

Kidnapping, Rape and Murder of a Minor Girl

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Abstract

Physical and sexual assault with or without homicide occurs throughout world regardless of race, age, nationality, financial status etc. Women and children are the most vulnerable group as they may not be able to defend themselves. Sexual cases are generally not reported because of social stigma and whatever we see is the tip of iceberg. This case deals with the story of a minor [14yrs] girl who was found lying by the side of road in an unconscious condition with multiple injuries. Inquest report was prepared as a case of road traffic accident but later on she was identified and then relative of injured complaint to police against certain suspects that she was kidnapped from her house and was allegedly raped and later on died and the postmortem examination was conducted in Department of Forensic Medicine and Toxicology, Government Medical College, Amritsar.

Keywords: Child Sexual Abuse; Kidnapping; Intracranial Haemorrhage; Spermatozoa; Delayed Investigation.

Introduction

Child Sexual Abuse typically includes unwanted and inappropriate sexual solicitation of, or exposure to, a child by an older person; genital touching or fondling; or penetration in terms of oral, anal or vaginal intercourse or attempted intercourse [1]. Sexual offences in India are covered under different sections of Indian Penal Code and it does not distinguish between adult and child victims [2]. However, the Protection of Children from Sexual Offences Act (POCSO), 2012, which has been recently drafted to strengthen the legal provisions for the protection of children from sexual abuse and exploitation, defines a child as any person below the age of 18 years and provides protection to all children under the age of 18 years of the offence of sexual assault, sexual harassment, and pornography [2].

According to a study published by the Ministry of Women and Child Development in 2007, India has the world's largest number of sexually abused children; children below 16 years are raped every 155th minute and below 10 years are raped every 13th hour and there is severe under-reporting of such crimes[3]. Most of rape cases in India, as elsewhere in the world, are never reported due to the social stigma [4,5]. Children are more frequently raped than adults as they cannot offer much resistance, and due to false belief that venereal diseases are cured by sexual intercourse with a virgin [6].

History A 14 year female child of moderate built and moderate nourishment, wearing a yellowish floral designed salwar and Kameez, was found in early hours of the day lying by the side of road in Amritsar, in an unconscious condition and with multiple injuries. Then a passerby noticed her and

she was admitted in a nearby hospital as an unknown patient and was treated for her condition. Later on she was identified as a class 9 student of local school and her parents were informed. She remained unconscious in the hospital for 3 days, later tracheostomy was done as the condition of the patient was deteriorating and later on she succumbed to her injuries, 5 days after admission. Her postmortem was conducted in Department of Forensic Medicine and Toxicology, Government Medical College, Amritsar.

Postmortem Findings

External Finding—Eyes and mouth were closed and pupil dilated. Face was swollen on left side. Tracheostomy mark was present on front and centre of neck. Rigor mortis was present in whole body except eyelids, neck and jaw. Post mortem staining was present on the back except the area of contact flattening, and was fixed. The following injuries were present:

1. Diffuse swelling of scalp present. On dissection scalp was oedematous. Subgaleal haematoma was present in an area of 8 cm X 7 cm along with subdural and subarachnoid haemorrhage present diffusely in brain measuring about 200 cc. Brain is oedematous, weight of 1109 gm.
2. Multiple dark coloured abrasions, 26 in number with scabs falling from the periphery and varying in size 1 cm X 0.8 cm to 7 cm X 3 cm were present on both the knees, back of right and left hand, back of both upper limbs and various sites over face. Some of the abrasions were infected and purulent.

Genital Finding—Labia majora were lax and gaping. Labia minora were thick, large gaping and cutaneous. Vestibule was gaping. Introitus was dilated. After conduction of post-mortem examination, routine viscera was collected, swabs were taken from vaginal introitus and posterior fornix, slides were also prepared which were sent to Forensic Science Laboratory for Chemical Analysis and for presence of spermatozoa.

Opinion: All injuries were of antemortem origin. Cause of death in this case was declared as compression of brain due to Intracranial Hemorrhage as a result of trauma, which was sufficient to cause death in ordinary course of nature.

Proceedings in Witness Box

Summons was received in this case by the autopsy surgeon to appear as expert medical

witness in a complaint case in the court of Judicial Magistrate at sub-divisional level of District Magistrate. After tendering evidence in court of law by expert medical witness the case was transferred to higher competent court i.e. court of Additional Session Judge for trial under section 376/302. While tendering his evidence he was questioned by prosecution regarding rape in this case but till date. The autopsy surgeon didn't receive any report of Chemical Examiner in this case i.e. it was neither sent by chemical examiner nor sent by investigating officer. On examination of judicial file it was found that report of chemical examiner was attached there. The report of chemical examiner reported the presence of spermatozoa in slide and swabs, which were prepared during postmortem examination. Then opinion of vaginal intercourse was furnished by autopsy surgeon in the court itself.

Discussion

It is observed from above stated finding and proceedings in witness box that the case was of rape and murder of a minor. Although no age is safe from rape, Malhotra and Sood reported that majority (76.9%) of victims in their study were adolescents [7], as is being reported in this case. In studies conducted in the United States, it was observed that females are more likely to suffer from child sexual abuse and 12-40% of females and 4-16.5% of males have experienced at least one instance of sexual abuse in their childhood or adolescence [8,9].

In this case, the Police did not take any cognizance and the investigative agency turned a deaf ear to the best efforts by the parents/relative of deceased to lodge a FIR under relevant section of law. Thus, they had to knock the door of Court hoping that they will be able to get justice. Keeping their hopes alive the Court did not disappoint them and fair trial started in this case. The carelessness of investigating agency can be gauged from the fact that no FIR under any relevant section of 376 I.P.C./Prevention of Children against Sexual Offence (POCSO) was lodged. Moreover, the report of chemical examiner which is usually received by autopsy surgeon within 3-4 months after its submission to laboratory of chemical examiner was never submitted to the doctor by police, even after passage of 16 months after conduction of postmortem examination and the autopsy surgeon saw it first in witness box in court itself.

To the belief of the authors of this article, the present case was more heinous than "Nirbhaya Delhi

Rape Murder Case”, (which led to change of the then prevalent rape law, and the Criminal Law (Amendment) Act 2013 was passed) [10] as the deceased here was a minor who was first kidnapped and brutally assaulted sexually and physically and then left on roadside to succumb to the injuries. No treatment aid was given by the Government agency and no FIR was lodged by the police at any stage. Post Mortem examination was conducted U/S 174 Criminal Penal Code. Police did not submit the viscera to the laboratory for chemical examination in the optimum time. No report of viscera or the collected swab and smear was submitted to the autopsy surgeon by police. Doctor opined regarding vaginal intercourse after going through the judicial file and media was covering the Court proceedings.

Conclusion

Sexual abuse leaves a permanent scar on the mind and body of the victim and puts the family under shame and humiliation even though they are not at mistake. So, more efforts must be made to provide justice to all victims of sexual assault, an active legislative and judicial actions, comprehensive quick approaches of investigative officers and healthcare providers, and rehabilitation is of very much need in a case of sexual assault. Also, spreading awareness encouraging early reporting, harsher punishment to the criminals and prompt care and protection of these innocent victims can reduce this heinous crime from the society.

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