CHAPTER 2
THE OFFENCE OF RAPE- AN EVOLUTIONARY SKETCH AND CONCEPTUAL ANALYSIS

2.1 General Introduction

2.1.1 Criminal law, a body of societal norms approved by the legislature, seeks to prevent undesirable, perilous human conduct. Ronald J. Waldron has rightly observed that¹, “Criminal law has been described as an important instrument of social control by which organized society defines certain human conduct as criminal and attempts to prohibit and restrain such conduct by a system of procedures and penalties.” The term “social control” designates those arrangements that have developed in response to deviance and law breaking.

2.1.2 Criminal law also endeavors to protect the easily persuadable classes of people (that is the young or the weak minded) against the abuses of their persons or property². It seeks to protect them from exploitation and abuse by describing certain unsocial acts as offences and prescribing punishments for them. One such offence which finds place in the Penal Code of all countries is ‘rape.’

2.1.3 Rape is an act of non-consensual coercive sexual intercourse with a woman. It violates, not only the body and mind of the victim, but also disturbs the social order. By

prohibiting the forcible act of rape, criminal law seeks to protect women from being prey to easy attacks from lusty brutes. It also seeks to preserve the serenity of the social atmosphere.

2.1.4 However, the concept of rape as an invasion of the physical and psychological integrity of women was absent in the olden days. The law did not conceptualize it as an offence against the person of the woman, one that destroys her freedom; rather it conceived rape as an instrument for protecting a man’s property from the sexual aggressions of other men.

2.1.5 Against this background, it would be appropriate to catch a few glimpses of archaic rape laws of different civilizations vis a vis status of women.

2.2 Historical Perspectives:

2.2.1 The word “rape” is derived from the latin word ‘rapio’ which means ‘to seize’. Rape, is therefore, forcible seizure or the ravishment of a women without her consent.

2.2.2 The offence of rape is not a new phenomenon, but has been in existence since time immemorial. History reveals that the term rape, in its modern sense, as meaning the violation of a women’s body and honor without her consent, was non existent in ancient times. It was rather an intricate aspect of property. Ancient Roman law gives evidence

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that there were direct ties between law, property and person. 'Raptus' in the sense of
violent theft applied to both property and person under Roman law. It was synonymous to
abduction. If a woman was abducted and sexually molested even violently, the crime was
not against her body, but merely a theft of a woman against the consent of her guardian or
those who had legal power over her. The harm was treated as a wrong against the father
or husband. In fact, the Roman law concerning rape was established around the concept
that the subjects, young or old, were the property where buying, selling or owning slaves
was a legal practice, which had directly reflected on woman and on such property
relationships.

2.2.3 Under ancient Babylonian and Mosaic laws, capture of female by force was
perfectly acceptable outside the tribe or city, but such an occurrence within the social
order led to chaos. A civilized way of acquiring a wife was by payment of money to the
father, and the bride price was codified at fifty pieces of silver. Rape was thus perceived
by the father as 'the theft of virginity, an embezzlement of his daughter's fair price in the
market.'

2.2.4 The Code of Hammurabi, enacted about 4000 years ago, denied any independent
status to a female. She was always under the care and guardianship of her father or
husband. According to Hammurabi, if a man raped a betrothed virgin, he was to be seized
and slain. But the girl was considered innocent. In case of incest, the man was to be
banished from the walls of the city. The law with regard to rape of a married woman was

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4 Julia R. and Herman Schewendinger, Rape and Inequality (Sage Publication, California 1993) p.95.
5 Brownmiller Susan, Against Our Will: Men, women and rape (Penguin, 1976) p.18.
however very severe. She had to share the blame with the attacker regardless of how the
crime occurred. The woman and the guilty were banned and thrown into the river. Her
husband was allowed to save her life if he so desired. The ancient Hebraic code also
maintained that the woman, who was molested, was to share the responsibility for the
unlawful act of rape. Thus, a married woman, if raped, was stoned to death along with her
attacker at the gates of the city. A Hebrew daughter, like a married woman, was required
to guard herself against unforeseen attacks and keep her virginity intact. In case of rape
being committed on her, she along with her attacker was stoned to death. The logic behind
this aspect was that if the girl had screamed she would have been rescued by someone
and therefore, the offence was committed only because she was a consenting party to it.
If, however, the act of rape took place outside the walls of the city where no one might
have heard her screams, the rapist was ordered to pay the girl’s father fifty silver shekels
(her bride price) and the pair was ordered to marry. If the girl raped was betrothed to
someone, Hebraic law preferred severance of the rapist’s head for the dishonor suffered
by the father.

2.2.5 This approach towards rape victims clearly reveals the minds of the ancient law
makers in whom were ingrained strong patriarchal values. They refused to hold rape as
an act against a woman; rather they perceived it as a crime against the male estate.
Brownmiller laments, “Women were wholly owned subsidiaries and not independent
beings. Rape could not be envisioned as a matter of female consent or refusal...Rape

6 id.
7 Supra n. 5, pp.19-20.
entered the law through back door, as it were, as a property crime of man against man. Woman, of course, was viewed as the property.”

2.2.6 As regards the English law, before the Norman conquest of 1066, the penalty for rape was death and dismemberment, but stern punishment was only for a man who violated a highborn, propertied virgin who lived under the protection of a powerful lord. Henry of Bratton (Bracton), who lived and ruled in the 13th century has pointed out that, “During the 10th century rule of King Alhelstan, if a man were to throw a virgin to ground against her will, ‘he forfeits the Kings grace; if he shamefully disrobes her and places himself upon her, he incurs the loss of his life and members.’ Vengeance did not stop at death, for, Bracton continued ‘even his horse shall to his ignominy be put to shame upon its scrotum and tail which shall be cut off as close as possible to the buttocks.’ A similar fate awaited the rapist’s dog and if he happened to own a hawk, let it lose its beak, its claws and its tail.” After all this, the rapists’ lands and money were confiscated and given to the ravished girl. However, there was one way in which he could save himself by seeking the permission of the king and church to legally wed the ravished virgin.

2.2.7 During the reign of William, the conqueror, punishment for rape was blinding and castration. But the law gave the victim the right to nullify the sentence by wedding the rapist. In case of rape by several persons, only one of those guilty of the offence was to

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8 Supra n. 5, p. 18.
9 Supra n.5 pp.24-25.
10 Supra n.5, p.25; See also, Pollock and Maitland, The History of English Law (Cambridge University Press, 2nd Edn. 1968) p. 490.
be blamed and castrated because the law believed that only one could ravish a virgin. A notable feature of this period was the prevalence of the idea that only a virgin could be raped. Thus, rape of a woman, other than virgin, did not implicate the King’s peace and was a matter for the local feudal court or private vengeance.

2.2.8 Severe punishment thus fell on one who tried to ravish a high class virgin. But if one takes a deeper look, one can easily understand that ‘stealing an heiress’ or rape under English law had an element of adventure, romance and pleasure in it. It was an act of chivalry on the part of English nobles, an opportunity to display their male courage and strength. And all this could be forgiven at one stroke by marrying the virgin after having deflowered her against her will. What again and again seems to be the truth that, it was not the plight of the woman which was matter of concern, but the dishonor done to the family and the disgrace suffered by them.

2.2.9 The Statute of Westminster put forward by Edward I in the year 1275 made significant changes in the law of rape. The State began to take an active interest in all types of rape prosecutions. Rape of a virgin and that of a married woman came to be viewed with equal seriousness and the peculiar system of redemption through marriage was totally done away with. The statute lengthened the period within which a woman could bring her appeal to forty days and fixed the punishment at two years imprisonment to be followed by ransom at the king’s presence.11 As regard rape by a husband on his wife, the statute mentioned that there could be no such offence as the ‘consent’ of the wife was presumably given on marriage and could not be withdrawn.

11 *Supra* n. 5, p.29.
2.2.10 Ten years later, the second Statute of Westminster was passed. It recognized rape as 'the ravishment of a married woman, dame or damsel, without her consent by any man.' The statute made the offence in all cases, a felony, punishable by death.

2.2.11 Thus, the offence of rape was viewed in ancient times as an act perpetrated against a man or his family, not the woman who had to suffer the pains and insults in the hands of the accused. Such an attitude was primarily due to the low status of woman in those societies. They were regarded as inferior to men and their interests were totally neglected.

2.2.12 While this was the situation in other civilizations, India depicted a picture of man-woman equality, in respect of her status and interests in society.

2.3 Status of Woman in Ancient Indian Society

2.3.1 The history of Indian civilization can be traced back to centuries B.C. For the present purpose, we may confine ourselves to the pre-Vedic and early Vedic age. During this period, man and woman were treated on an equal footing. The birth of a daughter was much welcomed in the family as the early thinker pointed out that “a talented and well behaved daughter may be better than a son.” Upanayana or the ceremonial initiation into Vedic studies was common in case of girls as it was in case of boys. It was followed by a period of education and discipline. The mode of studies was similar in case

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12 Supra n. 5, p.30; See, William Holdsworth, A History of English Law (Sweet and Maxwell. 5th Edn. 1942) p.316.
of both. They were taught the Vedic literature and philosophy. Marriageable age for girls
was 15 or 16. Till then, they pursued their studies with dedication and determination and
some girls even preferred to stay unmarried in order to attain high levels of intellectual
and spiritual salvation. It is interesting to note, that in this period ladies took part in daily
prayers, rituals and sacraments very contradictory to what existed even a few years back
in the society.

2.3.2 Marriage was obviously an important and integral aspect of the life of the Indian
woman. Generally at the age of 15 or 16 she got married. Love marriages were a common
occurrence and parents respected the choice of the girl. Those who opted to stay
unmarried were not condemned by the society. Thus it was free and blissful life for a
woman.

2.3.3 Monogamy was the order of the day and both the spouses took vows to look after
one another. They were regarded as "equal partners and joint owners of the common
household". Furthermore, Vedic marriage rituals never did enjoin a duty of obedience
upon the wife- an aspect reversibly reflected and stressed upon in the provisions of rape
enacted in the Penal Code. Being a patriarchal society, even in those days, supreme
authority vested in the husband; but the wife's position was one of honorable submission.
She was respected, honored, loved in the family and the entire management of the
household was her primary responsibility wherein she was the master. Ill-treatment or
disrespect towards woman was the rarest of events and it was severely criticized and
protested against by learned scholars, who held the view that - "A wife is the half of man,

\[14 \text{ ibid., p.92.}\]
she is his best companion, she is the root of the three aims viz., righteousness, prosperity and fulfillment of desires; in fact, she is the means of his salvation.”

2.3.4 Women, however, in this era had no proprietary rights in their husbands’ families. If she had sons, it was they who inherited the property along with the husband. Widows, therefore, who were childless, could not claim the deceased husband’s property. But Vedic period made provisions for widow remarriage and for the system of niyoga or levirate. It enabled the woman to come back to normal life once again and forsake the path of celibacy, expected to be followed by her on her widowhood. It had another advantage; it enabled her to have a son or sons whereby she could get a share in the property, if not as an heiress, at least as the guardian of her minor sons.

2.3.5 Marriage was a lifelong bond according to ancient Indian philosophy. But early literature holds the view that a wife is not to blame, if she abandons her husband who is impotent, insane or suffering from an incurable or contagious disease. This abandonment was equivalent to divorce, for Manu permits such a wife to remarry, if her previous marriage was not consummated. Divorce was also granted on the ground that the man and woman hated each other’s company and were no longer able to live together. If the man chose to divorce the wife, he had to return whatever presents he had received at the time of marriage.

16 Supra n. 13, p.83; Cf. Manu IX, 79.
17 Ibid., p.85.
2.3.6 The above facts relating to ancient Indian society throw ray of light on the status of women in early Vedic period. She was undoubtedly under the guardianship of a male member, viz., father, husband or son, but she was not a mere shadow to be lost in the dark. She had her own identity, her individual existence and personality. She could exercise her choice and will, as and when, she felt it necessary. Society, which was male dominated, did not tie her with chains; but she was a free individual who could pursue her own interests with little interference from outside. What is more striking is the fact that, in this era, the restrictions which were imposed or emphasized upon by lawmakers were for both men and women and not for the fair sex only as is generally understood. Similar is the case in matters of rights granted. As Jamini puts it, "[A]ll rights which men have under the Vedic law are equally shared by women." It may thus be concluded that, "In the period where Indian history begins, women were on a level with men in respect of their rights and duties...their condition was one of equality with men."

2.3.7 With the passage of centuries situation changed. The status of women in Indian society was on a gradual decline. The latter Vedic age, which corresponds approximately with the advent of the Christian era, brought new ideas and new thoughts. Women no longer were precious and significant members of the family; they came to be regarded as burdens, which had to be disposed off at the earliest possibility. It was declared that marriage was the substitute of Upanayana in case of girls and therefore, at the age of 9 or 10, they were married off. This put an end to their Vedic education and they became unfit

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18 Contrary views have however been expressed by some writers that women were in very ancient times regarded merely as chattels; Cf. Mayne on Hindu law (6th Edn.) p.86.
20 ibid., p. 192.
to recite even the hymns of daily prayer. The Hindu philosophers, thereafter, strictly forbade women from participating in religious affairs.

2.3.8 Child wives, with no education, could not command the respect of the husband or his household which treated them with indifference. Marriage, even with unworthy or unsuitable partners, became an irrevocable union so far as the fair sex was concerned. The husband could, however discard the wife at any time, even on flimsy grounds like being disobedient to him. Widow remarriage or niyoga was completely banned by later scholars. They enjoined upon the widows, who were often young girls of 15 or 16 to lead an ascetic life in order to secure spiritual salvation. Tonsure of widows was emphasized upon in order to make their outward appearance in harmony with the ideal of renunciation that they were expected to follow.

2.3.9 An inhuman system which was in vogue during this period was Sati, wherein the woman burnt herself in the funeral pyre of her husband. Instead of condemning such a barbarous practice, society infact encouraged it and the Hindu philosophers portrayed that the woman who committed sati went to heaven, alongwith her husband, to spend the rest of her life in peace.

2.3.10 Another important aspect which need to be mentioned is that in the early Vedic period, a woman who had been violated or criminally assaulted was treated with sympathy and accepted back by the families after they performed certain purificatory
rituals. The Matsyapurana\textsuperscript{21} points out that, ‘It would be absurd to condemn a woman because she is overpowered and ravished; in such a case the assailter alone is guilty and ought to be punished.’ But in the later days, society closed its door forever to such woman. They had to reconcile to the inevitable knowing that even if they managed to escape, they would have no honorable position in their families and society.

2.3.11 However, inspite of the dismal picture portrayed above, there was one area in which the position of women improved-proprietary rights. As Altekar puts it\textsuperscript{22}—“The rights of the widow to inherit the share of her husband came to be eventually recognized all over the country by 1200 AD. In Bengal, the position was further improved by conceding her the right even when her husband has not separated from the joint family at the time of his death. The scope of the stridhana was further extended by the Mitakshara school by including in it property acquired even by inheritance and partition. The widow’s estate continued to be a limited one, but in some parts of South India, she was allowed to gift it away for religious purposes without consent of the reversioners.” But apart from this, in all other spheres the position of women greatly deteriorated in Indian society.

2.4 Societal Attitude towards Rape

2.4.1 The offence of rape in the early Vedic period, perhaps was perceived as an invasion of a woman’s bodily integrity- an infringement of her self esteem, dignity and honor.

\textsuperscript{21} Supra n. 13, p.308.
\textsuperscript{22} Supra n. 13, p.454; See also, Women’s Rights under the Hindu law, Report of the Committee appointed by the Government of the H.H. The Maharaja of Mysore, 1930.
Chastity of woman was, no doubt, regarded as the most supreme virtue in those times. The Vedic texts enjoined upon the woman to remain chaste and pure throughout their lives and therefore, put corresponding duty on the males to protect the women from all outside evils. Infact, the tenets of Manu aimed at allowing no independence to women sought, not to curtail their freedom and liberty, but to guard them against evil inclinations. As has been said, “Their dependence was not ordained as a check on their individual freedom as free born beings, but for other ends.” But even inspite of such protection, if any misfortune fell on the woman and she lost her purity, society did not discard her; she was treated with kindness and accepted back. What conclusion can be drawn from this fact is that, no doubt, chastity of woman was the most cherished of values, but it did not negate the importance of woman as a whole. She was also a human being- a person, not only of flesh and blood but also with a mind- was how the ancient Indian society treated women.

2.4.2 Having examined the status of women in early Vedic age and the societal attitude towards its victims, it naturally follows that rape was then, not an invasion of a man’s property, the idea prevalent in other civilizations, rather it was an assault on the bodily integrity of a woman. It was her ‘freedom’, her ‘choice’, and her ‘self’ which had been invaded and violated. The crime was treated by society as a grave dishonor to the woman herself and not to her husband or kinsmen. It is therefore said that, “The great respect which Hindu legislators entertained for women made them visit the offence of assault with severer punishment…” Such respect is well illustrated in the following lines of

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23 Supra n.13, pp.127-8
24 Supra n.19, p.191
Manu\textsuperscript{25}, “Where females are honored, there the deities are pleased; but where they are dishonored there all religious rites become useless. Women must be honored…”

As is evident, respect for women was one of the essential attributes of Vedic philosophy. Every section of society, be it kings, noblemen or simple relations like father, brother, son, had to adhere to it and any departure from the standard norm was not tolerated upon; rather it was condemned, hated and severely punished. Within this idea is hidden the attitude of lawmakers towards rape. They viewed it as an extreme dishonor done to the woman herself and consequently upon the society, which had to protect her against all dangers, not because she was weak and vulnerable but because she was an integral part of it- someone inevitable for the peace and prosperity of society.

2.4.3 The gradual decline in the position of women in later centuries was much due to the foreign invasions of India. “In almost every nation of the world in the primitive stages of its development, the early ideas about the female sex prevailed, woman was not regarded as a person, she was not recognized as a citizen. ‘Infact she was not a unit but a zero in the sum of human civilization’; and it is very probable that the conquering mlechhas entertained these notions. When the people of Hindustan who had already attained to a high degree of civilization came in contact with their first foreign rulers, far less civilized than them, they might have adopted those rules concerning the position of women which belong peculiarly to an imperfect civilization.”\textsuperscript{26} While explaining the reasons for the loss of status of women in society, the above extract also highlights the changed attitude of men towards rape.

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\textsuperscript{25} ibid., p.127. \\
\textsuperscript{26} ibid., p.99
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2.4.4 The offence which was once a disgrace or dishonor to a woman and her inner self, ceased to be so; it transformed into a wrong done to a man in the enjoyment of his property. Women were reduced to the category of slaves who could only be owned by men. She was a chattel – nothing better than a commodity, which could be bought and sold at a price and whenever any foreign body infringed the owner’s rights over it, he had to pay a price, not for the damage suffered by the commodity itself, but due to the wrong done to the owner himself by depriving him of its enjoyment. Christianity, during this era, advocated that husband was the head of the wife as Christ was the head of the Church. In line with this thought, Hindu Smritis declared that the husband was the wife’s God and her only duty was to obey and serve him.27 Where this was the philosophy preached and practiced by the lawmakers and scholars, it is, but natural, that rape- a heinous offence against a woman- would be looked upon as a mere wrong done to a man, either husband or father, and not against the woman. This argument can be further supported by the treatment meted out to the ravished girls, ie the victims. Once their chastity was lost, they were no longer pure. Their contaminated bodies, in which a foreign body had entered, were no longer necessary for the society. The family, including the father or husband, discarded them, as useless beings no longer fit to serve them. Sometimes blame was put on the woman for the occurrence of the unfortunate event, while at other times, her character was looked upon with suspicion. But, in all cases, she was left alone. What emerges very evidently is that woman was not to be considered as a person, but only as a slave, who has no rights over himself. He is controlled in every aspect by his master. Similarly, woman was to live for man, serve him throughout life

27 Supra n. 13, p.355.
and even die for him. But when tragedy fell on her, she had to suffer the pains and sorrows all by herself; while the selfish men of society passed judgments about what should be done to her, not for her welfare, but so that the rest of the society did not become unchaste and impure.

2.4.5 During the Muslim era, the sad plight of woman continued. She was an object in the hands of her male counterparts. She has little or no rights of her own. The lawmakers in this period divided offences and punishment in four categories, namely, Hadd, Qiyas, Diya and Tazir. The first signified boundary or limit. It was that punishment which has been exactly defined in the Quran or Hadis by the Prophet. It includes the crime of adultery, fornification, theft, robbery etc. Though we find no reference to 'rape' in particular, the word 'zina' appeared in their religious texts. It signified unlawful conjunction of the sexes. Thus, Muslim law prohibited all extra-marital sexual relationships. The offence of rape, involving non-consensual sexual intercourse was an integral part of it, which ordained an equal amount of culpability on the woman for the occurrence of such unfortunate event. The woman, therefore, shared the punishment along with the accused. However, during the Muslim rule, the law of zina could not be made operative, as to prove the charge four witnesses were required and a false informer was liable to a penalty of hundred strokes of whip.

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28 S.P. Sagar, Crime and Punishment in Ancient India (Sterling Publications, 1st edn., 1967) p. 27; Cf. Encyclopaedia of Islam, Vol.II p. 187. The term 'qiyas' means retaliation; 'diya' means a sum extracted for any offence upon the person, in consideration for the claim of qiyas not being insisted upon; 'tazir' means to censure or repel, it is intended to reform the culprit.

29 ibid., n.28; See, G.C. Rankin, Background to Indian law (Cambridge University Press, 1946) pp.142-165.
2.5 Philosophy underlying the offence

2.5.1 An attempt has been made in the previous pages to trace the origin of rape in various legal systems, including India. A glimpse over them reveals a naked truth—women all over the world have been treated no better than animals. She has not been looked upon as a person, a human being capable of having her own desires, wishes, freedom, but only as a property owned by few male members of a family. That property is precious, no doubt, and has to be protected and saved from rough weathers; but if ever any damage was caused to the property by external elements, it had to be discarded and thrown out, as if it never belonged to anyone. This was the position of women. They were always under the protection of their fathers or husbands. Growing under constant surveillance, they little realized themselves—rather what they knew was that they had to remain chaste and pure and maintain their virginity till their fathers found a match for them. Virginity was a prized possession for the father of a daughter. It gave him honor, position, respect and enabled him to find a suitable match. But once this virginity was lost, once a woman lost her chastity, disgrace fell upon the whole family. The father lost all his respect and pride as if it had been taken away from him by some alien element. The woman who underwent the torture was not the concern of anybody, but it was the loss of a valuable property in the family which made the difference. As pointed out by Donald Dripps30, “[F]emale sexual autonomy had little to do with rape. The law struck a balance between the interests of males-in-possession and their predatory counterparts…

the law assured the male-in-possession that if another male forcibly invaded his interest, the predator would receive the maximum penalty.” The offence of rape was, therefore, protected not to uphold a woman’s right to freedom of choice but to save the patriarchal honor against invasion of their properties. This seemed to be the scenario with little difference here and there.

2.5.2 To conclude this chapter, we may introduce in brief the underlying idea behind the provisions of rape enacted by Macaulay in the draft Penal Code. In the absence of any authentic document subscribing to our views wholly, we feel that the line of thinking which he adopted was more in consonance with the then prevalent English societal conditions, than with the actual philosophical thinking. We must not be misguided by the later day religious tenets which vehemently tried to denigrate the position of Indian women and deny her all her rights as a human being. They were only misrepresentations of the Vedic texts or something done deliberately in order to harmonize with the foreign invaders. The truth, however, stands distinct and undisputed— that women in India always enjoyed a supreme position. They were at par with their male counterparts in every field of activity. They were highly respected and honored. Every care was taken to protect women from evil, as sorrow to a woman was sorrow for the whole society. Her happiness brought about peace and welfare; whereas her disgrace brought misfortune to entire mankind. Based on these noble ideas, Indian philosophers viewed rape as a serious injury done to a woman’s body, her honor and dignity and also towards the society as a whole, not as a wrong committed by man on another man. The latter is purely a patriarchal concept which is highly valued and cherished in male dominated societies, where women
enjoy inferior position. Indian society was, no doubt, patriarchal in structure but it was not enforced to such limits wherein women lost their identity and separate existence unlike England.

2.5.3 In Macaulay’s England, on the contrary, women had, from time immemorial, been forced to occupy a secondary position in relation to men. They failed to take or enjoy a dignified place as free and independent beings. They were denied the opportunities to stand with men on a plane of intellectual and professional equality. “Instead of going into a detailed discussion on the rights of women in England, we can merely say in the words of Jane Spencer, that she was still regarded ‘as a chattel’ under the authority first of her father and then of her husband.” Unfortunately, Macaulay was overawed with the English system, which required the complete subordination of woman to man and prescribed a high degree of sexual morality for women, and thereby failed to see the real picture of Indian society; perhaps due to his ignorance of its culture and tradition. As has been said, “With respect to Lord Macaulay and his learned colleagues who drafted the memorable code, it must be said that they traveled unconsciously but inevitably along the track of principles to which they were accustomed in their own society where in those days women have very little rights.” What resulted was the importation of certain ideas and philosophies and its implementation on Indian soil. To what extent the English

33 Amarendra Nath Mukherjee, The Existing Law on Rape- More Patriarchal than Human, 1981 Cri.L.J.21
notions prevailed upon original Indian thought with respect of rape, would be discussed in the next chapter.