

ISSUES RELATING TO TRIAL OF RAPE IN INDIA: A CRITICAL ANALYSIS FROM VICTIM PERSPECTIVE

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Abstract

Patriarchal notion of legal guidelines had never understood right of choice and freedom of women like Sir Mathew Hale- "The husband cannot be guilty of rape committed by himself upon his lawful wife for by their mutual matrimonial consent and contract, the wife hath given up herself unto her husband which she cannot retract."¹ and The Exception of rape in Macaulay's draft reads as "Sexual intercourse by a man with his wife, is in no case rape."² Thus, the wife was not entitled to accuse her husband of rape in any circumstances. Chief justice of Canada, The Rt Hon Bererly McLachlin said, "The law belongs to people, Access to legal system is a basic right and public good"³ and Bentham stated "Publicity is the very soul of justice. It keeps the judge, while trying, under trial."⁴ Trial were conducted in open court to ensure fair trial and to build public confidence.

Rape sufferer conveys double cost unlike prey of additional brutal offenses, sufferer suffer with the dreadful Physical trauma, tolling emotional injury and social stigma because of weight of protecting the legality of her anguish. Firstly, she has to report that the circumstance to authorities inside the middle of anguish, Secondly, she has to demonstrate that she had been being intimidated by devoting her prior way of life, sensual behaviour along with her own permission until the court. Thirdly, her standing as well as also her sensual personalities locally could discover innocence or accountable for those accused. Indian unlawful justice strategy concentrates a lot more on "rarest of rare" for its removal of rapist. This really is the reason why just few scenarios are noted from the casualty of rape. Inside this report assesses the topics regarding trials of rape, and clinical study of these sufferers, corroboration, question and route of rape in cam, beyond sexual record of prey and also impact undergone with sufferers.

Introduction

Times of India flashes, the shocking questions that lawyer asked rape survivors such as: "At the time of penetration, did you cry with your eyes?" and "Did you scream or scratch the accused with your nails when you were being rape?"⁵ At every step in a rape trial, people are more concerned with the threat of false accusation against the rapist rather than the brutal fact that a woman was being raped, on top of that she needs to prove her tragedy experience 'beyond reasonable doubt'. The justice strategy adopts the arrangement of mistrust and feeling to prey rather than compassion and love. This thought could be viewed as mockery to justice strategy also as pity to be termed civilized Culture

The formalities demanding of corroboration, consent, previous lifestyle of victim to proof of guilt 'beyond reasonable doubt' have discouraged rape victim to report their case to legal system of India. There are many problematic issues relating to conceptualization, rape trials, social stigma and victim's right to access to justice as discussed below.

1.Issues Relating to the Trial of Rape

Even the Sufferers in many cases are added to trial in contrast to the perpetrator in rape instances which lead dual victimization of these women. The sufferers are frequently accused of Ulterior schedule and fictitious allegations that's exposed to steady winding questions with aim to ensure it is fictitious allegation. These lawful obligations That's bias and difficulties would be chief basis for not reporting the Rape offense at the court for justice.

¹Matthew Hale, *History of the Pleas of the Crown* 629 (In the savoy: Printed by E. and R. Nutt, R. Gosling for F. Gyles, London,1786)

² The select committee without giving any reason perceived it as rape "Sexual intercourse by a man with his own wife, the wife not being under ten years of age is not rape". (by Act XLV of 1860 in Indian Penal Code, 1860)

³ Open justice and the Rule of Law, *available at*: [https:// www.iclr.co.uk/blog/archive/open-justice-and-the-rule-of-law](https://www.iclr.co.uk/blog/archive/open-justice-and-the-rule-of-law) (Last visited on May 12, 2020)

⁴ John Bowring(ed), *The works of Jeremy Bentham*,355(Edinburgh, W.Tait; London, Simpkin Marshall, 1843)

⁵Himanshi Dhawan, "The shocking questions lawyers ask rape survivors" *The times of India*, sep.04,2017.

1.1. Consent of the Victim

Glanville Williams states “Many decisions that we take in life are the result of choosing between evils. We opt for one course, which we dislike, because the alternative is more objectionable still. This unpleasantness of choice does not, in ordinary language, destroy the reality of choice or the existence of consent.”⁶

The dictionary definition of consent is to give assent or approval⁷ and in the legal definition is “a concurrence of wills. Express consent is that directly given, either verbally or in writing. Implied consent is that manifested by signs, actions or facts or by inaction or silence, which raise a presumption that the consent has been given.”⁸ Rape is described while the sensual intercourse against sufferer approval or will. Consent is just among those fundamental troubles at a rape offense to tie perpetrator’s innocence or certainty. ‘Lack of approval’ is also a Fundamental Element of “actus reus” Of rape that turns into a deciding variable in rape circumstances. Victim Have to prove She didn’t not provide permission to intercourse however her approval has been extorted by physical or hazard violence. Consent might be signalled or express although it needs to have been acquired before the action of rape.

In The event of Mahmood Farooqui,⁹ sufferer was PhD scholar of Columbia University, New York and has been taking out PhD roles in Delhi. Accused and victim ended up in an intimate romance when detained pushed himself. Fearing actual violence sufferer failed to resist and feigned a climax. Delhi High Court acquitted the accused stated following points:

- a) The prosecutrix had been in company of the appellant and continued to be so when she knew about his drinking habits and also when he is heavily drunk. She exchanged kisses and hugs in the past.
- b) Prosecutrix had been cracking jokes and indulged in playful banter immediately prior to the occurrence
- c) During the act, the prosecutrix feigned orgasm
- d) Prior to the act, the appellant had asked her for sexual favours to which she did not stoutly resent or deny.
- e) The prosecutrix continued to remain in the company of the appellant
- f) The prosecutrix was under fear, was not absolutely unknown to the appellant (refer to section 90 IPC)

Explanation 2 of section 375 states:

“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. Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity”.

Even the Explanation 2 of section 375 tends to make twist victim’s saying of permission perhaps not retrieved understanding. Moreover, the phrase ‘permission’ is clear and vagueness might be seen between section 375 justification clause and 2 Thirdly. Explanation two of 375 IPC reads: “Given a lady that doesn’t physically withstand with this action of penetration will not be function as rationale just of fact, be considered consenting to the sexual actions” currently here, her own involvement at sexual intercourse isn’t intentionally agree or ‘reluctant’ but taken care of because a logical permission that’s ambiguous and arbitrary. Portion 375 clause thirdly tends to make evident concerning permission “Together with her consent, when her consent was obtained by putting any individual in whom she’s curious, responsible for dying or of harm” Explanation two of 375 IPC Logically, creates no feeling as department ninety IPC says that ‘permission presented under anxiety about trauma¹⁰ isn’t a permission¹¹. Farther in midst of action there may be chances

⁶Glanville Williams, *Text Book of Criminal Law* 551 (Universal Law Publishing Co., Delhi, 2nd edn., 1983).

⁷ Meaning of consent, *available at*: <http://www.merriamwebster.com/dictionary/consent> (last visited on May 22,2020)

⁸ Meaning of consent, *available at*: <https://www.thelawdictionary.org/consent> (Last visited on May 22,2020)

⁹ In Mahmood Farooqui Vs state of NCT of Delhi, CRL.A. 944/2016, judgment delivered on 25.09.2017.

¹⁰ Injury is defined under s. 44, IPC to mean: ‘any harm whatever illegally caused to any person, in body, mind, reputation or property.’

¹¹ Consent known to be given under fear or misconception.—A consent is not such a consent as it intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception; or Consent of insane person.—if the consent is given by a person who, from unsoundness of mind, or

that prey may possibly have climax unwilling. however, it can't be concluded as allowed 'permission' or 'agreeing'. There might be examples wherever woman may possibly have openness or wish to own sexual sex however by itself doesn't follow that she gave consent. Thus, Indian Courts needs to research all applicable conditions to demonstrate approval or never by establishing a goal criterion for discovering consent in favour of prey alternatively of detained could invite prey to examine their own instance.

1.2. Injuries required as Proof of Resistance

In the rape cases, the existence of harms in the human body of prey is one of the reliable evidences as the proof of her physical resistance. Gravity of Injuries mark in the body of victim is the sign of violence inflicted by rapist against victim's will and consent. There should be tangible evidence to support victim's testimony in the court, mere verbal report of being raped is insufficient to prove perpetrator guilty or convict. On Seek prosecution until the court of regulation enforcement, the casualty is predicted to withstand the Rapist together with her extreme capacities of physical and mental power.

Even the Standard crime of rape necessary evidence five aspects: Penetration, resistance and force, non-consent, absent from a non-connection and competent condition of thoughts (mens rea). The demand for evidence force may be clarified around the earth of approval. The induce demanded can possibly be met exclusively by risks of violence and loath entry through which the persecution experienced to show the sufferer experienced absent and resisted from immunity Court will supposed that sufferer openly opt to take part within the act. Underneath the conventional immunity conventional, court docket expects the victim uttered for the extreme, convictions had been rather tricky to have in the excessive misuse thanks to immunity principle in consequence necessary prey to resist her aggressor even whenever the answer would possibly be amazing threat to prey.

In Rao Harnarain Singh v. State of Punjab¹² it occurred that merely an act of helpless resignation at the surface of unavoidable compulsion along with Non-resistance if volitional college is possibly packed with visited or fear with duress may not be termed to become "permission". Consent about the portion of the lady, like a defence to an allegation of rape, necessitates spiritual involvement, following fully resolved the option between immunity and assent. Submission of her own body below the effect of dread isn't permission. That Is a gap between approval and entry along with approval entails entry, however, also the conversation Doesn't Necessarily follow and simple action of entry will not entail permission

High-court had declared about the topics of approval and entry back into 1958, irrespective of loud and clear judicial pronouncements around the dilemma of approval and entry. Now the "immunity" gets to be a critical part in a trial and also lack of almost any signs injuries gets equated into permission.

1.3. The Corroboration Requirement

Corroboration means to encourage or increase the believably of an individual or assertion from the demonstration of extra advice which affirms the truthfulness of this thing; e.g. The testimony of the note will be siphoned if subsequent signs, such as for instance corner account or also the testimony of different witnesses, even substantiates it¹³ sufferer's testimony is adequate for certainty in virtually any offenses however in the rape paths the casualty's testimony has to be corroborated by additional signs such as medical or forensic signs of accidents in the system of the victim and accused, existence of semen or blood, ripped outfits, prompt behaviour of this sufferer right after the rape episode etc..

In Rameshwar v. State of Rajasthan¹⁴ discovered that lady that continues to be mistreated is an accomplice, when she had been ravished, " she actually is the casualty of an outrage. Further," Truly, in case it demanded that accomplice needs to be affirmed in most particulars of this offense, his signs wouldn't be crucial into this scenario, it'd be only confirmatory of independent and others testimony. The judicial rack was that corroboration isn't sine qua non invasive of certainty.

intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or Consent of child.—unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

¹²AIR1958PH123,1958CriLJ563

¹³ Gale Group, *West's Encyclopaedia of America Law*, edition 2 (The gale group in,2008)

¹⁴ AIR54,1952SCR377

Even more, At Rafiq v. state-of U. P¹⁵ Krishna Iyer, J. manufactured evident we can't cling into a fossil practice and also insist on corroborative testimony. What's more, Back in Bharwada Bhoginbhai Hirjibhai v. State of Gujarat,¹⁶ From the setting, refusal to behave to the testimony of the casualty of sexual attack from the lack of corroboration for being a rule, is adding insult to the accident. Why in case the signs of this lady... be looked at together with the assistance of spectacles fitted with lenses tinged without uncertainty, uncertainty or feeling? To do this will be always to warrant the fee of man chauvinism at a male dominated culture.

Even though of these innovative conclusions and precedents, Current Courts have a tendency to regard the corroborative signs more fundamental (such as to support the fee of rape, and research the current presence of harms and delay in submitting FIR).

1.4. Previous Sexual History of the Victim

Even the Peculiar and outstanding from the demo of rape is the point where the sufferer needs to Narrate her earlier way of life, sensual adventures and a whole her personality History inside the middle of tribulation. The principle Permits the defence to Enhance the query About sufferer's personality, her approval, standing and beyond sexual behaviour Which is straight strikes at her visibility for a witness also it's found that Defence carry on replicating and winding precisely the exact same query with aim to Prove fake allegation as well as acquittal of accused out of certainty.

In State of Haryana v. Prem Chand and Ors,¹⁷ The accused and the other man devoted rape on the sufferer within the area. The Supreme Court reduced the sentence to 5 decades out of ten decades around the floor which the sufferer is now a lady of 'suspicious character' and also 'simple Advantage' with lewd and lascivious behaviour

In Condition of Maharashtra vs. Madhukar Narayan Mardikar¹⁸ Accused moved into the hut of this victim into uniform and liberally raped her into her hut.

Even the Supreme Court professionally maintained that unchastity of ladies will not force her receptive into some and she's both eligible for the security of regulation against man that make an effort to break her want. So, only because she's easy merit, her signs may not be thrown ". This decision guarantees the ladies of simple advantage has additionally self-esteem, directly to solitude and anybody who attempts to violate her want could be managed law.

Even the 84th regulation Commission Report has criticized that the discriminatory terms of Indian Evidence Act, 1872 and advocated that section146 (4) needs to be inserted that could prohibits unneeded questions with regards to overall immoral character or preceding sexual adventures of this sufferer.¹⁹As well as also the 172nd regulation Commission Report has included proviso to section 146 of Proof (Amendment)Act it will likely bent enough to set inquiries from your cross-examination of the prosecutrix as for her overall immoral personality.²⁰ evidence of earlier sexual record of accused and witness ought to be propounded from the court of regulation rather than sufferer.

2. Conducting the Trial

Even the Procedures and practices of court docket could accelerate the casualty's distress throughout Demo. It's well known Actuality that most sufferers of rape are all Afflicted by the emotional Injury and religious interference aside from bodily miseries. The criminal justice program has to cope rape Prey with gallantry and compassion by respecting their private dignity and suitable to solitude. Most Nations around the globe have given rules in Legal procedure relevant for the fashion in that the course of rape needs to be. Conducted and so are understood as in-camera demo, shut court and also signs in Written form.

2.1. In Camera Trial

¹⁵ AIR 559,1981SCR (1)402

¹⁶ AIR 753,1983SCR (3)280

¹⁷ AIR 1989SC937,1989Cri LJ 1246

¹⁸ AIR1991SC207

¹⁹ Law commission of India, "Law commission of India Forty-second report Indian Penal code" (June 1971) *available at:* <https://www.lawcommissionofindia.nic.inrapelaws.htm#chapter4> (Last visited on 15 may,2020)

²⁰Law commission of India, "172th Report on Review of rape laws" (March,2000) *available at:* www.lawcommissionofindia.nic.inrapelaws.htm(Last visited on 14 may,2020)

Chief Oversight of Canada, The Rt Hon Bererly McLachlin said, “regulations go back into all people. Usage of lawful system would be a simple right and people good”²¹and also Bentham said “Publicity is the very soul of criminal justice. This retains the estimate, even though trying, under investigation”²² demo ended up ran at court ensure reasonable trial and also to develop people confidence. In digicam demo is used from the sexual offences to defend the solitude of a sufferer. This demo has been running independently through online video conferencing in the lack of press and public from legal justice authorities.

Even the 84thLaw Commission Report advocated in 1971 and department 327 CrPC was organised by 1983.²³ section372(2)²⁴ offers directly to start court offense and question to convicted or exemptions will probably be run in digital camera along with sub section (3)²⁵of both 372 of both CrPC Prohibits printing and book without any consent. The partitioning supply enabled the court to practice their leisure capability to permit the current presence of any man on app filed into this courtroom.

Supreme court in State of Punjab vs. Gurmit Singh& Ors,²⁶clearly made judgement about the camera trial and suggested even to the rest of court to protect the victim:

“When trials are held in Camera, it would not be lawful for any person to print or publish any matter in relation to the proceedings in the case, except with the previous permission of the court as envisaged by Section 327(3), Cr PC. Wherever possible, it might also be worth considering whether it would not be more desirable that the cases of sexual assault on the females were tried by lady judges, wherever available, so that the victim could make her statement with greater ease and assist the court to properly discharge their duties without, allowing the truth to be sacrificed at the altar of rigid technicalities while appreciating evidence in such cases. Apex Court has shown more concern on victim as the courts should, as far as possible, avoid disclosing the name of the victim in their orders to save further embarrassment to the victims of sex crime. The anonymity of the victim of the crime must be maintained as far as possible through out.”

The process of camera trial might not change the fact of victim’s reputation of being raped. It is universal truth that victim faces extreme social stigma right from the occurrence of rape and more burden are added by registering case in police station apart from mental trauma and physical suffering. In order to seek justice, victim has to obtain prior permission from the court to accompany any members of the family into camera trial room.

2.2. Medical Examination of the Women (Victim)

The one of the most crucial and important factors in rape cases is medical examination of the victim. Medical evidence plays supportive role in deciding the fate of both victim and accused. The medical doctor would be examining the victim thoroughly for injuries, blood, seminal stains and prepare the report according to the finding in the examination.

Even the Legal Procedure Code (Amendment) Act of 2005 launched special divisions in the event of health assessment (sufferers of accused and rape of rape) and authorized requirement for analysis from juvenile magistrates just in the event there is custodial deaths and rape.

Section 164(A) CrPC Stipulates the management to be Adopted closely in clinical evaluation of Victim of rape or try to perpetrate rape is under analysis, health Examination will be run by ‘professional medical practitioner’ utilized in healthcare facility conduct by The authorities or some neighbourhood jurisdiction and at the lack of this a professional, By another documented doctor together with the permission of the sufferer or capable individual on sufferer’s behalf. This segment warns that health Examination has to be performed out over 24 hours by accessing advice Related for the commission of vandalism.

²¹ Open justice and the Rule of Law, *available at*: [https:// www.iclr.co.uk/blog/archive/open-justice-and-the-rule-of-law](https://www.iclr.co.uk/blog/archive/open-justice-and-the-rule-of-law) (last visited on may14, 2020)

²² John Bowring(ed), *The works of Jeremy Bentham*,355(Edinburgh, W.Tait; London, Simpkin Marshall, 1843)

²³ Law commission of India, *available at*: <https://www.lawcommissionofindia.nic.inrapelaws.htm#chapter4> (Last visited on May 16,2020)

²⁴ In case of inquiry into and trial of rape or an offence under section 376, 376A, 376B, 376C, 376D of IPC shall be conducted in camera.

²⁵ Prohibits the printing and publication of any matter in relation to the proceedings covered under c1(2), without the previous permission of the Court.

²⁶ Air1393,1996 SCC (2)384

According to Section 164(A)(2) of Code of Criminal Procedure, a Practitioner should inspect the sufferer with no wait and also prepare a record of His evaluation giving following details:

- (i) The Address and name with this girl and also of this man in whom she had been attracted
- (ii) The era of these girls
- (iii) The explanation for substances obtained by the individual of this girl for DNA profiling
- (I V) Marks of harm, if any, to the individual of this girl
- (v) General psychological State of the girl
- (vi) Additional Stuff special in detail

The legislation mandates which the Clinical evaluation Report should say the explanations for every single decision, listing the Permission of consent or woman of qualified individual on female's reward, exactly the Period of commencement and conclusion of appraisal also it ought to be plotted into the investigating officer without any delay, even farther exploring officer will Forwards into the magistrate.

Section 53(A) CrPC claim certain prerequisites of study of man convicted of rape by doctor. Regulations mandates which detail clinical assessment (blood spots, semen, and swabs in sexual offences, sputum, perspiration, baldness (finger-nail clipping and DNA profiling) would be usually to be performed out with simply a documented health care practitioner used at a healthcare facility conducted from local or government authorization and at the lack of this type of accountant inside of the radius of 16 kilometres out of the location in which the statute was given, by no enrolled doctor performing the petition of some police officer under the status of a sub-inspector.²⁷

This section mandates which the accused accounts should say the explanations for every single decision manufactured and also this particular report needs to be plotted with no wait into this exploring officer that will forward into the magistrate anxious.

Section 176 CrPC lays an inquiry with a magistrate in to the Basis for passing when any Individual expires while in custody of authorities with the Addition of department (1A) (a)²⁸ and (1A) (b)²⁹

In Ms. Shubra Chakraborty³⁰ that the Supreme Court reported that "Rape is your offense contrary to fundamental human appropriate and also breach of sufferer main essential, directly to existence" and also in case of Condition of Karnataka compared to Manjanna,³¹ stated that clinical appraisal of prey of rape has been "medico-legal unexpected emergency". It's the best of each and every single rape victim and responsibility of each and every single hospital to examine the sufferer ahead of meeting lawful grievance.

Even though of all of the recommendations and prerequisite for health care examination. The financial occasions report since The Consent isn't officially signatures and taken and principle opinion usually are obtained in a subsequent point farther, A duplicate of the FIR isn't instantly obtainable, but will be discharged after onto the sufferers. Many times, sufferers need to maintain up to get a backup.³² sufferer's anguish isn't exempted in the medical test besides physical and psychological distress being fully a traumatic sufferer.

The legal provision and formalities emphasis on chastity, consent, past sexual lifestyle, requirement of corroboration and medical examination had made extremely difficult to seek justice system by victim of rape. So, the notion of rape, and

²⁷ The code of criminal procedure (amendment) Act, 2005, available at: <https://indiacode.nic.in> (last visited May 14, 2020)

²⁸ any person dies or disappears

²⁹ rape is alleged to have been committed on any woman, while such person or woman is in the custody of police or in any other custody authorized by the Magistrate or the Court under this Code, in addition to the inquiry or investigation held by the police, an inquiry shall be held by the Judicial Magistrate or the Metropolitan Magistrate, as the case may be, within whose local jurisdiction the offence has been committed. This amendment now mandates that a judicial magistrate must investigate all cases of custodial rape and deaths in custody.

³⁰ In *Bodhisattwa Gautam v. Ms. Shubra Chakraborty*, AIR 922, 1996 SCC (1) 490

³¹ *State of Karnataka Vs Manjjana*, judgement 2000(3) SCR 1007

³² PTI, "Norm not followed in medical examination of rape victim", *Economic Times*, 2nd September, 2017.

rape legislation as well as their execution has to be well-defined, Accurate and cure prey using compassion and love rather than mistrust and feeling.

3. ANALYSIS OF IMPACTS EXPERIENCED BY RAPE VICTIMS.

3.1. Impact of rape on overall health

The rape has a devastating impact on victim's overall health such as negative consequences on Physical health, psychological health, academic performance and her interpersonal relationships. It is true that extent of rape's consequences is difficult to be measured but it is also not wrong to say that rape against women might increase the risk of poor health status and it is very serious. Surviving a rape event is really a traumatic experience for women as the impact of physical, sociological and psychological may cause life of victim. The issues get complex not only during the rape but also aftermath of rape with the short-term and long-term reaction. Short term reactions of victim may include the act of killing the rapist and to commit suicide. In long term reactions victim has to keep coping with the situation of physical, mental and social until victim's last breath.

3.1.1. Signs or symptoms and signal

Rape Can end within the followings:³³

Extragenital Harm, Genital Harm, Psycho Logic Symptom, Hepatitis, HIV Illness, Allergic vaginosis, maternity.

Survivor Of rape needed to proceed through annoyance from injuries through the rape, and hazard using mortal diseases that have been transmitted by rapist and maintain coping-with pregnancy. Regardless shame and pain, sufferers face identification and mis treatment because of its affirmation of rape.

Many of the rape victim could feel that a strong emotional impact later their rape however most rape spouses experience long-term phobia-related stress such like:³⁴

- anxiety strikes
- Emotions of fear
- Sensation Anxious
- Feeling stressed or uncomfortable

3.1.2. Post-traumatic anxiety disorder (PTSD)

Based Into this report from NCRB, "33,356 episodes of rape had been documented at 2018"³⁵ and it would acquire publish traumatic Anxiety Infection sooner or later in their own lives later rape that might lead to followings:³⁶

- Depressive Disorders
- Alcoholism
- Prescription Drugs Dependence
- Long-term Tiredness
- Social Remove
- Sleeping Disease
- Anorexia
- Bulimia
- Individuality Disease

Even the Worst effect of sexual abuse such as rape has been shown from the lack of humankind to get safety all women. The sexual abuse like rape really is a hazard to girls reside that necessitates the standard human stability within her private living, at the area institution, to assembled her energy within political and economic existence.

³³ Medical Examination of the rape victim, *available at*: <https://www.msmanual.com> (last visited on May 26, 2020)

³⁴Sanjeev Davey, Rapes in Society: "An Emerging Public Health Problem of Indian Girls and Women" *2Acta Scientific Women's Health* 02 (2020)

³⁵One rape was reported every 15 minutes in India 2018, *available at*: <https://www.yourstory.com/2020/01/ncrb-data-india-rape-report-cases/amp>

³⁶ Interview with Dr. Bidya Oinam Devi Rani (MD), PGIMER, Chandigarh, 29th may 2020.

In A society, even by which women receive chances, taken care of both in most area with guys, women's assurance and endurance will advance in economic, Political and societal lifestyle. The sour truth, incontrovertible of girls in current Circumstance are those that, females lives just about every measure without concern with trauma, harm and Even death due of sexual abuse such as rape. It's anxiety about violence which Directs and limits that the females' decisions such as, exactly where you should go, when to proceed, just how exactly to Go and that will go with her destination. The anxiety of violence obliges Women to find refuge against man, that contributes to an issue of addiction and vulnerability that pertain into this notion of evolution and Empowerments of all women.

Sexual Violence ends in considerable medical conditions such as ladies, at which physical accidents caused by the episode will be fatal. The rape can transmit celiac disorder including AIDS and HIV that may hurt women's genital field eternally.

Even the Sexual abuse can Impact emotion and psychology of this sufferer that astray herself from religious life and also standard program. Abused girls could reside with Higher degree of stress, publish traumatic Stress condition and medication inclusion. Rape sufferers maybe not Only suffer throughout the rape. however, it's clear that prey additionally suffer wake of rape. Survivor Need to handle using short term and also Long-Term impact that will be A lifetime hard job.

Conclusion

The victims are often placed on trial rather than the perpetrator in rape cases which lead double victimization of the women. Victim suffer the terrible Physical injury, tolling psychological trauma and social stigma for burden of defending the legality of her suffering. Firstly, she has to report the case to police in the midst of suffering, Secondly, she has to prove that she was being raped by narrating her previous lifestyle, sexual conduct and her consent before the court of law. Thirdly, her reputation and her sexual characters in the community would determine innocence or guilty of the accused. Indian criminal justice system focuses more on 'rarest of rare' for the elimination of rapist.

The Criminal Justice system of India needs to understand from the victim's perspective after aforesaid issues relating the trials of rape. There have been times where ridiculous questions have been put-forth to the victim by the investigating bodies and there is needs of law to safeguard women from such unethical treatment.

It should be understood that the conduct of the victim holds no importance in matters relating to rape as of Supreme Court observed:³⁷ "Even a woman of easy virtue is entitled to privacy and no one can invade her privacy as and when he likes. So also, it is not open to any and every person to violate her person as and when he wishes. She is entitled to protect her person if there is an attempt to violate it against her wish. She is equally entitled to protection of law. Therefore, merely because she is woman of easy virtue her evidence cannot be thrown overboard".

Even the Practice of the 'Per Vagina test' should be abolished as it contradicts to fundamental rights, right to privacy, dignity and bodily integrity of a woman.

In the end, instead of victims, perpetrator must be placed on trials in rape cases and victim must be helped during the process of seeking justice as women suffer not only during rape but also after math of rape.

³⁷ State of Maharashtra vs. Madhukar 16 JT (1990) 4 SC 169