**Exploring the Impact of False Charge of Rape on Human Rights: A Comprehensive Analysis**

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*Abstract*

*This research paper delves into the intricate intersection of false charges of offenses particularly with regard to rape and human rights, aiming to provide a thorough examination of the legal and ethical dimensions surrounding this critical issue. False accusations of criminal activities can have profound consequences not only on the accused individuals but also on the broader human rights landscape. Rape is not only heinous crime, it also carries a social stigma not only for the victim but also for accused. Apart from violating right to life, liberty, reputation, the false accusation of rape have a deep psychological distress leading to anxiety, depression of the accused and in some cases suicidal thoughts. The accusation can affect the professional life causing loss to business. Loss of trust from family and society creates a sense of isolation and hopelessness. False accusation of offenses in general and of rape in particular violates right to life, liberty, livelihood, reputation and also impacts the overall administration of justice. This study seeks to unravel the complexities inherent in such cases, shedding light on the multifaceted impact on legal systems, individual liberties, and societal trust.*

***Key words:*** *False charge, Human Rights, Administration of justice,*

**Introduction:**

False charge of offenses can be defined as a situation in which an individual intentionally provides inaccurate or concocted statements or accusations against another person. This is frequently done with the aim of causing harm, pursuing personal advantages, or manipulating legal processes. False charge of offence not only leads to the violation of basic human rights and liberties of the accused but also erodes the public trust in the criminal justice system and ultimately to the broader concept of justice. The primary object of any legal system is to protect the innocent and punish the guilty, so that the justice may be done and order may be maintained in the society. The legal system in general and the criminal justice system in particular are meant for the protection of human rights. The core issue with the false charge lies in the violation of rights of the accused person. Accused person in a false charge is denied the right of fair trial and violating his right to life, liberty, privacy, dignity and physical safety, in short, the violation of his human rights. Individuals accused of rape face intense social exclusion, more so than those accused of other crimes. This exclusion extends beyond general societal interactions to include estrangement from family members. The psychological effect on a person falsely accused of rape is profound, often leading to attempted or actual suicide. This research paper aims to explore the impact of false charges on human rights, with a specific focus on false rape accusations. It will investigate the reasons behind the filing of false rape charges and the implications thereof.

**False charge:**

A false charge of offenses occurs when an individual deliberately makes an untrue and unfounded accusation by providing a false statement against another person. Section 248[[2]](#footnote-3) of the Bharatiya Nyaya Sanhita (Penal Code of India) while declaring false charge as an offence says that, “who ever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person shall be punished…”.

False charge of an offence occurs when a person puts the criminal law in motion by making false initial allegation against any other person.The Supreme Court of India in  [*Santokh Singh &Ors. v. IzharHussan&Anr[[3]](#footnote-4)*](https://indiankanoon.org/doc/56524/)while commenting on section 211 of Indian Penal Code (corresponding section in new code is 248) said that, The term "false charge" should not be interpreted as providing false evidence as a prosecution witness during a criminal trial. Instead, it refers to the initial accusation that triggers the criminal investigation. The phrase "falsely charges" must be understood in conjunction with "institution of criminal proceedings." Both terms have similar meanings and should be interpreted together, as they inform and enrich each other’s definitions. They appear to be used in a technical sense, consistent with established concepts in criminal law.

The Supreme Court of India in Himanshu Kumar v. State of Chhatisgarh[[4]](#footnote-5)while reiterating the view held in Santokh Singh case held that the expression ‘falsely charges’ in section 211 of Indian Penal Code (corresponding section in new code is 248), refers to the initial accusation that triggers the criminal investigation, rather than the act of providing false testimony during the trial itself. A false charge must be made initially to someone in a position of authority—such as a police officer or an official capable of initiating appropriate legal action against the accused. Essentially, the false accusation should be documented in a complaint or a report of a cognizable offense. For a statement to qualify as a "charge," it must be made with the intent to activate the criminal justice process.

From the above cases the essentials of false charge can be summarized as:

1. The term "falsely charge" specifically relates to the initial act of accusing, directing the machinery of criminal investigation.
2. The false charge must be conveyed to a person in authority, capable of initiating punitive measures.
3. This accusation can be in the form of a complaint or a report of offense made to a police officer or a relevant authority.
4. For it to qualify as a "charge," the statement must be made with the intent of triggering criminal proceedings.

The object of having “false charge” as offence is to deter the individuals so as to refrain them from filing unfounded cases against individuals driven by malice, revenge, or similar motives, without any just or lawful basis for such charges.

False charge of rape is a species of the false charge where an untrue allegation of rape areleveled against any person for any reason whatsoever. The false allegation of rape is different from the unfounded rape cases. The distinction between false allegations of rape and unfounded rape cases is important. Unfounded rape cases occur when factors such as delayed reporting to the police, insufficient evidence, lack of witness cooperation, or inconsistencies in the victim's account prevent authorities from making an arrest or securing a conviction. In contrast, a false allegation of rape involves reporting an incident of rape to the authorities that never actually occurred. So, the false allegation of rape would not include an incident where the authorities were unable to substantiate or corroborate a sexual offence due to any reason.

Different legal systems have differently dealt with the problem of false rape charges. Some countries have made false rape charges as distinct offence. Kenya has a law that specifically criminalizes false allegations of sexual offence. It says that, any person who makes false allegations of sexual offence against another person shall be liable to same punishment as the sexual offence complained of.[[5]](#footnote-6) The punishment for rape under Kenya law is not less than 10 years but which may extend to imprisonment for life[[6]](#footnote-7) and as per section 38, same punishment will be provided to anyone who accuses someone of false rape.

Botswana in 2021 amended the panel law and made false charge of sexual offence as a separate offence. It provides that a person who knowingly makes false or misleading allegations of sexual offence against another person shall be liable to imprisoned for not more than 5 years.[[7]](#footnote-8) In certain countries, there isn't a specific offence for false rape allegations, instead, such cases are addressed under the broader category of making a false charge. E.g. in India the false rape charge is punishable under section 248 of Bharatiya Nyaya Sanhita-2023 which says that “Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person” shall be punished. Further in some countries the false charge of rape may be dealt under the offence of perverting the course of justice which is a common law offence and carries sentence up-to life imprisonment e.g. United Kingdom. In R v Beale,[[8]](#footnote-9) The accused in question repeatedly leveled false accusations of rape, which ultimately led to a legal investigation. As a result, she was convicted on three counts of perjury for lying under oath, as well as four counts of perverting the course of justice, indicating an intentional effort to disrupt the legal process.

**Factors leading to false accusation in rape cases:**

Rape remains one of the most intrusive offence and is most brutal violation of the dignity and person-hood of the victim. Not only is rape the most heinous and brutal offence which traumatizes the victim, it also carries a social stigma. Apart from the stigma attached to rape, the possibility of false accusation of rape cannot be ruled out and false charge of rape is made. The reasons for filing false charge can be numerous and can be divided into two categories-

Firstly, are those where unintentionally, a person gets framed into a false case e.g. being at the wrong place at wrong time. If any crime is committed and you are by chance near to the spot of crime, your presence may make you automatically suspect and you may be framed for that crime. The other may be the mistaken identity, as the police generally relies on the statement of the witnesses and if any person has been mistakenly identified by any witness as a suspect then he may be charged for that offence. All these cases do not qualify to be an offence of false charge under any legal system. False charge as an offence must be made intentionally or knowingly in order to cause injury to the person against whom it is made. Section 248 of the Bharatiya Nyaya Sanhita (false rape charge is punished under this section as false charge of offence), lays down intention or knowledge on the part of the person instituting false charge as an essential ingredient of the offence of false charge. Section 168-B of the Penal Code Botswana provides that if any person makes knowingly false and misleading allegation against other to the effect that he has committed a sexual offence, commits offence under this section. In Botswana, it is an offense to knowingly make false and misleading allegations that someone has committed a sexual offense.Therefore, an innocent or mistaken false allegation is not considered a criminal offense.

Second categories of reasons are those where any persons is, intentionally or knowingly implicated for any crime he has not committed. This is what in law is known as false charge and is punishable. There may be number of reasons for framing a person in a false rape case. Eugene J. Kanin conducted a study titled as, “False rape allegations”[[9]](#footnote-10) and cites three motive for the filing of the false rape cases. The three motives as per Kanin are Alibi, Revenge and Attention / Sympathy seeking. The alibi as a reason for filing false rape case is to cover up other behavior. E.g. a woman may file a false rape case against a person with whom she is in adultery in order to cover the behavior of adultery with him. In revenge case, according to Kanin the allegation is used to retaliate. In an infamous case a middle age woman filed a FIR against her husband for making their daughter pregnant. She filed false lab. reports as proof and the case went for 6 years. After 6 years it was found that the case was false and the main motive for filing the case was to take revenge from the husband.[[10]](#footnote-11) The third motive as per Kanin is attention or sympathy seeking where the rape is generally disclosed to near relatives and caretakers so as to seek their sympathy or attention. A woman Jemma Beale, 25 years old made a series of false rape claims and sexual assault allegations by stating that she had been sexually assaulted by six men and raped by nine and all were strangers in four different incidents. The woman has been found guilty for perjury and of perverting the course of justice after her claims of rape and sexual assault was found baseless.[[11]](#footnote-12) The three motives given by Kanin are the most cited reasons for filing the false rape case but the list is not exhausted, there are number of other reasons as well for filing the false rape case.

A person may be falsely charged for an offence by another person in order to grab his/her property. The false cases for this motive are generally instituted by the close relatives as it becomes easy for them to grab the property when the person concerned is in jail. A woman in Madya Pradesh state of India has been awarded 10 years imprisonment by the sessions court for filing a false rape case in order to grab his property.[[12]](#footnote-13) A 45 year old, widow, filed a rape case in 2017 against her nephew-in-law, so that she could grab his property. In 2019 the trial court concluded that the complaint was false.

**Effects of false accusation on Human Rights:**

Human rights are the rights inherent to every individual, regardless of whether they are explicitly recognized in a state's fundamental laws. These rights are universal and apply to all people, irrespective of nationality, religion, caste, or gender. When a person is falsely accused of wrongdoing, their human rights are violated, as such accusations can lead to unjust treatment, social stigma, and significant harm to their dignity and reputation.

**The Right to Life** is basic human right and is essential for the enjoyment of all other rights. Right to life with dignity is enshrined in many legal systems and international human rights instruments. Article 21 of Indian Constitution provides that: “No person shall be deprived of his life or personal liberty except according to procedure established by law”[[13]](#footnote-14), Fifth Amendment of the American Constitution provides that no person shall be deprived of life, liberty, or property[[14]](#footnote-15) and Section 1 of the Fourteenth Amendment of the American Constitution provides that, “State shall not deprive any person of life, liberty, or property, without due process of law” [[15]](#footnote-16), Article 9 of the International Covenant on Civil and Political Rights[[16]](#footnote-17) protects the liberty and security of a person. Any person who is falsely implicated in any case and subsequently arrested and imprisoned experiences direct curtailment and violation of his liberty.

There are number of instances where the accused who have been falsely charged of an offenses particularly of rape have tried to end their life by suicide and in most of the cases succeeded. The newspapers are full of stories which reflect, how a falsely accused person in rape cases has ended his life.

On August 9, 2022, The Times of India published a story titled "Gurugram: 'Framed in fake rape case, 30-year-old dies by suicide." According to the report, a 30-year-old transporter from the Farukhnagar area purportedly took his own life after being accused and "framed" in a false rape case by a family in Alwar, Rajasthan.[[17]](#footnote-18) The deceased had lent 3 lakh ruppes to the accused and was demanding the same back from the accused. Instead of returning the same, the accused got a fake rape case registered against the deceased. Unable to bear the mental harassment, the deceased hanged himself from the tree inside the premises of a primary school.

“Nagpur man dies by suicide on Facebook Live over false rape accusations”[[18]](#footnote-19) The deceased was a 36-year-old man who was involved in a relationship with a 19-year-old woman. Following her sudden disappearance from her home, her family expressed concerns and alleged that he was responsible for her vanishing. The deceased live-streamed his suicide on Facebook, during which he claimed that the girl's family had threatened him with false accusations of rape unless he paid them 500,000 rupees.

## “UP BJP worker attempts suicide by consuming poison over false rape allegation”[[19]](#footnote-20) A leader of the BJP KisanMorcha in Moradabad, Uttar Pradesh, attempted to take his own life by consuming poison, alleging that he had been assaulted and wrongfully accused in a false rape case.

**Right to Liberty**: The right to liberty as provided above is as important as right to life and that is the reason why right to liberty is mentioned along with right to life under different legal documents.

Even if a person accused of false charge is not imprisoned still he may face bail conditions, movement restrictions and other forms of restrictions curtailing his liberty. The offence of rape generally being a cognizable offence and accordingly whenever a person is accused of rape is arrested by the police and put behind the bars violating his liberty.

**Illegal Trial:** Every individual accused of an offense has right to a fair trial which encompassing various rights such as being informed of the charges, right to speedy trial, the right to legal representation, the ability to cross-examine prosecution witnesses, and the right to present defense witnesses etc. If someone is subjected to a trial based on false charges, it can be asserted that not only his right to a fair trial is violated, but he is subjected to an illegal proceeding. The right to a fair trial is associated with those who are facing genuine charges, and subjecting someone to a trial based on false accusations goes beyond the mere denial of a fair trial. In essence, an illegal trial not only infringes, the right to fair trial but goes beyond that and subjects a person to illegal trial.

**Right to Livelihood:** The right to livelihood encompasses the ability to earn a living through lawful means and maintain a standard of living adequate for health and well-being. The livelihood, whether derived from employment, business, or occupation, is crucial for the effective exercise of other rights. The Supreme Court of India in*Olga Tellis and Ors. v. Bombay Municipal Corporation and Ors[[20]](#footnote-21)* determined that the right to life encompasses the right to livelihood, and the government cannot deprive an individual of their livelihood without adhering to due process of law. When an individual is accused of an offense, it often results in the loss or negative impact on his job, business, or occupation, he may be suspended or terminated from his jobs, especially in professions requiring a clean legal record. Defending oneself against charges can be financially draining, diverting resources away from basic living needs and being embroiled in legal battles often requires time away from work, leading to loss of income and financial instability. In cases where the accusations are genuine, the associated repercussions on employment or business may be deemed as necessary consequence. However, when the accusation is false and lead to job or business loss, it becomes a matter of community concern and violates the right to livelihood of the person concerned.

**Right to Reputation:** Right to reputation is right of a person to enjoy good opinion and is a part of himself like his body or limbs are. The importance of right to reputation can be understood by the fact that right to free speech is restricted in order to protect the reputation, as defamation being a civil or criminal wrong or both in almost all legal systems. Article 12 of Universal Declaration of Human Rights protects individuals against the attack on their honor and reputation[[21]](#footnote-22) and Article 17 of International Covenant on Civil and Political Rights also safeguards the individuals from unlawful attack on honor and reputation[[22]](#footnote-23). False charge of offenses in general and of rape in particular leads to social ostracism, loss of community standing, and damage to personal relationships.

Individuals facing false charge are denied of fair trial, violation of privacy, dignity, threat to physical safety and as such violation of human rights. This situation can cause extreme psychological harm, which may lead to actions such as suicide and mental illness. Even after a person is absolved of all false charges, the psychological impact of facing an illegal trial remains there.In addition to the infringement of human rights, false charges detrimentally impact the overall administration of justice. The fabrication of charges results in a waste of time and financial resources of the state. The fact that investigative authorities and courts are already grappling with a significant backlog of cases, the false charges further overwhelms the system. As a consequence, the administration of justice becomes inefficient, as the legitimate cases that demand attention, time and consideration are often deprived of that. There is delay in genuine cases and as such justice delayed. Yet another consequence of false charge is that the genuine victims may be deterred to report the cases as they may feel that they may not be believed.

In the case of *R v Eleanor Williams*,[[23]](#footnote-24) the court emphasized that making false rape accusations is a serious offense that undermines the integrity of the justice system. The court highlighted that such allegations can significantly harm the administration of justice, as they create an environment of distrust. Furthermore, the court warned that the increasing prevalence of false accusations could discourage genuine victims from coming forward to report their experiences. This not only impacts the victims but also poses a risk of diminishing public confidence in legitimate claims, leading to a culture where serious allegations may be met with skepticism rather than the appropriate attention and support they deserve.

**Conclusion:**

In conclusion, it is evident that false accusations of offenses, particularly rape, significantly violate the human rights of the accused. Such accusations can tarnish a person's reputation, infringe on their privacy, and lead to violations of their life and liberty. Additionally, they can result in professional setbacks and cause profound psychological distress for those wrongfully accused.False charges not only harm individuals but also undermine the integrity and efficiency of the legal system, as public trust may diminish when people see the legal framework as susceptible to misuse. While protecting victims of sexual offenses is an essential and overarching goal of any legal system, it is equally important to ensure that individuals are safeguarded from the injustices that arise from false allegations. Balancing these two priorities is crucial to maintaining a fair and just legal environment where both victims and the accused receive the respect and protection they deserve.

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2. Bharatiya Nyaya Sanhita-2023.Bharatiya Nyaya Sanhita 2023 replaced the Indian Penal Code-1860. [↑](#footnote-ref-3)
3. (1973) 2 SCC 406 [↑](#footnote-ref-4)
4. (2023) 12 SCC 592 [↑](#footnote-ref-5)
5. Section 38, Sexual Offences Act, 2006. [↑](#footnote-ref-6)
6. Section 3, Sexual Offences Act, 2006 [↑](#footnote-ref-7)
7. Section 168B, Penal Code [↑](#footnote-ref-8)
8. [2019] EWCA Crim 665 [↑](#footnote-ref-9)
9. Kanin, E. J. (1994). False rape allegations. *Archives of Sexual Behavior,* *23,* 81–92. Available at <https://www.falserapetimeline.org/false-rape-1291.pdf> visited on 2nd of march 2024 [↑](#footnote-ref-10)
10. <https://timesofindia.indiatimes.com/city/chennai/woman-sentenced-to-5year-term-for-false-case-blaming-husband-for-daughters-pregnancy/articleshow/107503666.cms> visited on 20th of march 2024 [↑](#footnote-ref-11)
11. <https://www.theguardian.com/society/2017/aug/24/woman-jailed-10-years-false-rape-claims-jemma-beale> visited on 15/05/2024. [↑](#footnote-ref-12)
12. <https://timesofindia.indiatimes.com/city/indore/woman-gets-10-yrs-ri-for-false-rape-complaint/articleshow/104387863.cms> [↑](#footnote-ref-13)
13. [https://cdnbbsr.s3waas.gov.in/s380537a945c7aaa788ccfcdf1b99b5 d8f/uploads/2024/07/20240716890312078.pdf](https://cdnbbsr.s3waas.gov.in/s380537a945c7aaa788ccfcdf1b99b5%20d8f/uploads/2024/07/20240716890312078.pdf) visited and retrieved on 6th April 2024 [↑](#footnote-ref-14)
14. <https://constitution.congress.gov/constitution/amendment-5/>

 visited and retrieved on 6th April 2024 [↑](#footnote-ref-15)
15. <https://constitution.congress.gov/constitution/amendment-14/>

 visited and retrieved on 6th April 2024 [↑](#footnote-ref-16)
16. [https://www.ohchr.org/en/instruments-mechanisms/instruments/ international-covenant-civil-and-political-rights](https://www.ohchr.org/en/instruments-mechanisms/instruments/%20international-covenant-civil-and-political-rights) visited and retrieved on 6th April 2024 [↑](#footnote-ref-17)
17. <https://timesofindia.indiatimes.com/city/gurgaon/framed-in-fake-rape-case-30-yr-old-dies-by-suicide/articleshow/93442362.cms> visited and retrieved on 1st of January 24 [↑](#footnote-ref-18)
18. <https://www.financialexpress.com/india-news/nagpur-man-dies-by-suicide-on-facebook-live-over-false-rape-accusations/3243195/> visited and retrieved on 3rd of January 2024 [↑](#footnote-ref-19)
19. <https://www.indiatoday.in/india/story/up-bjp-kisan-morcha-worker-consumes-poison-after-facebook-live-session-temple-rape-allegations-2414217-2023-07-31> visited and retrieved on 25th of January [↑](#footnote-ref-20)
20. 1985 SCC (3) 545 [↑](#footnote-ref-21)
21. <https://www.un.org/en/about-us/universal-declaration-of-human-rights> visited and retrieved on 6th April 2024 [↑](#footnote-ref-22)
22. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> visited and retrieved on 6th April 2024 [↑](#footnote-ref-23)
23. <https://www.judiciary.uk/wp-content/uploads/2023/03/R-v-Eleanor-Williams-sentencing.pdf> visited and retrieved on 11th March 2024 [↑](#footnote-ref-24)