

Mahila Court

Mahila courts are specialized courts set up to dispense justice to women. They speedily deal with and dispose of cases pertaining to women fighting legal battles following matrimonial discord. Mahila or women's courts have been established as forums in which

women, with or without their small children, seek quick relief in disputes for shelter and for financial assistance. Mahila courts are headed by experienced women judges and magistrates and the staff employed in such courts is also predominantly female. They are headed by a judge of the rank of Additional Chief Metropolitan Magistrate cum Assistant Sessions Judge, who, too, is a woman. These courts deal exclusively with cases pertaining to offences against women such as cases relating to the grant of maintenance under section 125 of Cr. PC, cases under sections 354 and 509 of I.P.C dealing with assault or criminal force and words or gestures intended to insult the modesty of a woman. At the Sessions level, Mahila Courts deal with the cases of kidnapping (Sec: 363 I.P.C), procuring minor girls for the purpose of prostitution, rape (Sec: 376 I.P.C.) and cruelty by husband or in-laws (Sec: 498-A I.P.C.). The Metropolitan Magistrates in these courts are assigned cases relating to molestation, rape kidnapping and domestic violence. These courts serve the purpose, with great sensitivity, of rendering justice in criminal matters pertaining to women victims. The procedure followed in these courts is informal and comforting for women. They can shed their inhibitions and depose freely in the presence of women judges, who are more sensitized towards females and their inherent nature. These courts also provide a platform to women wherein they can negotiate their claims. Mahila courts ordinarily hold criminal trials but at times conciliation proceedings are also organized in order to preserve the family fabric. In Delhi, the Delhi Legal Services Authority has commenced conciliation proceedings in all its District Court complexes with effect from August 26th, 2007 and it is organized twice a month ever since. The first Mahila Court was set up as an experiment in Andhra Pradesh in 1987. Its success encouraged the setting up of more such courts in Delhi as well as in all other parts of the country. In 1994 Mahila Courts headed by women judges were established in Delhi. Presently there are several Mahila Courts at the Sessions level headed by Additional Sessions Judges and many more headed by Metropolitan Magistrates in all the District Court complexes of Delhi.

Note: This Answer is taken from an e-lesson on legal literacy prepared by Dr. vageshwari Deswal.

Measures taken by government courts Three government measures taken with regard to crimes against women are worth mentioning. First, a bill entitled "The Prevention of Barbarous and Bestly Cruelty Against Women Bill, 1995" was introduced in the Rajya Sabha on December 1, 1995, seeking capital punishment against those who perpetrate barbarous and bestly cruelties on women. The Bill states that such offences be declared cognisable and non-bailable and should be tried in special courts. While introducing the Bill, Mrs. Saroj Khaparde hoped that deterrent punishment for such crimes would reduce the number of atrocities against women. Some of the acts listed as being bestly and cruel include killing a woman by battering, strangulating, or by other means after committing rape on her, killing a woman and disposing

of her body by burning or by other means, burning of a woman alive leading to her death, killing a woman by gang-rape, and committing rape on a pregnant woman resulting in her death. This bill however could not be passed. Secondly, the Supreme Court gave a decision on 17 January, 1996 that rape cases be tried as a rule in camera to protect victims from facing humiliation in the witness box during trial. Trial in camera would not only protect the self-respect of the victim of crime but it is also likely to improve the quality of evidence of a prosecution because she would not be so hesitant or bashful to depose frankly, as she might be in an open court under the gaze of the public. The judges declared that an open hearing in such cases should only be held in exceptional cases. It was also declared that it would not be lawful to print or publish any matter in relation to the proceedings in the case, except with the previous permission of the courts. This would spare embarrassment caused to the victim of s*x crime. It was also suggested that as far as possible, s*xual assault cases be tried by lady judges. Lastly, the courts should avoid disclosing the name of the prosecution in their orders to save embarrassment to the victim.

Thirdly, Mahila Courts have been established in Delhi to try cases of crimes against women. Four such courts were set up in 1994. The atmosphere in Mahila Courts is not aggressive or charged as in other courts where women victims have to face a volley of questions from the defense counsel. Normally, it takes years to impart justice to a victim in ordinary courts, but a Mahila Court takes only a few months.

The rationale behind the setting up of these court is: (i) to lend a sympathetic ear by female judges to women victims who are unable to depose truthfully and fearlessly before male judges; (ii) to deliver speedy trials to women as Mahila Courts are to deal with cases pertaining to women only.

The important characteristics of Mahila Courts are: (1) These courts take up cases of women only. (2) The judges are women. (3) These courts try cases of the Indian Penal Code (IPC) only of (a) outraging the modesty of a woman (Section 359), (b) kidnapping (Section 363), (c) criminal breach of trust pertaining to not returning streedhan (Section 406), and (d) cruelty of any sort inflicted by the husband or his relatives (Section 498). (4) These courts have predominantly all-women teams, including women prosecutors. Only the accused and the lawyers are likely to be men.

However, the Mahila Courts have been criticized on the following grounds: (1) These courts are unconstitutional and unwarranted. Even the President of the All-India Lawyers Forum for Civil Liberties (AILFCL) has described the very nomenclature of these courts as misleading and violative of the constitution. (2) The courts would be biased in favor of women and the accused would inevitably be treated severely by the female judges and the prosecutors. (3) The courts are not Mahila Courts in the real sense of the term. Public prosecutors, stenographers, and readers are still male employees. (4) The number of Mahila Courts is not adequate. Three-fourths of cases involving women victims are still tried by male judges. (5) Keeping in view many cases, the strength of judges is quite insufficient.

The counter-arguments against the above criticisms are: (1) Allegation of gender bias against women judges is baseless. Mahila Courts are not partial. There is no question of taking sides. A judge is a judge. It hardly matters whether the judge is a man or a woman. (2) Women judges

in fact create a sense of confidence in the victim to come out openly against the accused and his/her counterparts. (3) The disposal of cases is speedier. In many cases, women judges have given less severe punishments to the old accused on the ground that there is no point in giving a ten-year sentence to someone who is between 70 and 80 years of age as he might not survive the entire sentence.

What is needed along with Mahila Courts is: (1) curbing loopholes in the trial process; (2) curbing corruption; (3) providing for speedy disposal of cases; and (4) interrogation of a female victim by a woman police officer, preferably in the presence of her relatives and under camera surveillance.

Read more at: <https://www.lawyersclubindia.com/forum/what-is-mahila-court--64916.asp>