

Editorial

FUNDAMENTALS OF MANAGEMENT OF SEXUAL ASSAULT CASES

In our country in 2005, 1 crime was committed against women every 3 minutes, 1 molestation case every 15 minutes and 1 rape case every 29 minutes. In the same year 18359 victims of rape reported to the law enforcement agencies. But this is just the tip of the iceberg. Because many cases remain unreported as rape is considered something very personal with their private parts. Moreover many victims of rape do not want to relive the agony of trauma for five hours of ordeal in the hospital, five days of frustrations in the police enquiry and five years of long wait in the courts in most of the cases. Moreover it becomes more difficult for victims to report as the accused in majority of the cases are known to them and there remains a social pressure not to name them. Out of the 18359 reported cases accused were known to them in 15859 cases. Out of this 750 cases were close family members and it needed even more courage to report such cases.

Multi-pronged strategies are needed to improve the situation. We need to improve at every level so that crime against women is reduced. Speedy decisions in the courts are needed like the decision done in one of the courts at Bihar where court gave the judgment in just 2 days after the trial began. Such quick decisions will become a deterrent in the society and will go a long way in preventing atrocities against women. For rapid decisions by the courts; police, medical persons and forensic science laboratories also need to improve so that this becomes possible. They need to improve the facilities so that investigating officer does not have to wait till the dead line for filing the charge sheet in the court.

There is a need of a change of the mindset for the quick and efficient inquiry probably by the female police officers, who are thoroughly trained to tackle sexual assault cases. They should be properly trained for crime scene investigation. If they have a scientific background it will be much better. All the evidence collected at the crime scene in a proper manner will go a long way for the successful prosecution of the cases.

Quick and thorough medical examination is the need of the hour. There is need to reduce the agony of the victims in this process. They need to be told in no uncertain terms that what so ever has happened is not their fault; what so ever may be the circumstances and they need not to have any feeling of shame or guilt or sin. Doctor need not be a moral guide in such situations. I personally feel that when a male doctor condemns the assault it becomes more reassuring to the victim and she will not develop hatred against the manhood which if happens, can pose a lot of psychological problem for the victim in later life. These are the crucial moments in life of the victim and examiner should not give opinions attributing the behavior or dress of the victim responsible for the assault. In order to reduce the agony there should be a special cell in the hospitals which should be away from the scrutiny of common people. There should be facility so that investigating officer can take the statement of the victim there only as she needs not to repeat her story again and again. It is desirable that social worker and psychologist should also be present to provide the necessary help. Treatment or first aid what so ever is required should be provided without delay but care should be taken that valuable evidence is not lost in this process. Presence of a forensic nurse can be of much help in such circumstances. She can take care of collection and preservation of evidence in a very efficient manner. There should be facility for changing of clothes and providing her other clothes in case she needs it as the clothes worn at time may have to be taken as evidence. Medical examination should be done as quickly and as efficiently as possible so that no valuable evidence is lost or ignored in this process. Colposcopic examination of the female genitalia, after staining the vagina with toluidine blue and washing with 1% acetic acid, and photographing the injuries sustained in the vagina will provide visible evidence to the investigating officers and the judiciary. This will be very good evidence which will be difficult to refute.

Under section 164-A of CrPC, women should be examined within 24 hours by a registered medical practitioner preferably in a government hospital and required samples be taken including the one for DNA finger printing. Her mental condition should also be studied and recorded. All this should be done after having her valid consent. All the injuries on the body of the victim should also be recorded and time of commencement of examination and completion must always be recorded. After completion of the report it should be sent to police as early as possible

USA, Canada and South Africa have developed their own kits for sexual assault examination also known as SAFE kits (sexual assault forensic evidence kit) and are being used in those countries with very good results and this has increased the rate of successful prosecution in such cases.

Now it is the time for scientists from all over India to ponder over the sexual assault evidence collection kit program of Centre for Enquiry of Health and Allied Themes. CEHAT have developed this kit for the first time in our country keeping in view the Indian conditions. They have developed this kit and evaluated at local and regional level. Now it is the time to take this development to the logical conclusion by convincing all the forensic Medicine Experts, Gynecologists, police people, judiciary and the planners that this is the necessity of the modern India. Establishment of rape crisis centers in India to tackle all the aspects of investigations, examination and treatment should also be considered by the planners.

Examination of rape victims should be preferably done by female registered medical practitioner as it seems less traumatic for the victims. But in any case examination should not be delayed on this ground only as many valuable biological evidences degrade very quickly. If there are chances of inordinate delay examination may be carried out by male registered medical practitioner if there is no objection by the victim and she consents for the examination by the male doctor. Care should be taken that there is presence of female forensic nurse or female attendant.

All the proper samples should be taken and preserved and quickly forwarded to the concerned laboratories. Slides should be prepared for motile and non-motile sperm examination and examined fresh if possible. Swabs for semen examination should be taken from external genitalia, vagina and cervix. Even if sperms are not found acid phosphatase and semen- specific marker p3O may be quite useful. It is not a must that in all cases of rape injuries will be found and sperms or semen will be detected. Absence of injuries not always indicates consent and absence of semen not indicate absence of sexual intercourse as in many cases there may ejaculation dysfunction during rape. In case injuries or semen are detected they are good positive evidences. If there is history of oral or rectal penetration proper samples should also be collected from there also. If history of kissing or biting is there samples of saliva should be collected by swabs. All the swabs must be dried before they are sent. In case of bite marks photograph of the bite mark with a scale and a coin (preferably ABFO No.2 scale) in the picture must be taken. If there are other stains on the body suitable samples from those sites must also be collected. Samples of scalp and public hair must be taken for comparison purposes. Matted pubic hair and nail clippings also are useful evidences and must be preserved. Any blood or seminal stain on the body must be scrapped and preserved. DNA analysis of semen may provide identity of the accused in many cases. If there is history that victim has been drugged suitable urine and blood samples must also be collected for analysis.

Simultaneously examination of the accused should be carried out as early as possible. We should also take into consideration the latest amendment in the section 53 CrPC. According to this amendment there is need of examination of blood, blood stains, semen swabs in cases of sexual assaults, sputum and sweat, hair samples and finger nail clippings by the use of modern scientific techniques like DNA profiling and such other tests which the registered medical practitioner thinks necessary in that particular assailant. This examination can also be best done by using the same kit with a little bit of modification in the process. This kit will also be useful in other unnatural sexual offences.

If quick and accurate reports from the forensic science or chemical examiners laboratories are not received the whole exercise will become futile. All such laboratories should be provided sufficient staff instruments and funds so that reports in such cases are not delayed. These laboratories should be able to do all tests for semen and not merely report that no spermatozoa could be detected.

The money spent on this program will be useful to society to reduce the most heinous crime on women which not only leaves behind a physically traumatized soul but may leave behind a psychologically wreck and a psychologically scarred victim. There will be a better society to live not only but also for children and men also.

Let us make a historical effort in India for the advancement in examination of the rape victims and provide ultimate justice to them and the society at large by adopting the sexual assault examination kit.

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