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False Allegations and Legal Integrity: A Critical Analysis of the Misuse of Rape Laws in India

Abstract

This research paper investigates the pressing issue of the misuse of rape laws in India, with a specific focus on false accusations and the legal, social, and procedural challenges surrounding them. While Indian rape laws—particularly after the 2013 Criminal Law Amendment and the enactment of the Bharatiya Nyaya Sanhita (BNS)—are designed to protect victims and ensure swift justice, concerns have emerged about their potential misuse in some instances, mainly where allegations are later found to be false or motivated by malice.

The study explores the substantive and procedural framework under the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhiniyam (BSA), analysing relevant statutory provisions, case law, and judicial safeguards such as anticipatory bail and the presumption of innocence. Empirical data from the National Crime Records Bureau and landmark judgments reveal that while false allegations are statistically rare, their consequences are significant, damaging the lives, reputation, and liberty of the accused and undermining the credibility of genuine victims.

Through comparative analysis with legal practices in the United Kingdom and the United States, the paper highlights potential reforms including pre-arrest scrutiny, targeted

investigations in relationship-based allegations, and the proactive enforcement of Sections 217 and 248 of Bharatiya Nyaya Sanhita to deter malicious complaints. It also advocates for a compensation framework for the wrongfully accused. Ultimately, the research calls for a balanced approach that protects genuine survivors while minimising the risk of injustice caused by false allegations, preserving the integrity of the legal system and the rights of all parties.

Keywords: Rape laws in India, False accusations, Bharatiya Nyaya Sanhita (BNS), Legal safeguards, Misuse of criminal law, Presumption of innocence, Judicial reforms, Comparative jurisprudence, Victim protection, Wrongful prosecution.

1. Introduction

Rape is a grave violation of bodily integrity and human dignity, recognised as one of the most serious offences under Indian criminal law. The evolution of rape laws in India has been shaped by demands for justice, especially in the aftermath of high-profile cases such as the Nirbhaya gangrape case (2012)¹, which led to significant legislative reforms through the Criminal Law (Amendment) Act, 2013. These reforms sought to make the legal system more sensitive, victim-centric, and effective in addressing sexual violence. However, a growing concern has emerged regarding the misuse of these stringent provisions, particularly in cases where accusations are false or motivated by personal vendetta, failed relationships, or to gain leverage in civil disputes.

While the legal system must prioritise survivor protection and encourage reporting of genuine cases, it must also uphold the rights of the accused, including the presumption of innocence, the right to a fair trial, and protection from arbitrary arrest. This research paper explores the increasing concern over false rape allegations, evaluates the adequacy of existing legal safeguards, and proposes reforms to strike a balance between protecting victims and preventing misuse of the law.

The issue of false rape accusations in India sits at the nexus of victim protection and accused rights. Rape is defined broadly under Section 63² of Bharatiya Nyaya Sanhita and carries

¹ AIR 2017 SUPREME COURT 2161

² Bharatiya Nyaya Sanhita, 2023 §63.

extremely severe penalties under Section 64/65/66 of Bharatiya Nyaya Sanhita in its current form, prescribing a minimum of ten years' rigorous imprisonment (and up to life) for a conviction. At the same time, Sections 217³ and 248⁴ of the Bharatiya Nyaya Sashtra criminalise giving false information and making false charges with the intent to injure. Section 72⁵ of the Bharatiya Nyaya Sanhita forbids publishing a victim's identity (violations carry up to two years' imprisonment) to protect victims' dignity and anonymity. Procedurally, Section 183⁶ of Bharatiya Nagarik Suraksha Sanhita mandates that a magistrate record a rape complainant's statement to ensure a reliable, sworn account. These laws operate alongside constitutional guarantees: Article 21⁷, fundamental right to life and liberty (interpreted to include personal dignity and a fair trial), Article 14⁸'s promise of equality before the law, and Article 22⁹ safeguards against arbitrary arrest and detention.

These provisions frame the context for the debate. On one hand, rape remains vastly under-reported – studies suggest as many as 99% of sexual assaults in India never reach the authorities. In the official records, false allegations appear to be a small minority. For example, the National Crime Records Bureau's Crime in India 2020 report notes that fewer than 8% of rape cases under investigation were ultimately classified as “false”. In raw numbers, of 28,046 rape cases registered that year, only 5,015 were closed by police as false. Nonetheless, media coverage and public discourse sometimes amplify high-profile allegations of fabrication. It is thus important to emphasise that even a statistically low incidence of false complaints can undermine public trust and impose serious costs. However, it must be weighed against the reality that most victims do not report at all, and that even genuine complainants often face immense barriers.

³ Bharatiya Nyaya Sanhita, 2023 §217.

⁴ Bharatiya Nyaya Sanhita, 2023 §248.

⁵ Bharatiya Nyaya Sanhita, 2023 § 72.

⁶ Bharatiya Nyaya Sanhita, 2023 §183.

⁷ INDIA CONST. art. 21.

⁸ INDIA CONST. art. 14.

⁹ INDIA CONST. art. 22.

High-profile cases and judicial reactions illustrate the stakes. The 2012 Delhi “Nirbhaya” gang-rape case, for instance, elicited national outrage and led Parliament to enact the Criminal Law (Amendment) Act, 2013. The Nirbhaya Act expanded the definition of rape, introduced harsher penalties (including for gang rape, acid attacks, and repeat offences), and added procedural safeguards like mandatory victim recording. In judicial pronouncements, courts have acknowledged both the horror of genuine sexual violence and the need for scrutiny of allegations. For example, in 2025, the Delhi High Court refused to quash an FIR in a contested rape case, warning that the emerging “trend” of filing and later retracting complaints must be curbed because “bogus cases cause grave injustice to actual victims”. The Court observed that each false complaint adds unnecessary burden to overcrowded dockets and even taints public perception of genuine victims: “Every false complaint contributed to an impression that even genuine complaints were false, thereby causing grave injustice to actual survivors of rape”. It emphasised that if a survivor ultimately turns hostile, the law provides penalties under Sections 217 and 248 of Bharatiya Nyaya Sanhita for perjury or false statements, deterring misuse of the process while the merits are tested adequately at trial.

These tensions underscore the delicate balance required. Ensuring justice for rape survivors demands vigorous enforcement of Sections 63/64/65/66 of Bharatiya Nyaya Sanhita and robust protections (such as victim anonymity under section 72 of Bharatiya Nyaya Sanhita and recorded statements under section 183 of Bharatiya Nagarik Suraksha Sanhita). Simultaneously, Article 21 and the principles of fair trial oblige courts and law enforcement not to treat accused persons as guilty without due process. The Supreme Court has repeatedly warned that arrest and detention should not be automatic in cases triable by lower magistrates, and that personal liberty must be respected even as crimes against women are prosecuted. Article 14 equality mandate likewise means false complainants (if any) must be punished without chilling legitimate reports by others.

2. Legal Framework on Rape in India

2.1. Substantive Law

Sections 63 to 70 of the Bharatiya Nyaya Sanhita, 2023, define and punish the offence of rape. Section 63 broadly defines rape as a man engaging in sexual intercourse with a woman

without her consent, including cases involving coercion, threats, deception, or where the woman is incapable of giving consent. Section 64 prescribes stringent punishment for rape, ranging from ten years to life imprisonment, with enhancements following the 2013 Criminal Law (Amendment) and reinforced under the BNS. Courts have continued to interpret “consent” narrowly and demand proof beyond a reasonable doubt. For instance, in *State of Maharashtra v. Chandraprakash K. Jain*,¹⁰ the Court held that intercourse obtained under a false promise of marriage may still amount to rape. Conversely, courts have also warned that mere registration of an FIR does not prove guilt, and procedural safeguards must be upheld to prevent unjust convictions.

In the wake of the 2012 Nirbhaya case, Parliament expanded the definition under BNS Section 63 to include offences such as voyeurism, stalking, and disrobing, and increased the minimum sentence under Section 64. This comprehensive statutory regime reflects a strong presumption against non-consensual sexual acts, yet courts remain cautious to avoid misuse. Notably, in *Lalita Kumari v. State of U.P.*, the Supreme Court held that no preliminary police inquiry is required in cognizable offences like rape—an FIR must be registered immediately.

Judicial interpretations have consistently stressed that the prosecution must establish every element under Section 63, including lack of consent and requisite mens rea. In *Shakti Sagar Dixit v. State of U.P.*, the High Court acquitted the accused due to reasonable doubt regarding non-consent. More recently, in *Naresh Aneja v. State of U.P. (2025)*¹¹, the Supreme Court clarified that under Section 75 (outraging modesty), intent to insult the woman’s modesty must be established—a parallel principle emphasising mens rea across sexual offences. Though that case pertained to Section 75, its rationale underscores that Sections 63–64 require clear proof of non-consent and intention.

Simultaneously, the judiciary has underscored that false accusations and wrongful acquittals are equally injurious to victims, accused persons, and the rule of law. While Sections 63–70 under the BNS remain gender-specific, courts have implicitly acknowledged the need to prevent misuse by demanding stringent evidentiary standards and avoiding presumptions based solely on allegations.

¹⁰ 1990 AIR 658

¹¹ 2025 INSC 19

2.2. Evidentiary Support: Section 120 of Bharatiya Sakshya Adhiniyam

Section 120 of the Bharatiya Sakshya Adhiniyam creates a statutory presumption in rape prosecutions. It provides that if the accused's act of sexual intercourse is proved and the prosecutrix testifies she did not consent, the court "shall presume that she did not consent". In other words, once sexual intercourse is established and the complainant denies consent, the presumption of innocence shifts toward the accused to prove otherwise. Importantly, this presumption is rebuttable: the accused may introduce evidence to show consent existed. In practice, courts have applied Section 120¹² of Bharatiya Sakshya Adhiniyam to assist the prosecution, especially in cases (such as rape by multiple accused or where the victim was overpowered) where corroboration is otherwise lacking. For example, in *Gagan Bihari Savant v. State of Orissa* (1991)¹³, the Supreme Court upheld convictions in a gangrape case after noting the victim's uncontradicted testimony of struggle and invoking Section 120 of Bharatiya Sakshya Adhiniyam presumption. Conversely, courts will not mechanically rely on Section 120 of Bharatiya Sakshya Adhiniyam if a complainant's evidence or other facts indicate consent. In *Dilip v. State of M.P.* (2001)¹⁴, although the presumption of non-consent was raised, the Supreme Court observed material inconsistencies (medical evidence and witness testimony). It concluded the victim was a "willing party," thus acquitting the accused. The Court held that no separate finding on the Section 120 of Bharatiya Sakshya Adhiniyam presumption was needed once it found consent. These authorities affirm that Section 120 of Bharatiya Sakshya Adhiniyam eases the prosecutorial burden on consent but does not foreclose a defence; the accused can rebut the presumption by proving consent or casting reasonable doubt on the assault.

2.3. Procedural Aspects under Bharatiya Nagarik Suraksha Sanhita

FIR Registration (Section 173 of Bharatiya Nagarik Suraksha Sanhita): Supreme Court jurisprudence mandates that police register an FIR "without any exception" whenever information discloses a cognizable offence (including rape). In *Lalita Kumari v. U.P.*¹⁵, the

¹² Bharatiya Sakshya Adhiniyam, 2023 § 120

¹³ 1991(3) SCC 562

¹⁴ 2001 AIR SCW 2538

¹⁵ AIR 2012 SC 1515

Court ruled that police cannot refuse or delay FIR registration for non-legal reasons; any dispute over credibility can only be examined after an FIR and charge-sheet are filed. This rule protects victims' access to justice but also means false complaints, once made, will proceed into the criminal machinery (albeit later challengeable by trial). Recorded Statements (Section 183 of Bharatiya Nagarik Suraksha Sanhita): The Bharatiya Nagarik Suraksha Sanhita empowers magistrates to record statements and confessions (Section 183), including a complainant's detailed account of an alleged rape. Such statements have high evidentiary value: a magistrate's recording of the victim's testimony can be used as substantive evidence (subject to Sections 164–165¹⁶ Bharatiya Sakshya Adhiniyam) even if the victim later recants. Courts caution, however, that statements must be voluntary and reliable. In *Narayan D. Joshi v. State of Maharashtra* (1976)¹⁷, the Supreme Court upheld a conviction based on the prosecutrix's voluntary statement, even though she later retracted. Judicial guidelines (e.g. *Bomma v. State of Karnataka*, 2018) stress that magistrates should record such statements in camera to avoid intimidation, and the atmosphere must be free of undue influence.

Victim Confidentiality (Section 72 of Bharatiya Nyaya Sanhita): To protect victims of sexual offences, Section 72 of Bharatiya Nyaya Sanhita criminalises the disclosure of a rape victim's identity in any public medium. This confidentiality provision (upheld by the Supreme Court in *Sunil Shinde v. State of Maharashtra*, 2009) aims to prevent victim shaming and encourage reporting. In practice, courts strictly enforce Section 72 of Bharatiya Nyaya Sanhita: media and others risk punishment for naming or revealing identifying details of complainants. Ironically, critics note that while accusers enjoy anonymity, the identities of accused persons remain public; this asymmetry has been highlighted in debates on false allegations. Fast-Track and Special Courts: In response to public outcry over sexual violence, Parliament and state governments established fast-track courts (FTCs) for rape and POCSO cases. The Criminal Law (Amendment) Act 2013 and subsequent notifications set up thousands of special courts nationwide to expedite trials. For example, by mid-2023, over 1.74 million POCSO and rape cases had been disposed of in Fast-Track Special Courts. While FTCs have improved disposal rates and ensured timely trials, delays and pendency remain significant in many jurisdictions, undermining speedy justice. Nonetheless, the procedural framework (from mandatory FIR to specialised courts) reflects the law's intent to strike a balance:

¹⁶ Bharatiya Sakshya Adhiniyam, 2023 § 164&165

¹⁷ 1991CRILJ2097

protecting victims' rights and dignity on one hand, while preserving the legal rights and presumption of innocence of the accused.

2.4. False Accusations Framework (Sections 217 & 248 of Bharatiya Nyaya Sanhita)

While rape laws focus on protecting victims, the Bharatiya Nyaya Sanhita also punishes malicious reporting. Section 217 of the Bharatiya Nyaya Sanhita penalises giving false information to a public servant, intending that they act to the injury or annoyance of another. Section 248 Bharatiya Nagarik Suraksha Sanhita punishes instituting a prosecution for an offence known to be false, with the intent to cause injury. Together, these provisions form the formal “false accusations” framework. In practice, courts have invoked these sections to punish women who file fabricated rape complaints. For example, in a recent Lucknow case, a woman was convicted under both provisions for falsely accusing two men of gang-rape. The special court described her act as “a deliberate misuse of protective legislation,” sentencing her to 7 years’ rigorous imprisonment under Section 248 of Bharatiya Nyaya Sanhita (false charge of a grave offence) and 6 months’ simple imprisonment under Section 217 of Bharatiya Nyaya Sanhita. (She was also fined; combined sentences ran consecutively .) In doing so, the court awarded the wrongfully accused compensation and instructed authorities to flag repeat FIRs by the same complainant, highlighting judicial recognition of false complaints as a severe abuse. Though relatively rare, successful prosecutions under Sections 217/248 of the Bharatiya Nyaya Sanhita demonstrate that Indian law does not leave false accusers immune. The elements of each offence require proof of knowledge/malice: merely losing a case is not enough for conviction under 248 unless the complainant knowingly lodged a baseless case. Still, the Lucknow example shows that clear evidence of fabrication (multiple inconsistencies, forensic reports negating the incident, and evidence of ulterior motive) can satisfy these elements. The availability of Sections 217 and 248 of Bharatiya Nyaya Sanhita provides a deterrent against malicious complaints, complementing substantive and procedural safeguards (like requiring mens rea for conviction).

3. False Allegations: Legal, Social & Empirical Analysis

3.1. Definition and Nature of False Accusations

A false allegation of rape is one in which a complainant knowingly fabricates or deliberately misrepresents an incident of sexual violence. In legal terms, a false complaint implies that no offence of rape (Section 63/64/65/66 of Bharatiya Nyaya Sanhita) actually took place, and the accusation is made maliciously or recklessly against an innocent person. Indian law treats false statements or allegations as punishable, but it does not create a separate “anti-false-complaint” offence specific to rape. Instead, Chapter XV of the Bharatiya Nyaya Sashtra criminalises giving false information or evidence. E.g. Section 217 of Bharatiya nyaya sanhita punishes furnishing false information to a public servant, Section 227/228 of Bharatiya nyaya sanhita punishes giving or fabricating false evidence, and Section 248 of Bharatiya nyaya sanhita punishes a “false charge of offence made with intent to injure”. In practice, a complainant is only deemed to have made a “false” rape report after a police investigation or trial finds the allegations unsubstantiated. The National Crime Records Bureau (NCRB) classifies such cases as “false” when the crime is found not to have occurred; other outcomes include “mistake of fact”, “non-cognizable final report”, or cases untraced for lack of evidence.

Empirical data suggests that truly false rape allegations are a small minority of overall complaints. According to NCRB Crime in India (2020), fewer than 8% of rape cases under investigation were ultimately classified as “false”. By contrast, most cases fall into other categories (e.g. no evidence, abated, or true but unprosecuted). Nevertheless, any false accusation has grave consequences. The Supreme Court has expressly recognised that a fabricated rape charge can inflict “equal distress, humiliation, and damage” on the accused as a genuine rape causes the victim. Thus, while rape law is designed to protect victims, the legal system also aims to guard against its misuse and to punish maliciousness. (See Section 248 of Bharatiya Nyaya Sanhita for the penalty on a person who knowingly accuses another of an offence to injure him .)

3.2. Empirical Data

Crime Statistics: National crime data provide context for the prevalence of false complaints. In 2020, the NCRB recorded 28,046 rape cases (Section 64/65 of Bharatiya Nyaya Sanhita) across India. Of these, approximately 5,015 were later closed by police as “false” (indicating no offence). In the courts, 18,967 rape trials were conducted that year, resulting in 3,425 convictions and 14,340 acquittals. Thus, roughly 75% of concluded trials ended in acquittal (though acquittal does not necessarily prove the complaint was false – it may reflect

evidentiary gaps). Conversely, only about 18% of trials yielded convictions. These statistics underscore two points: first, most rape cases in India do not result in conviction (often due to a lack of corroborative evidence), and second, a relatively small fraction of cases are formally deemed false by investigators.

Local Studies: Some local studies or commissions have reported higher figures for false complaints, though these are not representative of India. For example, a 2014 report by the Delhi Commission for Women (DCW) found that among 2,753 rape complaints filed in Delhi from April 2013 to July 2014, 1,464 (53.2%) were later characterised as false. This very high percentage attracted attention in the media. Still, scholars caution that it largely reflects cases in which complainants withdrew or turned hostile under pressure, rather than clear proof of deliberate fabrication. Indeed, anecdotal evidence suggests many complainants recant due to social coercion, fear, or reconciliation, not necessarily because the original allegation was baseless. The NCRB itself notes that withdrawals or “mistakes” may mask unresolved cases, and that low reporting rates of rape (over 90% of assaults go unreported) make it impossible to infer true prevalence from these figures. Thus, the NCRB view is that only about one in twelve rape investigations is officially found “false”

Critical Commentary: Legal commentators stress that quantitative data on “false rape cases” must be interpreted cautiously. One analysis notes that NCRB figures measure only closed cases, not motivations or pressures behind recantation. Moreover, even a small number of false allegations (say, 5,000 cases/year) is serious for those involved. A recent Supreme Court decision cited above acknowledged that a fabricated rape charge “can cause equal distress, humiliation, and damage to the accused”. The Court thus implicitly recognised that while false reports are uncommon, their impact is severe. Other judgments have echoed this concern: for example, a Delhi judge observed that misuse of rape laws “to settle personal scores” is a real phenomenon and that “women, who turn out to be the tormentors...should be punished under appropriate provisions”

3.3. Social and Legal Impact on the Accused

Social Consequences: A person falsely accused of rape in India often suffers intense social stigma. Even before trial, the mere allegation (and public FIR) can taint the accused’s reputation. In many communities, a rape accusation is tantamount to social pariahdom: families may fear association, marriages may be called off, and friends or neighbours may shun the accused. The accused’s family may also feel pressured or embarrassed. The

psychological toll is severe. As the Supreme Court observed, the humiliation and emotional distress experienced by someone falsely labelled a rapist can rival that of an actual victim. Some studies of false accusation victims (primarily outside India) report high rates of anxiety, depression, insomnia, and even suicidal ideation. Indian legal commentary notes that exonerated men often spend years under a cloud of suspicion before vindication, eroding mental health and self-worth (the Court's words "distress" and "damage" aptly capture this).

Professional and Financial Impact: The fallout extends to work and livelihood. An accused person may be suspended or fired pending trial, especially in professional jobs or government service. Finding new employment can be difficult even after acquittal if the false accusation is known. Families often incur legal costs that can be ruinous. One NGO report recounts professionals who lost promotions or clients after rumours of an FIR, despite later acquittal. Financial extortion is also reported; police and courts have uncovered "honey-trap" schemes and blackmail rackets in which false rape charges are used to coerce money from businessmen. Thus, false allegations may become a tool for criminal enrichment, compounding the injustice to the accused.

Legal Process and Safeguards: Under Indian law, rape is a cognizable, non-bailable offence (Section 64/65 of Bharatiya Nyaya Sanhita). This means police have the power to arrest without a warrant upon a complaint of rape. In practice, police immediately take the accused into custody and invoke section 35¹⁸ of Bharatiya Nagarik Suraksha Sanhita to justify the arrest. Judicial safeguards exist, but may not be fully effective. The Supreme Court has long warned against mechanical arrests: in *Joginder Kumar v. State of U.P.*¹⁹(1994), the Court held that arrests should only follow a prima facie satisfaction of offence, and that unwarranted arrests violate personal liberty. Similarly, *Arnesh Kumar v. State of Bihar*²⁰(2014) (concerning dowry law arrests) mandated that police must record reasons before arresting for a non-bailable offence, and senior officers must authorise the arrest. Although *Arnesh Kumar* arose under section 85 of the Bharatiya Nyaya Sanhita, its arrest guidelines apply generally to prevent abuse of power. In theory, then, police must be "satisfied" of the need for custody before arresting someone accused of rape. In practice, however, these

¹⁸ Bharatiya Nagarik Suraksha Sanhita, 2023 § 35

¹⁹ 1994 AIR 1349

²⁰ AIR 2014 SC 2756

safeguards are unevenly applied, and many innocent persons remain jailed in short-term custody pending a bail hearing.

Statutory Remedies for the Falsely Accused: Indian law provides some post-facto remedies. If a complaint is proved false at trial, the court may punish the complainant under section 248 of Bharatiya Nyaya Sanhita (false charge) or section 227/228 of Bharatiya Nyaya Sanhita (false evidence). Under section 248 of the Bharatiya Nyaya Sanhita, a conviction can bring up to two years' imprisonment and a fine. However, such prosecutions are rare in rape cases, partly because proving mens rea (intent to injure) is difficult. Courts sometimes issue admonitions or orders under section 379 of the Bharatiya Nagarik Suraksha Sanhita to investigate perjury. In a few cases, courts have invoked fines or compensation. Section 395 of Bharatiya Nagarik Suraksha Sanhita allows a judge to order the state (or complainant) to compensate an accused for wrongful prosecution. Still, courts seldom award significant amounts to rape victims' families.

Critique of Legal Framework and Reform Proposals: Critics argue that the current framework inadequately deters false complaints. There is no specialised procedure to screen out malicious allegations at the outset. Pre-arrest guidelines (Joginder Kumar, Arnesh Kumar) exist, but enforcement is uneven. Some scholars urge statutory curbs: for example, making it mandatory for police to conduct an initial inquiry (e.g. verifying evidence or motive) before registering a rape FIR. Others suggest amending CrPC to require a Magistrate's satisfaction before authorising arrest in sensitive cases, akin to the Israeli "no-fault detention" model or early judicial oversight.

On penalties, one proposal is to enhance the use of Section 248 of Bharatiya Nyaya Sanhita or to create a new provision specifically penalising knowingly false sexual assault complaints, with a penalty commensurate with the harm (e.g. the same range as the alleged offence). Such a reform would mirror perjury laws and might discourage malicious litigants. However, opponents fear this could deter genuine victims from reporting, especially if they risk being branded liars for mere inconsistencies. A compromise approach (suggested in some quarters) is to ensure fast-track disciplinary action for proven false accusers. Upon acquittal, a summary trial under section 379 of Bharatiya Nagarik Suraksha Sanhita could proceed expeditiously.

4. Safeguards against Misuse

4.1. Existing Safeguards in Bharatiya Nyaya Sanhita

The Indian Penal Code contains provisions to punish malicious or false accusations. Section 217 of the Bharatiya Nyaya Sanhita penalises giving false information to a public servant intending to induce wrongful action (up to 6 months' imprisonment). Section 248 of the Bharatiya Nyaya Sanhita targets a person who "falsely charges" another with an offence knowing there is no lawful ground, with intent to injure. The penalty under section 248 of Bharatiya Nyaya Sanhita is up to two years' imprisonment (or up to seven years if the offence is falsely charged and punishable by 7 years or more). In *Santokh Singh v. Izhar Hussain* ²¹(1973) 2 SCC 406, the Supreme Court emphasised that the prosecution must prove: (i) a false accusation was made initially, (ii) the complainant knew there was no lawful basis for it, and (iii) it was made with intent to injure. Thus, Sections 217 and 248 of the Bharatiya Nyaya Sahnita require deliberate mens rea and are not attracted by every unfounded complaint. In practice, however, these provisions are infrequently invoked. Complainants rarely face prosecution under section 217/248 of Bharatiya Nyaya Sanhita because courts demand proof of malice, and any inconsistencies in evidence are not automatically deemed a "false charge" absent intent.

In theory, the existence of Sections 217 and 248 should deter frivolous FIRs. Yet high courts have noted the difficulty of securing convictions under these sections. For example, in a recent Uttar Pradesh case, a trial court invoked sections 217 and 248 of the Bharatiya Nyaya Sanhita against a woman who fabricated a rape charge. But such instances are exceptions. The general rule is that the accused bears the initial burden of showing that a case is prima facie false before these penal sections can operate. As a result, these Bharatiya Nyaya Sahnita provisions offer only a limited safeguard in practice. At best, they enable a counter-charge once an accused is exonerated, but they rarely prevent the interim damage caused by a false allegation.

4.2. Preliminary Inquiry before FIR

²¹ 1973 AIR 2190

Section 173 of the Bharatiya Nagarik Suraksha Sanhita mandates that “information relating to the commission of a cognizable offence” given to police must be recorded as an FIR. In *Lalita Kumari v. Government of U.P.*, (2013) 4 SCC 1, a Constitution Bench held that if the complaint on its face discloses a cognizable offence, the police officer has no discretion: he must register the FIR immediately. No “preliminary enquiry” is permitted to test the truth of the allegations in such cases. The Court issued detailed guidelines: if the information discloses a cognizable offence (e.g. rape), FIR registration is mandatory. Suppose the information does not prima facie disclose a cognizable offence but suggests inquiry. In that case, the police may conduct a brief, time-bound inquiry (usually not exceeding seven days) to determine whether an offence is disclosed. Crucially, that inquiry must not be used to probe credibility or motives – its sole scope is to find out if a cognizable offence exists. If the inquiry yields evidence of a cognizable crime, an FIR must be registered. If not, the police must close the complaint formally (with brief reasons) and promptly inform the complainant. The *Lalita Kumari* Court listed only minimal categories (e.g. marital disputes, commercial offences, medical negligence) where inquiry may be warranted – by implication, serious offences like rape require an immediate FIR. The bottom line is that the law now strongly favours early FIR registration over scepticism; courts have warned that police “cannot avoid” this duty if a cognizable offence is disclosed.

If the police refuse to register an FIR despite cogent information, Section 175(3) of Bharatiya Nagarik Suraksha Sanhita empowers a magistrate to order an investigation. However, recent Supreme Court rulings (e.g. *Ranjith Singh Bath v. Union Territory of Chandigarh*, CrI. A.4313/2024) reiterate that Section 175(3) of Bharatiya Nagarik Suraksha Sanhita is available only after the complainant has exhausted the remedies under Section 173(1)–(3) of Bharatiya Nagarik Suraksha Sanhita. In practice, this means a complainant must first approach the proper police station and seek registration under section 173(1) of Bharatiya Nagarik Suraksha Sanhita; if police refuse, he must appeal to senior police officers under section 173(3) of Bharatiya Nagarik Suraksha Sanhita. If those steps fail, he can move a magistrate under section 173(3) of Bharatiya Nagarik Suraksha Sanhita. The courts now insist that any section 173(3) of Bharatiya Nagarik Suraksha Sanhita application explicitly demonstrate this sequence (often by affidavit and supporting documents). If compliance with section 173 of Bharatiya Nagarik Suraksha Sanhita is not shown, orders directing FIR registration have been quashed. In sum, the procedural scheme – buttressed by *Lalita Kumari* and its progeny – makes FIR registration the default rule and limits preliminary enquiries to

exceptional circumstances. This framework protects the complainant's right to be heard and the accused's right against unwarranted delay.

4.3. Judicial Discretion and Bail

Courts have broad discretion under sections 482²² and 483²³ of the Bharatiya Nagarik Suraksha Sanhita to grant bail. Section 482 of the Bharatiya Nagarik Suraksha Sanhita empowers the High Court or Sessions Court to grant anticipatory bail to a person apprehending arrest for a non-bailable offence. The Supreme Court has emphasised that such bail is an extraordinary remedy, to be awarded in exceptional cases – for instance, where the accused is likely to suffer irreversible harm if arrested on a baseless charge. As one bench explained, anticipatory bail is appropriate “in exceptional cases where the accused has been falsely implicated in an offence to harass and humiliate him”. In other words, if on the face of the complaint and supporting material the allegations seem *prima facie* fabricated, bail courts may exercise section 482 of Bharatiya Nagarik Suraksha Sanhita liberally. By the same token, if a delay in lodging the FIR, lack of corroboration, or contradictory evidence suggests malice, courts may find the arrest unjustified. Conversely, courts will refuse anticipatory bail if the complaint appears *bona fide* and serious (especially involving a minor or custodial circumstances). In all cases, courts balance the accused's liberty interest against societal interest in effective investigation.

Section 483 of Bharatiya Nagarik Suraksha Sanhita gives the High Court or Court of Session “special powers” to grant or cancel bail of any person. The jurisprudence treats section 483 of Bharatiya Nagarik Suraksha Sanhita similarly to section 482 of Bharatiya Nagarik Suraksha Sanhita once arrest has occurred. Indeed, the Supreme Court has noted that there is “no distinction” in principle between bail under section 482 of Bharatiya Nagarik Suraksha Sanhita (pre-arrest) and bail under section 480/483 of Bharatiya Nagarik Suraksha Sanhita (post-arrest); if a pre-arrest order is in place, the accused must be released on bail when arrested. In practice, section 483 of Bharatiya Nagarik Suraksha Sanhita is used by higher courts to correct injustices (e.g. where a Sessions judge erred, or new evidence emerges). The

²² Bharatiya Nagarik Suraksha Sanhita, 2023 § 482

²³ Bharatiya Nagarik Suraksha Sanhita, 2023 § 483

criteria for bail under section 480/483 of Bharatiya Nagarik Suraksha Sanhita (reasonable satisfaction of doubt, etc.) apply equally after arrest.

Despite these safeguards, their effectiveness in false-complaint cases is mixed. On one hand, the possibility of bail or counter-prosecution can deter malicious accusations. For example, the Kerala High Court (Kunhikrishnan J.) recently granted anticipatory bail to a man accused of sexual harassment after noting that the police had not even investigated his competing complaint, stressing there is no presumption that a woman's allegations are "gospel truth". On the other hand, even with these protections, the stigma and ordeal of arrest or prosecution can be devastating. Trial courts have lamented the "permanent negative impact" of false rape accusations on the accused's mental health and reputation. In one Uttar Pradesh case, the judge observed that false SC/ST and rape charges had effectively rendered the accused "socially dead" ("Ajasi" in Ramcharitmanas terms). The judge also warned that special crime laws (POCSO, SC/ST, etc.) are being misused, and urged police vigilance to separate truth from falsehood early.

5. Comparative Jurisprudence

5.1. United Kingdom

In England and Wales, a false rape allegation can be prosecuted under several public justice offences. Most commonly, this is done by charging the complainant with perverting the course of justice (a common law offence triable on indictment, carrying up to life imprisonment) or with wasting police time under section 5(2) of the Criminal Law Act 1967 (a summary offence, punishable by up to six months' imprisonment). If the false statement was made under oath, the Perjury Act 1911 also applies – perjury is committed when a lawfully sworn witness "wilfully makes a false statement...which is material in the proceedings". In practice, perjury charges arise only when the falsity is revealed in a judicial proceeding; most false complaints are handled as perverting the course of justice or wasting police time. Official guidance emphasises that prosecutors must assess motive and impact: malicious false complaints or those causing wrongful arrest are likelier to merit perverting the course of justice charges. At the same time, less severe or quickly retracted lies may lead to wasting police time charges.

UK courts have imposed custodial sentences to deter false allegations. For example, *R v Jemma Beale* (2017) involved a serial false-complainant who invented multiple rape and assault claims; at Southwark Crown Court, she was convicted of perjury and perverting the course of justice and given 10 years' imprisonment. The judge warned that her "false allegations of rape...will inevitably be widely publicised" and risked causing "guilty men [to go] free" and deterring real victims from reporting. In 2023, a 22-year-old woman (Eleanor Williams) was sentenced to eight and a half years for making a series of fabricated rape and trafficking claims. The Crown Court judge described the allegations as "complete fiction" with "far-reaching" consequences, noting the "risk that genuine victims will be reluctant...to come forward" after such hoaxes. Similarly, in Wiltshire, a woman who falsely accused a stranger of rape was given 14 months' jail; police highlighted that her lies "could impact genuine victims...who may choose not to report it...for fear that they will not be believed". These cases illustrate that UK courts often justify heavy sentences for demonstrably false accusers on deterrence grounds – both to protect innocent men from harassment and to safeguard the credibility of real rape complaints.

5.2. United States

In the US, each state has laws against false reporting of crimes. For instance, California Penal Code section 148.5 makes it a misdemeanour to report a false felony or misdemeanour to authorities knowingly. A conviction can bring up to six months in county jail and a fine (Cal. Pen. Code section 148.5). Similarly, New York Penal Law Section 240.50 criminalises "falsely reporting an incident" (in the third degree) and classifies it as a class A misdemeanour. Many other states have analogous statutes (some more severe if public alarm is risked). In short, knowingly fabricating a rape report is a crime in every state, albeit usually a misdemeanour unless other serious factors are involved.

US rape shield laws (federal and state) generally forbid introducing evidence of a complainant's past sexual history or reputation. Federal Rule of Evidence 412 (and comparable state statutes) requires a pre-trial motion and in-camera hearing before any such evidence is admissible, and even then only narrowly: for example, to prove consent or bias. As a practical matter, however, most shield rules allow limited impeachment if a victim's credibility is directly at issue. Many jurisdictions permit a defence to ask an alleged victim about prior false accusations or inconsistencies if the witness testifies and affirmatively denies those prior statements (subject to the judge's discretion). The procedure is typically

strict: e.g. Minnesota law requires the accused to file a written pretrial motion and attend a sealed hearing before offering any evidence of the victim's "previous sexual conduct", ensuring the court balances probative value against prejudice. Thus, while the complainant's sexual history is broadly off-limits, courts often admit proof of specifically "prior false allegations" when properly proven, recognising its high probative value to credibility.

Case examples in the US underscore the stakes. The most famous is Brian Banks (California): a high-school student falsely accused in 2002, Banks was convicted and served five years in prison. When the accuser later confessed to her lie, his conviction was overturned. Banks then pursued legal redress: a judge ordered the woman to repay about \$2.6 million (including her school settlement and punitive damages). (Practical recovery may be slight since she had spent the settlement .) Banks has also testified for reforms recognising wrongful accusations. In another vein, exonerations after false rape allegations have led to civil rights suits: for example, a state court in Missouri (*State v. McAlpin*) noted that excluding extrinsic proof of a victim's prior false claim would deprive a defendant of "highly relevant" evidence of credibility. (Though not a rape case, this reflects broader US practice of allowing such impeachment.) In sum, American jurisprudence generally treats knowingly false rape complaints as punishable offences under criminal law and provides some avenues for compensation.

5.3. Lessons for India

India's experience with false rape accusations highlights the need for targeted reforms. While the Criminal Law (Amendment) Act 2013 strengthened protections for sexual assault victims, commentators increasingly note a parallel rise in baseless complaints and "serial" accusers. For example, a recent analysis of Delhi courts' data found only a 4.3% rape conviction rate, attributing much of the shortfall to complaints withdrawn or proven false. Activists urge that "the strongest punishment" be imposed for demonstrably false rape claims, yet prosecutions under sections 217/248 of *Bharatiya nyaya sanhita* are rare in practice. The Supreme Court has intervened in extreme cases (e.g. quashing an FIR where one woman had filed nine nearly identical accusations). At the same time, the Delhi State Legal Services Authority notes that its victim-compensation scheme is designed to help survivors' rehabilitative needs, "not strictly on the guilt of the accused". In other words, innocent men often bear a lasting stigma or expenses with little remedy. The Law Commission observed (Report No. 277, 2018) that the justice system needs new measures to curb wrongful prosecutions. Any reform

must balance deterrence of abuse with safeguarding genuine victims: as one advocate cautions, many false FIRs arise from failed relationships, so “a clear distinction must be made right at the outset, during the registration of the FIR”.

Suggested reforms include:

1. Investigation protocols for intimate-relationship cases: Guidelines should direct police to conduct thorough preliminary inquiries whenever the complainant and accused are known to each other, for example, recording detailed statements (in video/audio form) and verifying alibis or communication records before proceeding. (Supreme Court guidelines in *Sakshi v. Union of India* and *Nipun Saxena* emphasise careful handling of rape complaints, though they focus on victim protection rather than false-report risk.) Explicit protocols (e.g. by police manuals or NHRC guidelines) could help distinguish genuine versus fabricated claims in love-affair contexts, without discouraging bona fide victims.
2. Pre-arrest scrutiny in non-aggravated allegations: Section 65(1) of the Bharatiya Nyaya Sanhita waives bail for rape except in specified circumstances, pressuring immediate arrest. For non-violent or non-gratuitous cases (where no minor or stranger abduction is involved), India could adopt a quasi-curative step: require a supervising officer or magistrate to review the evidence before arrest. This might resemble the former CrPC 242(2) (now repealed) or the checks used for preventive detention, to ensure that a prima facie case truly exists. The goal would not be to undermine victims’ access to justice, but to prevent the rush to arrest on flimsy, possibly vindictive, complaints.
3. Swift prosecution of demonstrably false complaints (Section 217/248 of Bharatiya Nyaya Sanhita): Where an investigation conclusively shows that the rape allegation is fabricated (for example, CCTV/forensic evidence utterly contradicts the claim), authorities should initiate prompt disciplinary or criminal action against the complainant. Sections 217 and 248 of the Bharatiya Nyaya Sanhita prescribe up to six months or two years’ imprisonment for a false report to a public servant or false charge/fabricated evidence. Enforcement of these provisions is often delayed. A reform proposal will make such prosecutions mandatory once malice is proven, with the trial given priority. Internal police oversight and accountability (disciplinary checks if officers fail to act on blatant falsehoods) could reinforce this.

4. Exoneration and compensation: India has no formal scheme to compensate those acquitted after false accusations. By contrast, many countries (as above) do provide such relief. Legislatures or state authorities could establish a modest statutory fund or guidelines to reimburse wrongfully accused persons for legal costs, or to grant interim relief (e.g. a token payment of a few lakhs) when an acquittal shows the complaint was baseless. This could be modelled on the victim-compensation framework – for example, the State Legal Services Authorities already dispense cash awards to victims of rape. A counterpart fund for exonerated accused (perhaps under Section 396 of Bharatiya Nagarik Suraksha Sanhita) would recognise their injury without reducing support for actual survivors.

6. Conclusion

The debate over false rape allegations underscores the complex interplay between ensuring justice for survivors of sexual violence and protecting the rights of the accused. Indian rape laws, especially post the 2013 Criminal Law Amendment, are rightly designed to be victim-centric, acknowledging the trauma, stigma, and barriers genuine complainants face. However, the misuse of these provisions, although statistically rare, raises legitimate concerns when innocent individuals suffer wrongful prosecution, loss of liberty, and irreparable social and psychological damage.

False allegations, while not representative of the majority, can have disproportionate consequences: they devastate the accused, erode public trust in the legal system, and discourage genuine victims from coming forward. Current legal safeguards under Sections 217 and 248 of Bharatiya Nyaya Sanhita exist but are underutilised, often due to the high threshold of proving malicious intent and the slow pace of judicial remedies.

Comparative jurisprudence from the UK and US illustrates that it is possible to deter false claims through swift and proportionate penalties while prioritising victim protection. India must strengthen its procedural and evidentiary checks, such as mandating pre-arrest scrutiny in low-aggravation cases, establishing protocols for relationship-based allegations, and enabling the timely prosecution of proven false claims.

Ultimately, reform must walk a careful line: it must prevent the miscarriage of justice through false complaints without creating a chilling effect on legitimate survivors. Only through a nuanced and balanced approach incorporating legal, social, and institutional safeguards can

the integrity of rape laws be preserved while upholding the fundamental rights of all parties involved.