This presentation raises concerns about the limitations of focusing on, and indeed exceptionalising, sexual violence without paying equal attention to its linkages with sexuality, particularly positive sexuality. The discourse on sexual violence in India changed in 2013 following the public outrage against a homicidal gang rape that catalyzed law reform as well as the participation of new stakeholders in this discourse. The State, political parties, public figures and the national media, who otherwise are opposed to sexuality concerns, have made women’s ‘protection’ and ‘safety’ from sexual violence part of their agenda. A shrill public discourse, defined by selective focus on high profile cases, calls for death penalty and reduction of age of juvenility, amongst others, poses significant challenges for feminists. How do we position ourselves in ways beyond denouncing death penalty and decrease in age of juvenility, to addressing the question of exceptionalism of sexual violence, from which these calls spring? The issue of exceptionalism is overarching and outstanding, one that is often reinforced by feminist discourses, as in the campaign against marital rape and in the responses to breach of promise to marry cases.

This presentation looks at ways in which primary reliance on criminalization and on exceptionalising penetrative sex over other forms of sexual control comes in the way of a broader transformatory agenda and engagement. The campaign on full criminalization of marital rape and the responses to the breach of promise to marry cases, show that penetrative sex, victimhood and criminalization dominate our imagination of wrong and of justice at the cost of other ways by which the patriarchy regulates women’s sexuality, including through the law. By not addressing legal provisions that punish women’s sexual agency and not expanding the public discourse including at the community level, to address normative sexuality or the privileging of sex within the context of love and marriage, the feminist discourse neglects issues that underpin and shape the use of the criminal law, the expectations from it and its outcomes. Through the two examples, the presentation explores the linkages between sexuality and sexual violence, both as part of a continuum that must be addressed simultaneously, not discretely, to fully counter patriarchy (and other interconnected oppressions).