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Analytical Study on Hyderabad Veterinarian Incidentt

Aishwarya Singh

ABSTRACT

Around half of the crime related with the rape has committed without the pre-existence of private relationship between victim and offender. Rape is the crime which committed without the intention of women and without consent of the women. Rape has committed in anger and to give physical and psychological injury to the victim, sometime it converted into murder also. Hyderabad incident is one of those case in which the truck drivers brutally rape her in moving truck and murdered her.

In this paper, scholar going to discuss about the definition and meaning of rape, law provisions and amendments related with rape, leading cases of rape incidents which give highlights to judiciary and also government to work o fast-track court for speedy trial.

Keywords: Rape, Amendments, Fast-track Court, Speedy trial.

INTRODUCTION OF RAPE

The word 'Rape' has derived from the Latin word 'rapio' which means 'to seize'. Therefore, rape literal meaning is seizure forcefully. Rape general concept is that sexual intercourse with women by a men without her consent by force, fear, or fraud or against her will. Indian Penal Code 1860, is a penal code in which under Section 375 rape provision has defined. But because of inadequacy of law, Parliament has amended the law of rape in 1983 and 2013 for the effectiveness of law and justice could be provided to victim within time.

Old Provision of Section-375:-¹

Section 375 defines that, a man has said to commit of rape with a women under following six circumstances which are as;

Clause 1 of Section 375 states about that, rape is considered when sexual intercourse happen against her will,

Clause 2 says when it happen without her consent,

Clause 3 states that, when her consent is present but with fear of death or hurt,

Clause 4 states that, when her consent is present, when the man knows that he is not her husband but her consent is given because she believes that he is another man with whom she believes to be lawfully married.

Clause 5 says that, consent is given by her when at the time of giving consent she is suffering from unsoundness of mind or intoxication and she is unable to understand the circumstances and consequences of that consent,

Clause 6 clarifies that with or without consent, when she is under 16 year of age. After Amendment of Section -375:-²

A man is said to commit rape, if he penetrates his penis to any extent, into the vagina, mouth, urethra or into anus of a woman or makes her to do so with him or any other person, or

¹ 1.<http://www.lawctopus.com/academike/section-375-analysis-of-provision-relating-to-rape/> (Visited on 20 January 2020)

² Indian Penal Code 1860.

Insert to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person, or

Manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any of the body of such woman or makes her to do so with him or any other person, or

Applies his mouth to the vagina, anus, and urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under any of the following seven consequences which are as:-

1. against her will,
2. without her consent,
3. with her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.
4. with her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.
5. with her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substances, she is unable to understand the nature and consequences of that to which she gives consent.
6. with or without her consent, when she is under 18years of age,
7. When she is unable to commute her consent.

Explanation 1- For the purpose of this section, vagina shall also include labia major

Explanation 2- 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.

2019 HYDERABAD GANG RAPE

(a) Rape and Murder:-

The rape and murder of 26year old veterinarian doctor in Hyderabad has shocked the whole nation on 27 November 2019. Her body was found near Shadnagar on 28 November 2019 and the after she was murdered, and according to Hyderabad Metropolitan Police four suspect had arrested and they have confess their crime of rape and murder of the doctor. The police arrested them on the basis of CCTV footage and also from victim's mobile phone, and presented them into judicial custody for 14 days. The Telangana Police confirmed about the incidences and states that, the victim parked her scooter near a toll plaza, which has caught by two truck drivers and their assistants. According to Police officers the truck drivers are pretended to help her by puncturing her scooter tier and after that they pushed her into truck and rape her in running truck and after that murdered her and dropped her on roadside. This rape and murder incident became the most debatable topic all over the country and in several part of the country protest has begun. Police demanded strict and organized fast-track court law against rape and rapist, and demanded justice for the victim of Hyderabad incident.

(b) Encounter of 4 Accused:-

The police explained about how they shoot all 4 accused? 10 policemen took four suspect at the crime place to recreate the situation which had happened on 27 November 2019 and the suspects were not handcuffed- cleared by VC Sajjanar, police commissioner of the Hyderabad suburb of Cyberabad.

He further explained about the encounter incidences and said, the suspects were in police custody and when they reached at the scene, the suspects were trying to steal officer's gun and escape. Therefore, to stop this situation officers need to encounter all 4 suspects told by police to BBC Telgu.

(c) Who support the Encounter?³

- **Akhilesh Yadav:** He is a politician, said that those who run away from the law could not have run away from the justice. It's good that someone has got justice, but these kind of heinous crime should be eliminated from the society to secure the real justice.
- **Mayawati:** She is the leader of Bahujan Samaj Party, said that the action has taken by the

³ <http://m.economicstimes.com/news/politics-and-nation/hyderabad-rape-murder-case-an-encounter-that-left-a-nation-divided/celebrities-who-praised-encounter/slideshow> (Visited on 30 January 2020).

Hyderabad police officers is admirable. This kind of heinous crime happened every day in UP and in every district either with young girl or with aged women no matter.

- **Jaya Bachchan:** “Der aaye, durust aaye.
- **Saina Nehwal:** Great work #hyderabadpolice. WE salute you.
- **Vivek Anand Oberoi:** Same spot, same time frame, the predators became the prey. Now that’s true poetic justice. May be now all such monsters will finally feel fear and think a hundred times before even thinking of raping and murdering girls.

(d) Who Spoke Against the Encounter⁴:-

- **Sitaram Yechury:** How we must secure the lives and dignity of each of our citizens, must be what civilized societies are about. Justice can never be retribution. Why is tough law put in place on the safety of women after the 2012 Delhi crime not being implemented properly?
- **Yogendra Yadav:** No matter how heinous the crime, once we accept “encounter” as a solution, we give up the hope of rule of law. Today’s it’s these “criminals”. Tomorrow, it can be you or me.
- **Vishal Dadlani:** We live in a time where the absolute failure of the justice system is hailed as “justice”. Just so you know, cops killing people without a trial can land at your door, too, someday.

(e) Those who took middle ground⁵:-

- **Shashi Tharoor:** We need to know more, for instances if the criminals were armed, the police may have been justified in opening fire preemptively. Until details emerge, we should not rush to condemn. But extra-judicial killing are otherwise unacceptable in a society of laws.
- **Rajeev Chandrasekhar:** It’s difficult for me to justify encounter killings- but pent up fury against legal system is hard to ignore. Victims-especially poor, women and children are being badly let down by policing and judicial system- held back by capacity and capability.
- **Arvind Kejriwal:** There is satisfaction and happiness among people over the Hyderabad incident. It is a matter of concern that peoples trust in the law and order of the country is broken. We all have to strengthen our law and order system so that people start believing in it and every victim can get justice soon.

⁴ <http://m.economicstimes.com/news/politics-and-nation/hyderabad-rape-murder-case-an-encounter-that-left-a>

⁵ Ibid

RELEVANCY OF FAST-TRACK COURT

Fast-track courts are a special kind of courts which have exclusive jurisdiction over a sexual assault and children's cases. It were introduced in the year 2000 with intention to decreases the burden from high courts and district courts and for the fair and speedy trail. Almost 3 crore cases were pending the courts, to solve this problem the 1th Finance Commission have approved the creation of 1734 fast-track court across the country for 5 years as an experimental period. These fast-track have worked very effectively and efficiently for five year and solve almost 10 million cases, then government ordered to setup six fast- track court in Delhi to deal with only sexual assault this will happened when in 2012 heinous rape case shock the whole country.

Objectives:

The aim of fast-track court to resolve huge number of cases in a limited time period which is the symbol of speedy trial, for this retried judges are eligible to appoint and they are appoint on ad hoc basis. Fast- track court mainly deal with the sexual assault cases and the cases related with children since they get full attention of the judiciary which lacked in high courts and district court due to the burden of huge number of pending cases. Fast-track courts also help to reduce under-trial cases which has pending in the courts.

LEADING JUDICIAL OPINION

1. Mathura Rape case-

The Mathura rape case was an incident of custodial rape in India on 26 March 1972, where in Mathura, a young tribal girl was allegedly raped by two policemen on the compound of Desaijanj Police Station in Gadchiroli district of Maharashtra. After the Supreme Court acquitted the accused there was public outcry and protests, which eventually led to Amendments in the Indian rape law via The Criminal Law Amendment act 1983.⁶

2. Dhananjay Chatterjee v. State of W.B-

In 1990, Hetal Parekh, a 14 year old school girl, is raped and murdered by Dhananjay Chatterjee in Kolkata. The case was investigated by the Department of Kolkata police. The High Court of Kolkata and Supreme Court both upheld the conviction and the death penalty. Chatterjee is sentenced to death and hung in 2004, the first hanging in India in 13 year.⁷

3. Bhanwari Devi Case-

⁶ http://en.m.wikipedia.org/wiki/Mathura_rape-case (Visited on 31 January 2020)

⁷ <http://www.google.com/amp/s/mobile.reuters.com/article/amp> (Visited on 31 January 2020)

In 1995 the Jaipur court acquits five men accused of gang raped of Bhanwari Devi, a lower caste woman who worked with the Women's Development Project in Rajasthan in 1992. Later, a petition have filled in the Supreme Court, which leads to Vishaka Guidelines being put into place, to protect women against sexual harassment at the workplace.⁸

4. Nirbhaya Gang Rape Case-

On December 2012, a 23 year old women student is beaten and brutally raped in moving bus in the New Delhi and later she dies because of her injuries. In investigation five men and a juvenile have arrested in which four of them have been sentenced to death penalty ad one hanged himself during trial. The juvenile was unbound after the completion of three year in a reform home. This heinous rape case flashed a large scale of protests in India and it led many women across India to spoke over sexual violence that often goes unreported. Government introduced fast-track court for speedy trial of such cases which is against the women and children and also make Amendment in Juvenile Act, to reduce juvenile age from 18 to 16.

5. Kathua Rape Case-

In Jan 2018, an eight year old Muslim Girl is drugged in temple and sexually assaulted for a week before being suppressed and assaulted to death with a stone in Kathua town in northern India. There were six men including Hindu priest and three policemen were convicted of this crime and court given then life sentences.

Likewise there are number of cases related with rape and sexual assault with women, and some of them are not registered and unknown to judiciary and government .Government have made several fast-tack court and promised to make more for the speedy and fair trial in these kind of the cases.

CONCLUSION

Rape and sexual assault are amongst the most injurious crimes a person can do. The effect are devastating, extending beyond the initial victimization to consequences such as unwanted pregnancy, sexually transmitted infections, sleep and eating disorders, and other emotional and physical problems. Understanding the frequency and context under which rape and sexual assault are committed is vital in directing resources for law enforcement and support for victims. These data can influence public health and wealth health policies and help identify interventions that will reduce the risk of future attacks. Sadly, accurate information about the extent of sexual assault and rape is difficult to obtain because the most of these crime go reported to police.⁹

⁸ Ibid

⁹ <http://www.nap.edu/read/18605/chapter/2> (visited on 2 February 2020)

SUGGESTION

With this from definition of rape to leading judicial opinion related with rape cases, I would like to suggest some of the preventive method through which these type crime can be eliminated from the society. The suggestions are:-

- We must teach society about the myth of sexual assault and also teach students in school about the sexuality and intercourse which is usually taboo between the children and parents.
- To totally eliminate this brutal crime, the law provision must be effective. Therefore the fast-track court must be established in each and every state to deal with the cases like rape and sexual violence.
- Also, victim must registered their case in police because number of the cases even not registered and not known in the fear of society. If cases are registered than, victim get justice and criminals became afraid to do such inhuman activities.
- If we talk about Hyderabad rape incident, then encounter of criminals like this is not a solution to eliminate the crime rate, in India as the democratic country every human have right to life and rights of accused under Article 22 of Indian Constitution. If we follow these kind of justice by encountering the offenders then one day innocent also became the part of these.