
EFFICACY OF WITNESS PROTECTION MEASURES IN RAPE TRIALS

Nikita Banerjee, LL.B., Jindal Global Law School

ABSTRACT

This essay undertakes a critical review of the effectiveness of witness protection strategies in rape trials in India, evaluating both their normative structure and practical implementation. Rooted in statutory interpretation, majorly Sections 327 Cr.P.C. and 228A IPC, and based on seminal judicial dicta, such as *State of Punjab v. Gurmit Singh* and *Nipun Saxena v. Union of India*, the research questions how far such constitutional guaranties actually immunise victims from threats, stigmatisation, and coercion. It also examines the Witness Protection Scheme, 2018, approved by the Supreme Court in *Mahender Chawla v. Union of India*, and assesses its working effectiveness in the light of high-profile failures like the Unnao and Asaram Bapu cases. Based on empirical research, case law, and systemic analysis, the paper uncovers wide disjunctions between intent at the legislative level and ground-level implementation between institutional indifference and funding limits and lack of post-trial safeguards. The paper concludes with focused suggestions for statutory reform, investment in infrastructure, and procedural sensitiveness, making a case for an overall, rights-based approach that repositions witness protection as a proactive pillar of criminal justice in sexual violence cases.

Introduction

Although legal rules for courtroom procedure try to extract truthful evidence, an equally important issue is the safety of victims and witnesses outside the courtroom from intimidations, harassments, or social pressures. For rape trial cases, the Indian legislature and the judiciary have institutionalised several mechanisms of witness protection: in-camera trials (Section 327 Cr.P.C.) and anonymity¹ requirements (Section 228A IPC) safeguard victims' privacy and dignity; different state-specific Witness Protection Schemes provide physical protection and identity shift in grave cases; and legislations such as POCSO and court guidelines offer further covering (e.g., hiding the victim from view of the accused, nondisclosure of identity in orders). This synopsis weighs to what degree these mechanisms truly shield rape victims from outside pressures, using the prism of case law, real-world application, and continuing issues. It is a critical assessment of the system's loopholes and presents reforms, all with quotes of landmark judicial rulings and actual results².

In-Camera Trials and Identity Protection: The Privacy Shield

According to Section 327(2) of the Cr.P.C., rape trials (and trials of offenses under Sections 376, 376A, 376B, etc., IPC) "shall be heard in camera", i.e. closed to the general public. Subsection (3) also makes publication of any aspect concerning such proceedings subject to court sanction, effectively requiring confidentiality. This provision, brought through an amendment of 1983, was a departure from the public trial norm, admitting the special privacy and safety issues in sexual offence cases. The Supreme Court, through a seminal judgment *State of Punjab v. Gurmit Singh* (1996), emphatically reaffirmed that in-camera trial is obligatory and not a choice. The Court regretted that trial courts were going completely against this directive and strongly instructed that "the Courts must invariably take recourse to Section 327(2) and (3) Cr.P.C. and hold the trial of rape cases in camera." It went on to justify: an in-camera trial makes the victim more willing to testify freely, away from prying public eyes in an open courtroom, thus enhancing the quality of her testimony. The self-esteem of the victim is safeguarded and she is less inclined towards feeling shy or scared, and this in turn facilitates the pursuit of truth. In *Nipun Saxena v. Union of India* (2018), victim anonymity, the Supreme Court reaffirmed again that Section 327(2) provides a safe environment where only necessary

¹ Indian Penal Code, 1860, § 228A (Act No. 45 of 1860).

² *Zahira Sheikh v. State of Gujarat*, (2004) 4 SCC 158.

people (judge, court officials, accused and their lawyers, and support person for victim if necessary) can be present, and everyone who is present is bound by duty not to disclose whatever happens within. Open justice, in such instances, gives way to the superior interest of the victim's well-being and integrity of justice³.

In-camera hearings have become the norm in rape trials throughout India. When enforced effectively, they cannot help but offer a psychological protection for victims. The lack of crowd or media within the courtroom limits the victim's stress and possibility of public humiliation. This, in turn, reduces one type of "outside pressure", i.e., public monitoring or shame that may otherwise discourage victims from coming forward and testifying. In terms of outside threats, on the other hand, in-camera trial alone does not stop an accused or his cohorts from intimidating a victim outside the courtroom. It largely guarantees secrecy. All the same, confidentiality is a form of protection in itself: if the proceedings and victim's identity are kept confidential, it is more difficult for unscrupulous forces (other than the accused's circle, who generally know the victim in any case) to victimise or slander her⁴.

Section 228A IPC, Safeguarding Victim's Identity: Section 228A of the Indian Penal Code, 1860 criminalises the publication of the rape victim's name or any other information identifying the victim. The offense is punishable with imprisonment for a term not exceeding two years, and fine. This provision reinforces Section 327 Cr.P.C.'s secrecy by carrying it over to the public domain, particularly the media. Courts have taken the term "identifying information" to be broad – it encompasses not only the name, but also any information (address, photos, family history, etc.) that may result in the identification of the victim. In Nipun Saxena (2018), the Supreme Court gave comprehensive guidelines: even indirect disclosure is banned (such as the names of parents or precise address need not be disclosed in judgments or reports in the media, as these can be used for identification). The Court ruled that anonymity orders are as much applicable to adult as to minor victims of sexual offenses. It explained that if the victim is dead or of unsound mind, only the next of kin and the court can make the decision to disclose identity (usually it is still excluded). It also instructed that police and court files utilise pseudonyms wherever possible and that states establish schemes (such as one-stop crisis centres) to support victims but preserve privacy.

³ Code of Criminal Procedure, 1973, § 327(2) (India).

⁴ State of Maharashtra v. Shakti Mills, (2014) 3 SCC 1.

The anonymity protection is the foundation of witness-victim protection for sexual offences. It acknowledges that fear of social rejection or publicity is an enormous external pressure on victims as many victims prefer to give up on the case than have their community learn they were raped. By criminalising disclosure of identity, the law is trying to alleviate the pressure: a victim is able to seek justice without everyone knowing her identity. In fact, in the majority of cases, the guarantee of anonymity has given the victims courage to speak out. Media generally abide by this principle, using pseudonyms such as “X” or “the survivor.”. Even the higher judiciary itself now gives directions to make sure that even in their orders, victims are not identified (*X v. Maharashtra*, 2019, for example, admonished a High Court for revealing the victim’s identity in an order).

There are however, limitations. To begin with, Section 228A IPC, though frequently enforced against media, has been prosecuted only sporadically. Its deterrent impact is powerful (mainstream media play cautious) but weak on social media or among local gossip. Even in some high-profile crimes, the victim’s name leaks out (e.g., the 2012 Delhi gangrape victim’s identity became public knowledge to many despite legal restrictions, although not by official media). Law enforcers occasionally unintentionally violate anonymity, such as, FIRs can have revealing details, which whilst not officially public documents to begin with, can find their way into the public arena in court documents or leakage. The Supreme Court in *Nipun Saxena* had to instruct police to black out names from such documents. Secondly, anonymity alone does not prevent an accused from coercing a victim as the accused most certainly knows the victim’s identity. The protection is from wider societal pressures and stigma, not from the accused’s retaliation. Thus, while crucial, Section 228A IPC is more about protecting dignity and privacy than stopping intimidation or physical harm. It is a necessary condition for victim protection (so that fear of public humiliation doesn’t silence victims), but not a sufficient one to guard against all external pressures.

In-Court Protective Measures (Screens, Video Conferencing)

Beyond general in-camera hearings, courts have established certain protective measures for vulnerable witnesses. In *Sakshi v. Union of India* (2004), which involved child sexual abuse, the Supreme Court acknowledged that special provisions can be arranged, e.g. permitting the victim to give evidence through video link or behind a screen so that she need not confront the accused face-to-face, and allowing her to be questioned in writing through the judge if direct

oral examination would traumatise the child. Most of these recommendations were incorporated in POCSO for victims who are children. For rape victims who are adults, there is no special statutory provision similar to Section 36(1) of POCSO, but trial courts have suo motu power to direct similar steps in the right kind of cases (under Section 311 or 273 proviso, Cr.P.C.). In fact, an amendment to Section 273 Cr.P.C. in 2013 provided for a proviso that the court can take suitable steps to avoid a child under the age of 18 coming into contact with the accused during the taking of evidence. Adult victims have been provided this facility by some High Courts in situations where the victim is seriously traumatised or apprehensive. For instance, in the case of rape-cum-trafficking, the Delhi High Court permitted the adult victim to give testimony remotely through video-conferencing for reasons of her safety. Such measures, when utilised, act to protect the victim inside the court, such as, she can be more forthright if the immediate physical presence of the accused (usually an overwhelming psychological factor) is eliminated.

The utilisation of screens or video links is very effective in minimising witness intimidation in court. In many cases, the mere appearance of the accused intimidates a victim (particularly if he is influential or terrorised her). By removing that factor, the court allows the victim to concentrate on her testimony and not on fear. But two problems exist: (1) Such provisions are still not applied consistently to adult victims, many attorneys and judges believe that the right of the accused to face-to-face cross-examination can be undermined. There is still resentment at giving adult rape victims the same “vulnerable witnesses” protection accorded children. This loophole results in adult survivors continuing to depose while being confronted directly by their attacker. (2) Even when such measures are employed, they are limited to the courtroom setting. The victim must still report to court (or a videoconferencing centre); she must still remain in her home beforehand and thereafter, usually close to the accused or his acquaintances. Her experience in court, therefore, might be enhanced, but the outside risk is still present unless there is additional witness protection (police security, etc.) outside the walls of the court.

Witness Protection Schemes: Safeguarding Security and Safety

To address the requirement to safeguard witnesses beyond the courtroom, India enacted a national Witness Protection Scheme, 2018, sanctioned by the Supreme Court in *Mahender Chawla & Ors. v. Union of India* (2018). The Court ordered that this scheme be implemented

throughout the nation until there is formal legislation passed, effectively rendering it the law of the land. Under this program, witnesses (victims included) are categorised into three threat levels (serious threat to life, moderate threat, etc.) and can be provided with a range of protection measures accordingly. Protection measures can vary from assigning armed police escorts, fitting security devices at home, regular patrolling, to moving the witness to a new location and even identity change in extreme cases. The program also sets up Witness Protection Cells and assigns a duty judge in every district responsibility for handling protection requests. Notably, it prioritises confidentiality of the identity of the witness, courts have the ability to permit testimony under pseudonyms or through video to protect identity. Funding for these is provided by a Witness Protection Fund derived from state budgets and court fines.

Some states previously had set up their own programs. Delhi was a trendsetter with the Delhi Witness Protection Scheme, 2015, being quoted as an example. Under the Delhi scheme (as mentioned by Human Rights Watch), subsequent to threat evaluation, the Delhi Police, in consultation with the courts, may provide protection such as 24*7 security, CCTV monitoring of the witness's home, and relocation away from Delhi if required. Courts also, lacking a formal scheme, issued ad hoc orders in high-profile matters, e.g. ordering state security for witnesses in Asaram Bapu⁵ rape trial cases or against powerful accused.

The idea of a witness protection program is a giant leap towards criminal justice reform in India. It confronts the issue of witness intimidation head-on by dealing with the root: the vulnerability of witnesses in society. The 2018 Scheme is a formal, legal process through which a witness can apply for protection. It introduces responsibility as protection decisions are scrutinised by a responsible authority and there is a defined procedure, not ad hoc police practice. In rape cases, this would entail a victim who is threatened seriously having, in theory, the option of being relocated or given a new identity so she can give evidence without being killed. If these measures were put in place, these are the most effective deterrents against outside interference: an accused would be much less likely to threaten a victim who is relocated or protected. The Supreme Court stamp of approval gives the scheme authority to it as it binds all states.

⁵ *State v. Asaram Bapu*, Special POCSO Court, Jodhpur, Cr. Case No. 204/2013, Judgment dated Apr. 25, 2018 (India).

Furthermore, witness protection orders have the added effect of instilling fear of law in would-be intimidators: if a witness is officially in a protection program, any attempt on her life could have more severe repercussions. The scheme's existence itself is an admission that witness intimidation is a major cause of hostile evidence, and it seeks to anticipate it by security and secrecy in combination. Notably, the scheme permits protected witnesses to give evidence by video conferencing in camera from secret places, and this has been employed in certain trials for the protection of witnesses (for instance, witnesses in some terrorism or gang rape cases have testified remotely under escort).

The true test is implementation, and here the picture is mixed. The Supreme Court, in recent remarks (2023-24), was seriously troubled by the poor operation of the Witness Protection Scheme in the country. Most states have been reluctant to operationalise the scheme, and even if notified, the protection infrastructure on the ground is negligible. One of the recurring problems is absence of funds. Protection may be costly (relocating families and providing 24-hour police guards, etc.), and government budgets tend not to be allotted for it. Therefore, in reality, few witnesses (typically in extremely high-profile cases) receive full protection.

Coordination issues also bedevil the scheme: police might not move quickly on protection orders, or there is little communication between the court issuing protection and the local police who have to apply it. There is variability; some states or districts are proactive, others quite ignore the scheme. This patchwork generates inequalities; a rape victim in Delhi may receive more protection than one in a rural constituency with indifferent authorities.

Most importantly, the majority of victims are unaware of how to seek protection or are afraid of attempting to do so. The scheme mandates that the witness (or prosecutor) make an application to the competent authority with information regarding the threat. A less educated or poor victim would not be aware of this option, or would not have such faith in the police that it will ask for protection (particularly if police themselves are apathetic or involved, as was the case with the Unnao crime⁶, in which the accused MLA was aided and abetted by local police in silencing the victim). The very individuals who are most in need of protection are typically those least capable of cutting through the bureaucracy to obtain it.

⁶ *CBI v. Kuldeep Singh Sengar*, Sessions Case No. 631/2019, District & Sessions Judge, Tis Hazari Court, Delhi, Dec. 16, 2019 (India).

There are stark instances of system failure to safeguard rape victims even when threats were known. The Unnao rape case (2017-19) is one such example: the teenaged victim accused a politically influential man; rather than securing her, officials first attacked her (jailing her father, who succumbed to injuries in custody). Even after the case came into the public eye, in 2019 the victim's vehicle was mysteriously struck by a truck, which killed two relatives and left her gravely injured – an alleged attempt on her life by the associates of the accused. It was only after this chilling incident that the Supreme Court stepped in to move the trial to Delhi and grant CRPF security. This reactive strategy highlights the gap: protections tend to come once harm is already inflicted.

Likewise, in the scandalous Asaram Babu case, despite several witnesses being attacked and even killed throughout the trial, complete protection was late in coming. Human Rights Watch mentioned that among Asaram's rape trials (2013–2018), three witnesses were killed and a few others attacked, even a police officer threatened. One of the important witnesses, Akhil Gupta, had made a plea for protection but was allegedly not given proper protection and shot dead. Another, Rahul Sachan, went missing after he had survived being stabbed – his whereabouts are still unknown. These deaths took place as much as even during the ongoing trials, highlighting that the witness protection mechanisms in place at that time were woefully inadequate. The Delhi Witness Protection Scheme 2015 was in the right direction, but outside Delhi (all of these incidents took place in Gujarat, Uttar Pradesh, etc.), till 2018, there was no strong framework. Even today, these cases are lessons in caution that having a scheme in place on paper doesn't necessarily protect victims – the implementation has to be alert and timely. The Asaram case led to demands for improved witness protection, and it was indeed one of the attacked witnesses who survived, Mahender Chawla, who was the leading petitioner in the Supreme Court case that produced the 2018 Scheme.

Another facet to add here is witness protection by identity. Rebuilding someone's identity or resettling them is an extreme step, but at times unavoidable. The Witness Protection Scheme does have this in mind for Category 'A' threats (life-endangering situations). However, moving a rape victim around is problematic considering she may have a family, children at school, etc. It's also costly and involves inter-state coordination. There are a few reported cases of Indian rape survivors being provided with completely new identities or relocation for the long term. Police offer security more frequently which is withdrawn upon the conclusion of the trial, by which time the witness would be exposed once more. This poses the issue of post-trial revenge.

Our own protection efforts are primarily focused on protecting testimony at trial. After the trial concludes (particularly if it results in conviction), the victim could be subjected to retaliatory attacks. The law is virtually mum on post-trial protection as it would depend upon general criminal law to respond to any such attack, and not a preventive barrier.

Case Law Critique and Enforcement Problems

The *Zahira Sheikh's Case (2004)*, while being a case that arose out of a riot case (Best Bakery, Gujarat), it became synonymous with witness intimidation. The main witness, Zahira, became hostile after threats and inducements. The Supreme Court was shocked at how the trial was “reduced to a farce” and issued a direction for a retrial in another state with an emphasis that fair trials are not possible if witnesses are tampered with by means of fear or bribes. The Court, for the first time, suggested a full-fledged witness protection scheme in India. Zahira’s case resulted in perjury action against her, an overreaction to a situation where the system had failed to protect her in the first place. The Court’s lesson here is that the State should ensure that there are conditions in which witnesses may give the truth without fear for their lives or those of their loved ones. This case acted as a precursor to subsequent policy initiatives (Law Commission reports and ultimately the 2018 Scheme).

In *NHRC v. State of Gujarat (2003)* following the Gujarat communal riots, numerous witnesses were afraid to testify. The Supreme Court, apart from retransferring trials, ordered protection to witnesses and even considered central paramilitary security for them. While not a rape case, the principle was extended to rape jurisprudence: courts may order special protection or transfer of trial if local climate is inhospitable. In rape cases where strong accused (e.g. police personnel, politicians) are involved, High Courts and the Supreme Court have also shifted trials to impartial locations (as in the Kathua rape case (2018), which was shifted from Jammu & Kashmir to Punjab to allow witnesses from a minority group to testify without fear). Transfer is used to relocate the trial from a place of risk, and thereby it is witness protection of sorts.

The *Shakti Mills Gang Rape Case (2013)* was that of gang rape of a photojournalist. The victim, with support from her family as well as a watchful police/prosecution, testified firmly, and the case had a speedy trial (within 7 months). Critical to this success was the utilisation of much of the protections mentioned: the hearing was in camera; her identity was concealed; she received support and was not harassed within the court. The conviction of all defendants (with some receiving the death penalty under a repeat-offender statute) was affirmed. Although not

an instance of failure of witness protection, it highlights that when the system functions, privacy is ensured, trial is quick, evidence is convincing, and victim's security is handled such that victims don't become hostile. The comparison with instances such as Unnao or Asaram suggests that stern enforcement of protections goes hand-in-hand with witnesses remaining steadfast

Implementation Gaps and Judicial Frustration

Courts in recent judgments have registered frustration with the ground reality. The Supreme Court of 2023 (hear a case related to rape cases backlog) remarked that in spite of Witness Protection Scheme being binding since 2018, "there have been significant lapses in its execution". It pointed out that witnesses continued to receive threats and states were not alike in extending protections. High Courts have also raised issues: for instance, the Allahabad High Court (Lucknow Bench) in 2022, in a rape trial wherein the victim turned hostile, observed that state exchequer cannot be utilised to compensate victims who turn hostile and suggested guidelines to possibly recover compensation. This response, which can be blamed for victim-blaming, is one of frustration at repeated aggression and the feeling that some victims abuse the system. But child advocates replied that labeling a case "false" simply because a child became hostile is a failure by the system, one has to inquire why she became hostile and if the promised safeguards and services were indeed delivered. Such discourses in judgments accentuate the call for stronger enforcement instead of punishing victims.

Empirical research affirms that witness protection initiatives are not yet successfully preventing hostile testimonies. The National Law School Bengaluru's analysis of POCSO cases (2013-15) recorded a startlingly high level of hostility as discussed above. A Delhi study pointed out 58% of POCSO cases settled in 2020 had been pending for more than a year, and the longer the pendency, the more likely the withdrawal of support⁷. These statistics indicate a systemic deficit: privacy is ensured by laws such as Section 327 and 228A IPC, but the real problem is safety and support, and this is where witness protection schemes require immediate strengthening.

⁷ HAQ: Centre for Child Rights & Civic Data Lab, *Courts Asking POCSO Victims Who Turn Hostile to Return Compensation: Right or Wrong*, Newsclick (Dec. 2022).

Systemic Gaps and Recommendations for Reform

Key gaps are identified through the analysis⁸: (1) Resource and Infrastructure Gap: Shortage of safe houses, secure transport, and finance for relocated or protected witnesses exists. Infrastructures such as separate witness waiting areas and deposition rooms are missing in most courts; victims continue to wait in open corridors with the accused's family members hanging around, which is intimidating. (2) Awareness and Accessibility: Victims (particularly marginalised ones) remain unaware of their right to protection or are too fearful to request it. The system counts on judges or prosecutors to initiate protection measures actively, which not all do. (3) Post-trial Protection: After a trial ends, protections have a tendency to expire, but the threat may not. Rape victims who assisted in convicting powerful offenders might require continuous protection (there have been cases of acid attacks or killings in revenge after convictions). The scheme does not institutionalise long-term protection or witness rehabilitation. (4) Uniformity and Legal Force: The 2018 Scheme is binding, but not a law. Compliance is patchy. A serious Witness Protection Act would also provide it with more bite, with explicit penalties for bureaucrats who do not execute orders and possibly a single central source of funding. Not all categories of cases are treated the same. While rape witnesses are eligible, the program covers every major crime, so sparse resources are diluted across categories. Prioritisation and triage are required.

Recommendations

Enact a Witness Protection Law:

The Law Commission's 198th Report (2006) had prepared a "Witness Identity Protection and Witness Protection Program" law. It is now time to legislate the 2018 Scheme, which would require budgetary allocations and establish a statutory body in each state dealing exclusively with witness protection. This legislation should enable emergency protection orders (in 24 hours of a threat being reported) and facilitate in-camera evaluation of threat by the judge to speed up the decision-making process. A statute law can also deal with protection after trial, enabling protection extension for a duration following trial (particularly if the accused is convicted and has a gang that could attack the victim in retaliation).

⁸ Law Comm'n of India, 198th Report on Witness Identity Protection and Witness Protection Program (Aug. 2006) *Mahender Chawla v. Union of India*, (2019) 14 SCC 615 (India).

Special Witness Protection Units:

Each district must have a special police cell that is trained in witness protection, such as soft skills to comfort witnesses and tactical skills for security. These units need to integrate with victim support services. In rape cases, female officers in these units can be of assistance to the comfort of the victim.

Improved In-Court Protections:

Enlarge the definition of “vulnerable witness”⁹ by default to cover adult survivors of sexual assault. Rape victims of all ages, as well as children, should be automatically considered for measures such as screens or video-link on request. Judges should be trained to deal with vulnerable witnesses with sensitivity, e.g., permitting more breaks in giving testimony if the witness is upset, and controlling rigidly any attempt at intimidation (even an aggressive look by the defendant in court should be stopped).

Securing Identities in the Digital Era:

Although mainstream media generally complies with 228A IPC, social media and messaging apps present new challenges. There must be mechanisms where businesses collaborate to remove content that infringes victim anonymity. Law enforcement cyber cells can track and pursue doxxing of victims. Also, courts must continue the policy of anonymising victims in their judgments/orders (possibly by using coded initials or a pseudonym consistently such that appeals etc., can be followed without compromising identity).

Victim Support and Counseling:

Protection is not just about guns and shields; it’s about mental strength¹⁰. As specialists point out, absence of holistic assistance (financial assistance, relocation, education assistance to child victims, counseling) will usually result in families or victims surrendering. Enhanced support services to victims (one-stop crisis centres, as mandated in Nipun Saxena case) will indirectly shield witnesses by reducing their reliance on adversarial relatives or presenting alternatives to going back to dangerous settings. For instance, if the education and treatment of a child are

⁹ Sakshi v. Union of India, (2004) 5 SCC 518 (India)

Nipun Saxena v. Union of India, (2019) 2 SCC 703 (India).

¹⁰ Nipun Saxena v. Union of India, (2019) 2 SCC 703 (India).

provided for by the state, then the family will not think that they have to compromise with the accused financially.

Speed and Certainty of Sanctions for Intimidators:

The state must convey a strong message by quickly prosecuting witnesses' intimidators and abusers. Section 195A IPC must be brought into play wherever a prima facie threat is issued. In the Asaram case, in the end some henchmen were arrested on charges of attacks but such prosecutions need to be expedited in order to discourage others. Special fast-track courts for such crimes can be set up. Would-be intimidators need to realise that any harassment of witnesses will lead to instant arrest and independent charges, in order to deter attempts.

Monitoring and Accountability:

The Judicial pronouncement has kept to itself the authority of overseeing the enforcement of the Witness Protection Scheme¹¹. Maybe an annual report system could be instituted wherein states report statistics: number of protection applications, numbers received, arrangements made, any witness injured while in protection, etc. Also, independent audit (perhaps by NHRC or civil society) of witness protection in random cases can spot gaps. If a protected witness is injured, there must be an investigation into the possibility of negligence.

Dealing with Special Situations:

With incest or sexually abused incest, normal witness protection (which tends to presume an outside threat) does not automatically apply where the stress comes from within the family. Here, social interventions are required: child welfare courts and committees must scrutinise temporary removal of the child from the home when the family is colluding with the accused against the child's interest. Though contentious, as indicated in the study where some recommended keeping the child at a shelter during trial, the principle of the best interest of the child must take priority. This includes making government shelter homes better, i.e., they must be truly safe, so it is an option to send a child there for her own protection, or else it becomes a form of punishment.

¹¹ Mahender Chawla v. Union of India, (2019) 14 SCC 615 (India).

Community and Witness Relocation Programs:

Taking a leaf out of other nations (such as the U.S. Witness Security Program), where in extreme situations witnesses can be resettled a long way from the reach of the accused by simply being provided with new identities. India may create a small, central cell to administer such high-security transfers (with change of name, documents, employment, etc.) for the occasional cases that require it. This is expensive and complicated, but may be worth it to disassemble the climate of impunity for some powerful perpetrators.

Conclusion

Even with progressive legislation requiring closed trials and anonymity, outside pressures are the Achilles' heel of rape prosecutions. The current witness protection measures, though intellectually coherent, have not successfully and in an even-handed fashion protected victims in reality. Pioneering cases and figures leave no doubt that when witnesses are in fear or do not feel supported, they tend to fold, with justice being the victim. India's task, then, is to turn its good laws into good results by investing in witness protection as a fundamental aspect of the justice system. That requires spending money, staff, and political capital to make sure that a rape victim can come forward to testify without fear of brutal retaliation, free from shame in public eyes, and free from hopelessness that nothing will ever come of her bravery.

In the end, witness protection is not so much about the witnesses but about maintaining the rule of law. As the Supreme Court pointed out, witnesses are "the eyes and ears of justice" if they are blinded or muzzled by fear, justice is weakened¹². In rape cases, where normally the testimony of the victim is the turning point, where she can freely testify is most important. A holistic approach in administrative, legal, and social sense is required in order to provide a climate where victims of sexual violence are enabled to assist the prosecution, and where perpetrators realise that silencing the victim is not an option. Only then will the balance of justice in rape cases be properly balanced, protecting the vulnerable while punishing the guilty.

¹² *Zahira Habibullah Sheikh v. State of Gujarat (Best Bakery Case)*, (2004) 4 SCC 158 (India).