO: Sir, I have a small point to make. Now that the Bill is being passed, I will request the hon. Minister that this model Bill may kindly be circulated to all the areas of the country in which the Indian Penal Code is not applicable with a request from the Centre to those Governments that Bills on similar lines should be enacted in those States also.

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): The question is:

"That clause 3 stand part of the Bill."

*The motion was adopted.*

Clause 3 was added to the Bill.

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): Now, we take up Clause 4. There are two amendments by Shri Dhabe who is not here. So the amendments are not moved.

The question is:

"That clause 4 stand part of the Bill."

*The motion was adopted.*

Clause 4 was added to the Bill.

Clause 5 (Amendment of the First Schedule)

Clause 6 (Insertion of new section 114A)

SHRI P. N. SUKUL: Sir, although the hon. Minister has explained the position, I feel strongly that this provision is going to be abused by some interested elements. Despite the abolition of trade in human flesh, I know that in every city there is

prostitutes and also there are rackets of call girls, although the Police say that they have busted these rackets. Suppose there is a call girl who goes to a hotel and he does it on payment. On the basis of this provision, she can blackmail him and say that either he should pay him Rs. 100/- more or she would go and complain that he has raped her. Therefore, in this case you are throwing justice to winds by leaving this loophole in the legislation.

**THE VICE-CHAIRMAN (SHRI R. R. MORARKA):** The question is:

"That clauses 5 and 6 stand part of the Bill"

*The motion was adopted.*

*Clauses 5 and 6 were added to the Bill.*

*Clause 1, the Enacting Formula and the Title were added to the Bill.*

**SHRI P. VENKATASUBBAIAH:** Sir, I beg to move:

"That the Bill be passed"

*The question was put and the motion was adopted.*

## **THE CRIMINAL LAW (AMENDMENT) BILL, 1983**

**THE VICE-CHAIRMAN (SHRI R. R. MORARKA):** Now, we take up the next Bill.

**THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. VENKATASUBBAIAH):** Sir, I beg to move:

"That the Bill further to amend the Indian Penal Code, the Code of Criminal Procedure, 1973, and the Indian Evidence Act, 1872, be taken into consideration."

The Government are deeply concerned over the rising incidence of death of women in unnatural circum-

stances. A large number of such deaths are on account of the demand of dowry. It also leads to various other forms of atrocities on women. Sustained action on different planes—legislative, administrative and social, is necessary to meet the situation. As a punitive instrument, the Dowry Prohibition Act, as it exists, has not proved effective. Changes in that law on the basis of the report of the Joint Committee are separately under the consideration of the Law Ministry.

But changes are also required in the ordinary criminal law to deal effectively not only with cases of dowry death but also cases of cruelty to married women by their in-laws. The general criminal law, at present does not contain specific provisions to deal with a situation in which a woman is subjected to harassment or cruelty for her inability to meet demands of her in-laws and it is often as a result of such harassment that a woman is driven to committing suicide. Some effective and deterrent provision is considered necessary to deal with cases of cruelty and harassment so that the process that sometimes ends in tragic death can be checked in its early stages.

The Bill, therefore, inserts a provision in the IPC to punish the husband or any relative of the husband of the woman who subjects her to cruelty with imprisonment for a term which may extend to 3 years and fine. Cruelty is defined as wilful conduct which is of such a nature as is likely to drive a woman to commit suicide or to cause grave injury or danger to life, limb or health, (whether mental or physical) of the woman or harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand. To make the provision effective the offence is being classified as cognizable and non-bailable, but the police will take