‘Our society needs to reach that level of maturity for laws to be made more gender neutral

Are some laws in India lopsided and do they go out of their way to favour women? Mridula Bhatkar, who recently retired as judge at Bombay high court, speaks to Sugandha Indulkar on the issue:

Are laws in India gender biased?

Laws in India are not gender biased. Our legislature has provided us with excellent laws. The Constitution of India has guaranteed protection under Article 15(3). This Article empowers the state to make special provisions for women and children. I would rather say that a ‘gender friendly’ law, will also be ‘gender neutral’.

Some laws are bound to be pro-women. For instance, Section 498A of the Indian Penal Code and Protection of Women from Domestic Violence Act. The understanding and implementation of law are areas of concern, especially in our country and this causes a lot of problems. We don’t try to understand what the law actually says. We do not need more laws. The more the laws, the more the felonies in a society. We need accuracy in understanding and implementation of existing laws. The objective of the legislature is laudable, it is the common man or woman who misuses law.

If there are false complaints of sexual harassment, are there any legal procedures or laws which can prove innocence of men?

A lot of ‘vested interests’ are at play when law is misused. Good governance comes from effective implementation of law. We all need to understand what equality is and what constitutes sexual harassment.

Legal intervention is not always needed. For instance, if a man compliments a woman on her appearance, she need not misinterpret his intentions. Women should learn to accept compliments gracefully. At the same time, if a woman feels amiss about a male counterpart’s behaviour at the workplace, she can point it out politely and address the matter appropriately. Most organisations have effective HR policies and will take strict action if a man is found guilty of sexual harassment. The details of every case are different and, therefore, one cannot provide legal counsel in a sweeping manner.

In your years of experience, which are the laws that have been commonly misused by women to settle a personal score?

Section 498A of IPC (cruelty perpetrated by husband) is a good law, however, it can be misused and the Supreme Court has issued directives to caution against misuse of this law.

Section 375 and 376 of IPC which deals with punishment for rape, often come under scrutiny in case of ‘false rape’ cases. The whole gamut of cases which are registered under these sections are to be examined very carefully, firstly by the police and then by the court. False rape cases are filed quite often without understanding the meaning of ‘consent’ in law. Breach of promise to marry and the physical relations between a man and woman with such promise need to be understood and reflected upon carefully. An adult and educated female entering into a consenting physical relationship is expected to understand its consequences. She cannot cry ‘rape’ just because the man does not fulfil his promise of marriage. The biggest bane in many such cases is that our society is caught in between body centric morality and liberal lifestyle.

Using law to blackmail a public figure is not unknown. What can be done to stop this misuse?

Maturity level in our society needs to improve. Laws are made for safeguarding people and to ensure happier and qualitatively richer life for society on the whole.

When laws are abused such cases occur. Often people misuse law to get back at a famous person, or for personal vengeance. It is important for judges to take note of such nuances of every case and ensure that laws are not misused. Laws are there for everyone, so one really cannot prevent such cases. No one is above law – famous or otherwise.
How can laws in India be made more gender neutral?

Our society needs to reach that level of maturity for laws to be made more gender neutral. Until then, given the patriarchal society in which we live and the rampant violence against women, especially in India owing to the practice of dowry, some laws against domestic violence tend to offer protection to vulnerable women. To give you a simple example, visit the burns ward of any government hospital anywhere in India and just look at the number of women patients as against men. You will know the importance of these laws.

Did you face a glass ceiling at work?

At workplace, I was not treated differently because I am a woman. All the same, I know that many women, in varied fields of work, do overcome many challenges to prove themselves in male-dominated bastions. Women have to work overly hard to prove their efficiency and this is true of all fields of work. The glass ceiling is a reality. Women who shatter it are indeed praiseworthy.