

## **Tarun Tejpal Case Judgement - Concerns**

### **Why in news?**

- The Additional Sessions Judge acquitted a former editor of a news magazine, Tarun Tejpal, of charges of rape.
- The BJP-led government in Goa has filed an appeal in the High Court against this.

### **What is the case about?**

- Tarun Tejpal faces charges of rape of an employee of his firm in November 2013.
- He was tried under sections introduced into the law after the Nirbhaya case.
- This includes him being in a position of power, authority and trust over the young woman concerned.
- He was her boss whom she considered a father figure, the father in fact of her very close friend.
- She was confused as to what her course of action should be since so many relationships were at stake. Her legal battle continues for years now.

### **What are the concerns with the recent judgement?**

- The judgment transforms the accused into the victim and it is the young woman who becomes the accused.
- It says “(Prosecutrix) neither demonstrates any kind of normative behaviour on her own part - that as a prosecutrix of sexual assault might plausibly show.”
- The survivor did not fit into the court’s preconceived ideas of a rape survivor’s behaviour. And so, she is considered a liar.
- This pushes us back to 1979 when a rape survivor had to prove through physical marks on her body that she had not consented.
- Law gives weightage to the statement of a victim of rape with the proviso of it being “credible and sterling”.
- The judgment gives a new and dangerous interpretation to this.
- It poses the question, “who is a sterling witness?”
- It then accepts every highly objectionable charge of the defence to prove

that the witness (prosecutrix) was not “sterling”.

### **What are the other violations made?**

- **Privacy** - The full personal details of the survivor were laid out bare in the judgment.
- [Her name and that of her family, her WhatsApp messages, her personal mails, her photographs and her relationships.]
- This is total violation of her right to privacy and have no relevance to the charge of rape.
- In sharp contrast, there is a blanket of protection given by the court to the accused.
- **Evidence** - Even his WhatsApp message referring to “fingertips”, a clear reference of what he had done to the survivor, was ignored.
- The most telling evidence against the accused was his own “personal apology”, the draft of an “official apology.”
- The other is the conversations recorded by the survivor with the senior woman officer negotiating on behalf of the accused.
- These evidences clearly show that there was no ulterior motive behind the complaint.
- But these were not considered in accepting the woman’s arguments.
- On the other hand, witnesses gave evidence that the survivor shared her traumatic experience with them within hours of the incident.
- These prove that it was no afterthought.
- But these were brushed aside on grounds that they are her friends, and therefore biased.
- However, the statements of the accused’s own sister and another female colleague known to be close to him, were accepted as being true.
- Even the right of a survivor to approach activists and lawyers for their help is criminalised in this judgment.
- Senior members of the Bar such as Indira Jaisingh are put in the dock as probable advisers for “doctoring” and also “of adding to incidents”.

### **Why is the judgement a wrong precedent?**

- Larger concern is to do with the nature of sexualisation of women at a workplace.
- It is made possible by not just the accused boss but by women too in positions of authority and the normalisation of such a process by them.
- This judgment is an example of the wrong kind of victim blaming and shaming to benefit the accused.

- The judgment must not be allowed to become a precedent in derailing the workplace safety of women.
- The sooner it is overturned the better.

**Source: The Hindu**

