

OPEN LETTER FROM WOMEN'S GROUPS, PROGRESSIVE MOVEMENTS AND
CONCERNED CITIZENS

CJI Sharad Arvind Bobde Must Step Down Now For Asking Rapist to Marry Victim, and
Condoning Marital Rape.

To,
The Chief Justice of India,
Justice S.A. Bobde.

Hon'ble Chief Justice of India,

We the representatives of India's women's movements and progressive movements along with concerned citizens, are appalled and outraged at the remarks made by you during the hearing in Mohit Subhash Chavan vs. The State of Maharashtra & Anr. on 1st March 2021, as reported by the media.

You were hearing the petition for protection from arrest, of a man accused of stalking, tying up, gagging, repeatedly raping a minor school going girl, and threatening to douse her in petrol and set her alight, to hurl acid at her, and to have her brother killed. The facts of the case are that the rape came to light when the minor school-going victim attempted suicide. You asked this man if he was willing to marry his victim, saying he should have thought of the consequences of 'seducing and raping' a minor girl. By suggesting that this rapist marry the victim-survivor, you, the Chief Justice of India, sought to condemn the victim-survivor to a lifetime of rape at the hands of the tormentor who drove her to attempt suicide!

It fills us with rage that women bear the burden of having to explain the meaning of 'seduction', 'rape', and 'marriage' even to the Chief Justice of India, who holds the power and duty to interpret the Constitution of India and sit in judgement.

'Seduction' is an act in which both parties participate consensually. Rape is a violation of consent and a person's bodily integrity, hence nothing but an act of violence. The two cannot be conflated under any circumstances. Furthermore, when the victim is a minor, absence of consent is a legal assumption.

In another case (Vinay Pratap Singh vs State of UP) also reported in the media yesterday, you asked, 'If a couple is living together as man and wife, the husband may be a brutal man, but can you call the act of sexual intercourse between a lawfully wedded man and wife as rape?' This comment not only legitimises any kind of sexual, physical and mental violence by the husband, but it normalises the torture that Indian women have been facing within marriages for years without any legal recourse.

The Bombay High Court held the Sessions Court order giving bail to Mohit Subhash Chavan to be 'atrocious', adding that, 'the approach of the learned Judge from such a reasoning clearly

shows his utter lack of sensitivity in such serious matters.' These same observations apply to your remarks, albeit in far greater measure. Your proposal of marriage as an amicable solution to settle the case of rape of a minor girl is worse than atrocious and insensitive for it deeply erodes the right of victims to seek justice.

Women in India continue to confront grossly patriarchal attitudes by persons in authority who propose 'compromise' solutions for rape. "The reality of what a compromise means is brought home by several judgments which note how the survivor or a relative committed suicide or was murdered for resisting a settlement with her rapist." ('It is Not the Job of Courts to Arrange 'Compromise Marriages' of Rape Survivors', The Wire, 26 June 2015).

We bore witness when your predecessor sat in judgement over an accusation of sexual harassment against himself, and lobbed false, defamatory attacks on the complainant and her family from the Bench of the Supreme Court. An appeal against the atrocious acquittal of a convicted rapist on the premise that a woman's 'Feeble No might mean a Yes' was not admitted. You have asked why women farmers are being 'kept' in protests against farm laws and asked for them to be 'sent back home'— again, implying that women lack the autonomy and personhood that men do. Then yesterday, Then yesterday, you said, "If a couple is living together as man and wife, the husband may be a brutal man, but can you call the act of sexual intercourse between a lawfully wedded man and wife as rape."

Enough is enough. Your words, scandalise and lower the authority of the Court. From the towering heights of the post of CJI of the Supreme Court, it sends the message to other courts, judges, police and all other law enforcing agencies that justice is not a constitutional right of women in India. This will only lead to the further silencing of girls and women, a process that took decades to break. To the rapists, it sends the message that marriage is a licence to rape; and that by obtaining such a licence, the rapist can post facto decriminalise and legalise his act.

We demand that you retract the words you stated in court on 01.03.21 and tender an apology to the women of this country.

Propriety demands that you step down from the post of CJI without a moment's delay.