



INDIAN PENAL CODE -OFFENCE OF RAPE – PERSISTENCE & SURVIVAL ISSUES

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ABSTRACT

Never there was a shadow of a doubt. We all agree to the fact that though the constitution of India grants equal rights to man and women in all spheres of life but the stark reality is that women are christened as an inferior status and made to live in ultra-misery, subjugation and subservience to men. They are completely deviated from society & ignored as if they have nothing more than existential identity, this unfortunate situation reduces women to the position of man's appendage and slave to be used and disposed of at will. Such cruel exploitation of women goes unnoticed, if noticed unchecked in our society by immersing them obscurantist and superstitious beliefs rotten and worn out traditions and religious practices. In this article, I would try to highlight an inhuman and barbaric act and in fact, the most heinous crimes against women known as Rape and also discuss legal position, various reasons and victim compensation schemes and survival issues towards the women.

INTRODUCTION

Violence against women in any form is the negation of the Fundamental Right to Life and Liberty contained in article 21 of the Constitution of India. The state is duty bound to create an environment where women can participate in equal measure in all activities hassle free without any fear of harm whether physical or psychological. But in India, women are often suspected to different kinds of violence in the society and the offence rape is one of them and it is a crime against humanity. It may not necessarily kill a woman instantly. This however, certainly leaves her with physical and mental, psychological scars for the rest of her entire life. Rape ravishes the affected woman and it takes years to re-build her courage and conviction to face the world again not just physically, but also mentally and emotionally.

The offences relating to sex have existed since time immemorial. In the civilized society of yester-years and of today promiscuous sexual intercourse still prevails, though some types of it are condemned, considered immoral, unethical and enjoyment is that these should not be indulged into. Yet if these are consensual sexual intercourse, i.e., where both parties agree, they are not unlawful but consensual. The most glaring instance is prostitution; the most condemned one is incest. In some systems prostitution is illegal and in one incest is also punishable as a crime. But in most societies prostitution and incest are not unlawful, however morally condemnable they may be, since these are consensual sexual intercourse. But in all societies, it is unlawful resulting to a substantial legal battle. It is called criminal offence of rape. The position remains the same, except that a sexual intercourse with the wife without her consent, even against her will nor by force is not rape, unless the wife is below the age of puberty (according to Indian law under the age of fifteen years). The Marriage gives a man a license of sexual relationship and the consent here immaterial. In India sexual intercourse by husband with his wife is perfectly lawful and most approved one.

MEANING OF RAPE**DEFINITION OF THE TERM**

Broadly speaking, sexual intercourse by a man with a woman without her consent is rape. It need not be complete sexual intercourse in one dimension. A rape can be of different degrees or levels.

Explanation to section 375 of the Indian Penal Code laid down that "Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape" complete penetration is not an necessary for the offence of rape. It would amount to penetration if some part of male organ goes within the labium of the pudendum of the woman, no matter how little. The only requirement is whether the male organ entered into the person of the woman. It is not necessary to decide how far entry was made. It is not necessary that hymen should be ruptured, nor is the seminal emission a sure indication of rape. In *R.v. Furroll*, the accused was charged with rape on a child of six years. She was not hurt. There was no injury on her private parts. But she was found suffering from gonorrhoea from which accused also suffered. It was held that the accused committed the offence of rape. The only thing that has to be ascertained is whether the male organ entered the private part of the victim, once this ascertained then it is not necessary to enter into a discussion as to how far it entered her.

The word rape is derived from the Latin word 'rapio' which means to seize. Thus, the literal meaning of rape is a forcible seizure and that is the essential ingredient of the offence committed by any individual. In common parlance, it means intercourse with a woman without her consent, by force, fear or fraud. It is the ravishment of a woman, without her consent, by force, fear or fraud, or the carnal knowledge of a woman by forces against her will. Simply, Rape means a man having sexual intercourse with a woman against her consent. It is forcible ravishment of a woman. Force need not be physical force. Penetration need not be deep or full. Entering the lips of Vagina may be enough to come to conclusion that a rape activity has taken place irrespective whether it is an individual or by group of individuals.

RAJU VS STATE OF KARNATAKA

Let us analyse the above-mentioned case. In this case there was a lady who was working as a nurse. One day she was going to a village for attending a marriage of her brother at Sakleshpur. During the travel transit, In the bus two young men were sitting behind her and were talking to her now and then. After that they suggested her to take a lunch meal and promised her to send her to her village timely then they went to the house of Marigudi for a meal but found no food was available there, they all went to a B. G. K. Lodge, Marigudi & was accompanied by the victim. But after taking a meal they gagged her with a handkerchief and all raped her. But somehow, she was able to take out the gag from her mouth and screamed on hearing her screams the other persons available there rushed to the incident location. Here, the case of Ravishment of the said lady was established. Section 375 of IPC defines rape. However, the original section 375 and the provisions providing punishment have witnessed number of amendments in the recent times. The amendment carried out in the year of 1983 and 2013 by the Criminal Law (Amendment) Act 1983 and Criminal Law (Amendment) Act 2013. The Amendment carried out in the year 1983 by the criminal law (Amendment) Act 1983, have overhauled the law relating to rape. These amendments were a result of country wide criticism by all sections of society including parliamentarians' women and social organizations against the judgement of the court in case of *Tukaram v State of Maharashtra* known as Mathura rape case. This infamous case, known by the name of Mathura case, has peculiar facts and fact analysis by the High Court on one side and by the trial court and Supreme Court on the other. The case was sought to be covered by the prosecution under clause thirdly of section 375 of the Indian Penal Code. It was alleged that this unfortunate girl Mathura was raped by obtaining her consent by putting her in fear of death or injury of a hurtful nature. The Sessions Judge did not believe the prosecution story. He observed that "the farthest one can go into believing her and the corroborative circumstances, would be the conclusion that while at the Police Station, she had sexual intercourse and that, in all probability, this was with Ganpat. He added however that there was a world of difference between sexual intercourse and rape, and that rape had not been proved in spite of the fact that the defence version, a bare denial of the allegations of rape, could not be accepted at its face value. On appeal, the High Court reversed the finding of the Sessions Judge. The High Court said that mere passive or helpless surrender of the body and its resignation to the other's lust induced by threats or fear can't be equated with the desire or will, nor can it furnish an answer by the mere fact that the sexual act was not in opposition to such desire. Disagreeing with the High Court,

the Supreme Court said that unless fear was shown to be that of death or hurt, it would not vitiate the consent. The medical evidence indicated that Mathura was used to sexual intercourse. So is a prostitute, and so is a married housewife. Will that justify rape? This was a very unwelcome decision and there was an agitation. In fact, in some of these decisions, the so-called medical evidence seems to be tainted, such observations that a single person can't rape a woman or that if marks of resistance are not on the body of the rape-victim, she is a consenting party are not true from real life. The result of public agitation was that the Criminal Law (Amendment) Act, 1983 (43 of 1983) was enacted whereby certain amendments were made in the Indian Penal Code. Sections 375 and 376 were amended and sections 376A, 376B, 376C and 376D were added. Section 327 of the Code of Criminal Procedure, 1973 was also amended and a new section 114A was inserted in the Indian Evidence Act, 1872. The chapter on 'sexual offences' consisting sections 375, 376, 376A to 376D and 377, deals with rape and 'unnatural offences'. Section 375 defines 'rape' while sections 376 and 376A to 376D stipulated punishments for rape according to Section 377 deals with unnatural offences.

IMPLICATION OF THE RAPE SCENARIO- ITS LOOPHOLE.

The implications of these loopholes are that any act of forced sexual intercourse that doesn't involve penile vaginal intercourse is not considered 'rape'. These offences are dealt with under Section 354 and Section 377 irrespective of the fact that the above-mentioned offences are as derogatory and humiliating as the offence of forced penile/vaginal intercourse is. It is worthwhile to note that forced non-vaginal intercourse is usually practiced on children and in such cases this loophole in Section 377 defeats the very purpose for which a differential treatment was envisaged under Section 376 (2) (f).

There are some very pertinent reasons that necessitate the amendment of Section 376 and bringing a change in the definition of 'rape'. These are:

Forced sexual intercourse where penetration is not affected is dealt with under Section 354 and is considered a less grave offence. The punishment prescribed for this section is not consistent with the gravity of the crime, it is not only a bailable offence but it is compoundable also which effectively means that there is a strong likelihood of a victim being compelled to withdraw her case

Offences in the nature of penile/anal intercourse, penile/oral intercourse, object/vaginal intercourse are covered under Section 377. This archaic law was enacted not to punish such offenders but to punish homosexuality, thus consent is no defence for a charge of unnatural sex. Therefore, this section places forced sexual intercourse at the same pedestal with consensual sexual intercourse.

Section 354 and Section 377 prescribe no minimum punishment and therefore, no obligation on the courts to record any special reasons on record for giving a lesser sentence to an offender. A careful perusal of some of the judgments of the Supreme Court would lend credence to the fact that there has been a judicial tendency to show undue leniency towards offenders of sexual crimes.

In *Raju v. State of Karnataka*, a young boy aged 20/21 years had committed sodomy on a hapless girl of 9 years of age for which was sentenced to 3 years imprisonment. On appeal the sentence was reduced to 6 months citing young age of the appellant as a reason. However, the court failed to take into account the 'age' of the victim and the unimaginable trauma that the appellant's ghastly act had caused to her.

Similarly, in *Chittaranjan Das v. State of Uttar Pradesh*, the court reduced the sentence of the appellant, a 'highly qualified and cultured individual' who had committed the offence of sodomy on a young girl, to 2 months. The loss of service of the appellant as a result of the conviction was cited as a reason. The result of these cases would have been different if these offences would have fallen under Section 375 since there is an obligation on the part of the courts to impose a minimum Sentence laid down in section 376.

Under Section 327 (2) of the Criminal Procedure Code, there is no obligation on the part of the court to provide an in-camera trial to the victims of offences under Section 354 and Section 377. Although, this issue has been addressed by

the Supreme Court in *Sakshi v. Union of India*, however the Section 228 A of the Indian Penal Code has still not been amended through & through to ensure that the victim's identity is protected. This means that the public authorities, courts as well as the media not bound to protect the image of the said victim in the stipulated scene.

In *Phul Singh v. State of Haryana*, it was clearly held in the court that the benefit of Section 4 of Probation of Offenders Act, 1958 cannot be accorded to a person who commits a "reprehensible crime of rape". However, with reference to this case, there is no law to ensure that the benefit of this act is not given to a person convicted of an offence under Section 354 or Section 377.

There has been an alarming rise in the cases of sexual abuse of children, if a girl child is subjected to forced non vaginal, non-anal sexual intercourse then the offender would be punished under Section 354. However, if a boy is subjected to the same then the offender will only be booked for the offence of "voluntarily causing hurt" or "use of criminal force". It is submitted that the punishment prescribed in the code for these offences is not at all consistent with the gravity of these offences.

The current law presumes that the offence of rape can only be committed against a woman by a man. However, as mentioned above in the case research, there have been reported cases in UK wherein, women have been convicted for committing the offence of rape. Assuming that a woman subjects another woman to forced sexual intercourse through the use of an inanimate object or otherwise then she cannot be booked for any offence under IPC since penetration is a necessary element for establishing an offence under Section 377. Further, Section 354 also assumes that a woman cannot outrage the modesty of another woman.

This narrow definition of rape has been criticized by Indian and international women's and children's organizations and civil society organizations. Their reasons have been succinctly encapsulated.

The interpretation [by which such other forms of abuse as offences fall under Section 354 IPC or Section 377 IPC] is contrary to the contemporary understanding of sexual abuse and violence all over the world. There has been for some time a growing body of feminist legal theory and jurisprudence which has clearly established rape as an experience of humiliation, degradation and violation rather than an outdated notion of penile/vaginal penetration. Restricting an understanding of rape reaffirms the view that rapists treat rape as sex and not violence and thereby condone such behaviour.

The petitioner in this case placed reliance on the following reference from Susan Brown miller's book "Against our will" to support this contention and to challenge the current interpretation of rape. In rape, the intent is not merely to "take", but to humiliate and degrade. Sexual assault in our day and age is hardly restricted to forced genital copulation, nor is it exclusively a male-on-female offence. Tradition and biologic opportunity have rendered vaginal rape a particular political crime with a particular political history, but the invasion may occur through the mouth or the rectum as well. And while the penis may remain the rapist's favourite weapon, his prime instrument of vengeance, it is not in fact his only tool. Sticks, bottles and even fingers are often substituted for the "natural" thing. And as men may invade women through other offices, so too, do they invade other men. Who is to say that the sexual humiliation suffered through forced oral or rectal penetration is a lesser violation of the personal, private inner space, a lesser injury to mind, spirit and sense of self?

It was contended by the petitioner that the court should interpret Section 375 to include all forms of penetration such as penile/vaginal, penile/oral, penile/anal, object/oral, object/vaginal etc. within its ambit. The court however declined to accept this on the ground that penal laws are to be interpreted strictly and doctrine of stare decisis has to be followed.

The 172nd Report of the Law Commission of India had made the following recommendations for substantial change in the law with regard to rape.

- i. The term 'Rape' should be replaced by the term 'sexual assault'.
- ii. 'Sexual intercourse as contained in section 375 of IPC should include all forms of penetration such as penile/vaginal, penile/oral, finger/vaginal, finger/anal and object/vaginal and 'sexual assault on any part of the body should be construed as rape.

- iii. Rape laws should be made gender neutral as custodial sexual abuse of boys is rampant.
- iv. A new offence, namely section 376E with the title 'unlawful sexual conduct' should be created.
- v. Section 509 of the IPC was also sought to be amended, providing higher punishment where the offence set out in the said section is committed with sexual intent.
- vi. The commission recommended that explanation (2) of section 375 of IPC should be deleted. Forced sexual intercourse by a husband with his wife should be treated equally as an offence just as any physical violence by a husband against the wife is treated as an offence. On the same reasoning, section 376 A was to be deleted. Thus, there is an urgent need to redefine 'rape' and to incorporate the above-mentioned recommendations in the definition of rape in order to ensure that there is no travesty of justice.

ESSENTIAL INGREDIENTS

- According to Section 375, defines the offence of rape, while section 376 prescribes the punishment for rape, The following are the essential ingredients of the offence of rape:
- There must be sexual intercourse with a woman by a man;
- Such a sexual intercourse should be under any of the following circumstances:
 - Against her will;
 - Without her consent;
 - With consent obtained under fear of death or hurt;
 - With consent given under misconception of fact that the man is her husband;
 - Consent given by reason of unsoundness of mind, intoxication or under influence of any stupefying or unwholesome substance;
 - With a woman under 16 years of age, with or without consent

INGREDIENTS OF SECTION 375 – OFFENCE OF RAPE- POST AMENDMENT IN 2013

The ingredients of the offence of rape after the amendment of Section in 2013 are as follows:

- (1) penetrating of penis, to any extent, into the vagina, mouth, urethra or anus of a woman or making her to do so with him or any other person; or
- (2) inserting to any extent, any object or a part of the body which is not the penis into the vagina, urethra or anus of a woman or making her to do so with him or any other person; or
- (3) manipulating any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or making her to do so with him or any other person,

Under any of the following circumstances,

- her will;
- (ii) without her consent;
- (iii) without her consent obtained by putting her or any person in whom she is interested, in fear of death or of hurt;
- (iv) with her consent when the man knows that he is not her husband but she consents because she believes to be lawfully married to that man;

- with her consent when she at the time of giving consent is unable to understand the nature and consequences of that to which she consents due to unsoundness of mind or intoxication or administration by him personally or another of any supervening or unwholesome substances.
- (vi) with her consent when she is under eighteen years of age; and
- (vii) when she is unable to communicate consent.
- Explanation 1 Provides that for the purposes of Section 375 the vagina shall also include labia majora.
- Explanation 2 Makes it clear that the consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act. The proviso to this Explanation makes it clear that if a woman does not physically resist to the act of penetration, it shall not by this fact only, be regarded as consenting to the sexual activity.
- Exception 1 Provides that a medical procedure or intervention shall not constitute rape.
- Exception 2 Provides that sexual intercourse by a man with his own wife is not rape if she is not under fifteen years of age.
- **Offence of Rape in IPC 1 Rape: -**
 - Sexual intercourse by husband upon his wife during separation.
 - Sexual intercourse by a person in authority. –
 - Gang Rape.
 - Sexual harassment.
 - Assault or use of criminal force to women with intent to disrobe. –
 - Voyeurism.
 - Stalking.

ESSENTIAL FACTORS RESPONSIBLE FOR THE OFFENCE OF RAPE

The followings are the main factors responsible for the increasing rate of cases of rape in the society:

1. Mindset of the people: The problem rooted in the thinking of the patriarchal society wherein a female considered inferior to man. It lies in the thinking of people that a man has the right to rule over the body, mind and soul of a female. They thought that female has no existence without a man. In India patriarchal mentality itself is the main cause of the increasing rape scenario. The root of all causes lies in this cheap mentality of course, it is not true for all sectors of the Indian society and can't be generalized, but it stands true for majority of the cases.

2. Awareness among woman: Another main reason is that women have started to raise issues. They have started to come forward and report the rape and molestation attempts they have faced with lesser rape attempts but women wouldn't come up and report them. Awareness amongst women in this regard has helped. Moreover, it is the realization that they have had enough of it.

3. Legal Laws: Loopholes still exist in our law-making system which is of now does not recognize marital rape once proper laws are made then more cases are definitely to come up.

LAW RELATING TO THE OFFENCE OF RAPE IN INDIA

The Criminal Law (Amendment) Act, 2013, has amended various sections of IPC dealing with rape i.e., Section 375, 376, 376A, 376B, 376C, 376D and 376E. The lacuna that existed in these sections earlier has been plugged thereby reducing the chances of miscarriage of justice in such cases on technical grounds. The punishment for rape has been kept at a minimum of 7 years imprisonment except in respect of persons in authority where the punishment is not less than 10 years imprisonment which is extendable to life imprisonment and also fine. The more heinous crimes of rape resulting in a vegetative state of victim or death or gang rape is punishable with minimum 20 years imprisonment extendable to life imprisonment i.e., the remainder of the offender's life. Punishment for repeat offenders is life imprisonment or death. Section 228A of the Indian Penal Code, prohibits disclosure of the name of the rape victim and prescribes punishment of either description for a term which may extend to two years and liability for fine. Section 114-A of Indian Evidence Act, provides that presumption can be made as to the absence of consent in certain prosecutions for rape. Further, in terms of Section 53(1) of the Code of Criminal Procedure, when a person is arrested on a charge of committing an offence of such a nature and alleged to have been committed under such circumstances that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of the offence, it is lawful for a registered medical practitioner, acting at the request of a police officer not below the rank of a sub-inspector, and for any person acting in good faith in his aid and under his direction, to make such an examination of the person arrested as is reasonably necessary in order to ascertain the facts which may afford such evidence, and use such force as is reasonable for that purpose.

SURVIVOR ISSUES, PROCESSES & COMPENSATION

PSYCHO-SOCIAL CARE FOR SURVIVORS/VICTIMS

Clinical guidelines for responding to IPV and sexual assault, WHO, 2013:

Health-care providers should, as a minimum, offer first-line support when women disclose violence. First Line support includes:

- Ensuring consultation is conducted in private.
 - Ensuring confidentiality, while informing women of limits of confidentiality.
 - being non-judgmental and supportive and validating what the woman is saying.
 - providing practical care and support that responds to her concerns, but does not intrude
 - asking about her history of violence, listening carefully, but not pressuring her to talk (care should be taken when discussing sensitive topics when interpreters are involved)
 - helping her access information about resources, including legal and other services that she might think helpful
 - assisting her to increase safety for herself and her children, where needed
 - providing or mobilizing social support
- If doctors are unable to provide first-line support, they should ensure that someone else at the health facility is available to do so.

Creating an enabling atmosphere and establishing trust

The health professional should

- Speak to survivor in a private space
- Recognize her courage in reaching you as she has overcome several barriers
- Recognise the dilemma faced by survivor in reporting violence. Do not label non-reporting to police as false case.
- Assure the survivor that her treatment will not be compromised
- Inform survivor of available resources, referrals, legal rights so that she can take an informed decision.

PSYCHO-SOCIAL CARE FOR SURVIVORS/VICTIMS

a. Sexual violence is known to cause physical, emotional social and economic consequences which can jeopardize the well-being of survivors and their families. Fear of police investigation procedures, shame related to the sexual violence, lack of support from the community, fear that nobody will believe them and lack of information about negative health consequences may lead survivors to hide such incidents.

b. Reasons for not wanting to report to police could range from fear about community reactions, fear that nobody would believe them, feelings of shame, threats from perpetrators. With children there could also be a possibility that survivor has not disclosed the assault to parents/guardians.

VICTIM COMPENSATION SCHEMES

Under Section 357A of Code of the Criminal Procedure, the State Governments, in co-ordination with the Central Government, are required to establish Victim Compensation Schemes for compensating victims of identified crimes including acid attack and rape. Section 357C of Code of the Criminal Procedure states that all hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately, provide first-aid or medical treatment, free of cost, to the victims of any offence covered under section 326A, 376, 376A, 376B, 376C, 376D or section 376E of the Indian Penal Code, and shall immediately inform the police of such incident. The Government of India, Ministry of Home Affairs, has introduced a Central Victim Compensation Fund (CVCF) scheme to support the victim of rape, acid attacks, human trafficking and women killed or injured in the cross-border firing through State/Union Territories Governments. An amount of Rs 200 Crores has been disbursed by the Ministry of Home Affairs to the States from this fund. Most of the State/Union Territories have also started their victim compensation schemes. However, currently there is a lot of disparity in the amount of compensation paid by State Government. This varies from Rs 10,000 to Rs 10 Lakh. The Hon'ble Supreme Court has directed that a committee constituted by National Legal Services Authority (NALSA) prepare a model scheme. The committee is currently examining the matter.

ADDRESS THE SURVIVOR'S EMOTIONAL WELL BEING

The health professional should:

- Recognise that survivors may present varied emotions.
 - Encourage the survivor to express her feelings.
 - Encourage survivors to seek crisis counseling.
 - Assess for suicidal ideation.
 - Make a safety assessment and safety plan.
 - Involve family and friends in healing process of survivor.
- a. Each survivor copes with the assault differently. Coping is also dependent on whether survivors have parental/ spousal support, community support, job security, economic wherewithal for litigation and several such factors.
 - b. Most survivors may not openly express their feelings. A good starting point is to explain range of feelings that survivors may experience such as sleeplessness, anxiety, nervousness, crying spells, feelings of ending one's life, anger and flash backs (RTS, emotional reactions post rape) after an assault. It must also be discussed that such reactions are normal after a traumatic episode.
 - c. Crisis counselling can help in overcoming trauma. Providers must explain to the survivors that:
 - i. "rape" is a violation of bodily integrity and not a loss of honour.
 - ii. Assault is an abuse of power and not an act of lust.
 - iii. Positive messaging such as "you are not responsible for rape", "It is not about the clothes you wear"
 - iv. This would enable the survivor to discard feelings of self-blame as it is the perpetrator who should feel ashamed about the act and help in rebuilding survivor's confidence in self.

SUGGESTIONS FOR THE BETTERMENT OF VICTIMS BY THE OFFENCE OF RAPE IN INDIA

12 In case of Mohd. Haroon V/s Union the Apex court held that as a long term measures to curb such crimes, a large-scale societal change is required through media, education and awareness programmes. The Govt should formulate and implement policies in order to uplift the socio-economic conditions of women, sensitization of a police and other concerned parties towards the need for gender equality and it must be done with focus in areas where statistically there is higher percentage of crimes against 13 women.

Safety assessment must be done:

If assessment reveals that she is unsafe and fears reoccurrence of sexual violence health professional must offer her alternate arrangements for stay such as temporary admission in the hospital or referral to shelter services. However, some survivors may want to go home particularly if there are children or other dependents. A safety plan must be made which may include suggestions such as making a police complaint about threats received, building support strategy with neighbours/ community and temporary relocation from the old residence. In situations, where a parent is the

perpetrator of sexual abuse: Survivors under 18 years, are likely to be accompanied by parents / guardians. If a health professional finds out that the perpetrator is the parent, it is critical to involve social worker/counsellor from the hospital to discuss safety of the child. As per POCSO Act, 2012 social worker would have to speak with the child to assess whom the child trusts and can be called upon in the hospital itself. Simultaneously social worker would also have to contact police, who in communication with social worker should assess whether the child is in need of protection and care. Likewise, the child may be admitted to the hospital for a period of 24 hours till a long-term strategy for shelter or child welfare home is made. (Chapter 5, Procedure on reporting offence, POCSO Act, 2012)

Recovery from sexual violence is dependent on the extent of support received from family, friends and community. Health professionals are best suited to engage with family and discuss ways of promoting survivors' well-being. It must be discussed with all care givers that survivor should not be held responsible for the assault. Judgments such as; "she should have been careful", "she should have resisted" make the survivors journey to recovery more difficult.

In situations of child sexual abuse:

Parents may experience anger, confusion, and guilt. Some may also blame themselves for not having taken adequate care or paid attention to the child. Reiterate that it is the perpetrator who misused their position. Messages such as:

- Believe that recovery from abuse is possible
- Strategies such as good touch and bad touch can be taught to the child from a very young age, so that if the child is touched inappropriately, she should raise an alarm.
- Restricting child's mobility such as not being allowed to play with friends, not allowed to go to school, not allowed to visit friends, may be perceived by the child as punishment for something the child had no control on.
- Encourage the child to carry on with his/ her daily routine.
- Follow up with crisis counselling so that the child is able to deal with negative feelings and also heal from the abuse.

Dealing with adolescents:

- In cases of adolescent survivors, communicate that she was not at fault, encourage her to share feelings, fears and concerns. For an adolescent, acceptance by family and peers becomes a critical aspect in healing.
- Parents and friends should encourage survivor to seek counselling and crisis intervention support as adolescence is an age of turbulence and the survivor may not be comfortable talking about several issues with parents / carers such as "contraception", "health sexual relationships", fears of contracting infections such as STI/HIV, anxiety about how they are perceived by others in the school/ college.
- Carers should exercise caution and not become over protective and restrictive in their approach. This could occur due to fear of recurrence of the assault and fear for survivor's safety. These concerns need to be discussed openly with the survivor and encourage her to make informed decisions.

NEED FOR GENDER SENSITIZATION

There is a nasal Gender Sensitization in society. Deep rooted patriarchal thoughts in the mind of people and other institutions are often seen as insensitive to the issues faced by the women. There should be Gender sensitization training programme as well as increasing the number of woman police officers in India will help to change the attitude of the society and police personnel. This would also help ensure victims complaints

INVESTIGATION

The forensic evidence like blood stain semen spot, finger prints, and hair or nail samples these are the key component in rape case. So, these must be collected highly careful manner. To improve this technique the police personnel, need to be strengthened and must be given training and resources to carry out their work.

FAST TRACK COURT

In India the biggest restricting factor to achieve justice for rape victim is the lengthy procedure of trial. The lack of advocates, prosecutors, Judges, pendency of cases and court are the main reasons for the long trial. An average rape case can take 10 to 11 years to get to the judgment stage. There is a need to concentrate of legal and judicial system.

NEED FOR SET UP OF CRIMINAL INJURIES COMPENSATION BOARD

It is necessary having regard to the Directive Principles Contained under Article 38(1) of the Constitution of India to set up criminal Injuries Compensation Board. Rape victims frequently incur substantial financial loss. Some, for example, are too traumatised to continue in employment. Compensation for victims shall be awarded by the court on conviction of the offender and by Criminal Injuries Compensation Board whether or not a conviction has taken place. The Board will take into account pain, suffering and shock as well as loss of earnings due pregnancy and the 14 expenses of child birth if this occurred as a result of the rape”.

MEDICAL EXAMINATION

Medical examination should be done as soon as possible and without any obstruction and without any legal barrier. The government should take steps to improve the surgery techniques and also enhance the number and salary of the surgeon.

COMPENSATION

The medical treatment expenses should be excluded from the compensation amount. These are the days of digitalisation so the compensation money should be paid online

EDUCATION

Both boy and girl equally educated on the topic of sex. The boy should learn that how to talk with a girl.

COURTS

The court should be victim friendly and the court should be separate for sex crimes.

SPEEDY RELIEF

There should be an immediate and speedy relief to the victim.

HARD REALITY CONCLUSION

Just one solution is not sufficed to solve the entire problem. Everything should be changed, the mindset of the people and way of treatment for male and female in India, their upbringing to fear of police and punishment, our system of working, judicial system & respect to opposite gender. Still in India, women since childhood have to sacrifice as sister for her brother, as wife for her husband, as mother for her son. She is duty bound to take care of the household work when she grows up. Parents force her to get married to the person not of her choice, after marriage she has to work according to her husband. It is not that only man teaches this in the family but also mother, grandmother do the same thing. So, female is equally responsible for all. Not only man but women are also against women, so need of hour to change the mindset of the whole community and also spread awareness equally to male and female.

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