

Case Report

A case Study on sexual assault as a heinous crime

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Sexual assault is a heinous crime. Man commits the act to fulfill his sexual urge, to show his masculinity, to get control of the victim, to take revenge and various other reasons, out of abnormal mind, out of ignorance of the law of the land or out of opportunity. The mental trauma suffered by the victim may linger till end of her life. Number of reported sexual assault on female is said to be only a tip of iceberg in comparison to actual incidents. However, accusation of sexual assault is often used as a tool of advantage by female for various reasons like for blackmailing the alleged offender, monetary gain, forcing to compromise on some disputes. It is said that sexual assault case is hard to prove and harder to disprove. Opinions on sexual intercourse by medico-legal examination are based on the physical findings on the private parts of the victim and detection of seminal fluid in and around the genitals. Negative findings cannot rule out sexual intercourse on many occasions. The present authors had reported a case where the medico-legal examination of the alleged victim clearly disproved the alleged incidence of gang rape.

Key words: Sexual assault, rape, medico-legal examination, medical evidence, false accusation, fabrication, self inflicted injury.

INTRODUCTION

Sexual assault on female may ruins the entire life of the victim. Besides physical trauma she suffered, feeling of shame and guilt hangs forever. If the victim dares to lodge a complaint, then again she passes through psychological trauma out of lengthy judicial procedure and trial. Victim of such incidents rarely get support from any quarters of the society, including her own family members. With ever increasing population, with degradation of socio-cultural and moral values, such incidences are rising day by day. On the other hand, man can be made victim of such heinous crime by false accusation by woman, for various motives. As most of the judgment on sexual assault cases, are based on circumstantial history, oral evidences of victim and eye witnesses, rather than medical evidence, it may be very hard to disprove the allegation. The present authors had come across such a case of sexual assault where medical evidence clearly suggested false accusation.

On the 2nd of May, 1998, an alleged victim of gang rape was brought to the department of Forensic Medicine, S.C.B. Medical College, Cuttack for medico-legal examination.

The alleged victim was an unmarried girl of 17 years old. As per the history narrated by the alleged victim, on 1st May, 1998 night at about 11.30 p.m., a large mob carrying weapons forcibly entered into their house. They snatch away her father and brother and severely beat them in front of her. Among the large mob, four people forcibly took her into the poorly lighted garden in front of her house and raped her repeatedly one by one. During that period, they also slashed her limbs. Later she discovered herself in unconscious state. Her father and brother were missing since then. According her own statement, she had never experience sexual intercourse prior to the alleged incidence.

After obtaining proper consent, medico-legal examination

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was carried upon her. However, the alleged victim had not permitted for any kind of photography to her body parts. She was found healthy girl of about 18 years old, measuring 155 cm by height, 57 kg by weight. L.M.P. was 20 days back with regular 30 days menstrual cycle as per her statement. Examination of wearing apparels did not show suspected seminal or blood stain, foreign hairs or fibers or any kind of damage. However, multiple (about 25 - 30 in numbers) superficial linear incised wounds were situated parallel in medially upward directions on each part of flexor aspects of both forearms and anterior-medial aspects of both legs. No other mark of resistance or violence could be detected anywhere on the body of the deceased including breast regions. On examination of the genitals, no loose pubic hairs could be recovered from the pubic regions. There was absence of any staining or matting of pubic hairs. Labia majora and labia minora were found well developed, adult type but widely separated showing almost the interior of vagina, on lithotomic position. Hymen was almost in the form of hymen carunculatae, with no sign of recent tears at all. Hymeneal orifice was admitting two fingers loosely. On close examination of vagina, one shining material could be seen inside. When we pull out the shining material, it was found to be a long piece of narrow polythene packet of about 30 cm long that contained about 20 g of soil inside. Vaginal wall was found roamy and smooth with loss of rugosity. Cervical os, cervix, uterus were found normal. Vaginal wash fluid revealed no spermatozoa.

Opinion

The genital findings were clearly ruled out any possible forcible sexual intercourse with the alleged victim. The nature and pattern of incised wounds were suggestive of self infliction.

DISCUSSION

Sexual assault continues to represent the most rapidly growing violent crime. Vital legal reforms are underway, but statistics prove a persistent rise in rape incidence with poor conviction rates. This knowledge, along with the vast multitude of emotional sequelae of rape and self-perceived inferior legal status of women, results in a high percentage of unreported cases (Dupre et al., 1993).

White et al. (2006) examining 224 cases of sexual assault reported that the virgin group took longer to present for examination than the non-virgin group (90 h compared to 44 h). In the present case, the alleged victim of gang rape was examined 11 h after the alleged incident.

Amongst clients examined by White et al. (2006), 51% had a non-genital injury, mostly among the minor. 32% of the non-virgin group had a genital injury. In the virgin group, 53% had a genital injury, however only 32% had

the type of genital injury that would leave permanent evidence of penetration (that is if examined several weeks or more later). They concluded that genital and or body injuries are not routinely found in adolescents after an allegation of rape or sexual assault even when there has not been previous sexual experience.

Reznic et al. (2004) reported that in most cases of sexual assault, even following long term abuse, genital and extra-genital injuries might be very scarce or literally not found. The absence of injury does not exclude the possibility of intercourse, whether with or without consent (White et al., 2006). Though the forensic experts customary illustrate to the court that the absence of physical trauma does not rule out that the assault had taken place, more substantial medical evidence can be helpful in pursuing a conviction. In the present case, although the victim alleged to be a virgin on the date of examination, neither extra genital nor genital injuries of recent origin were found. However, hymenal injuries with other genital findings were that of previous indulgence with sexual intercourse, against the claim of the alleged victim.

Worm et al. (1997) collecting data on 133 victims of sexual assault, reported that no contraception was used in 87 (65%) cases. In 102 cases, the assault was carried out by means of physical violence and in 24 cases, under threat by a weapon. In the present case, the alleged victim had claimed that some contraception was used by the accused persons. The presence of long narrow polythene packet containing mud particles inside vagina was not possible by sexual intercourse.

Some people claim to be victims of sexual violence and abuse the judicial system by filing a false police report. In adults, history, injuries and other findings often show patterns that can be recognized as evidence of deception or as signs for self-inflicted injury for the trained specialist. This is far less often the case in infants and children (Wyler et al., 2005). The medical evidence, detailing the physical findings, is just one component in the investigation of serious sexual assault and it is not for the doctor alone to determine the veracity of an allegation (Rogers, 1996). However, because of the increased number of allegations of sexual abuse made by young children and the often severe legal penalties given to adult perpetrators, there is reason for concern about false or mistaken accusations (de Young, 1986).

Schiff (1975) reported a case which added a new and unusual dimension to false rape allegation. A female newspaper reporter entered a hospital, stated falsely that she had been sexually assaulted, allowed herself to be interviewed and then examined by the author, and accepted and took medication, all because she wanted to "find out how a rape victim is treated at the new Rape Center and I was pretending to be a rape victim."

Jamieson et al. (1998) reported, a 23-year-old woman alleged incestuous rape at age 12 years, resulting in pregnancy. She named a physician who she claimed had

performed an illegal pregnancy termination. However, during subsequent evaluations, her claim was falsified because she had uterovaginal agenesis.

Fanton et al. (1999) reported a case of false allegation of rape on 16-year-old girl. The forensic examination revealed genital lesions of an age that were incompatible with her statements. She also presented extragenital lesions that resembled self-inflicted lesions.

Kanin (1994) conducting study on 45 consecutive, disposed, false rape allegations over 9 year period found that false rape allegations constitute 41% the total forcible rape cases (n = 109) reported during that period. These false allegations appeared to serve three major functions for the complainants: providing an alibi, seeking revenge, and obtaining sympathy and attention. False rape allegations are not the consequence of a gender-linked aberration, as frequently claimed, but reflect impulsive and desperate efforts to cope with personal and social stress situations. Concise motivations for false allegation may include attempts to mask a sexual affair from a partner, or to mask a first sexual intercourse by pretending to be the victim of an act of violence (Wyler et al., 2005).

For an allegation to be false, there first must be the motivation to deceive (Aiken, 1993). When the victim is "mildly mentally retarded" instead of as "having average intelligence," jurors may consider the victim as more credible than the defendant as witnesses; as she is less likely to have fabricated the sexual abuse accusation (Bottoms et al., 2003). In the present case, the alleged victim was of average intelligence and her statement could not be relied upon as she was not a virgin against her claim. Again, there was motive to force the accused persons to compromise with her father and brother over some dispute.

Rassin et al. (2005) using a list of 43 criteria on 41 cases alleged sexual offences, reported that true and false allegations could be differentiated to certain extent. However, Hershkowitz (2001) reported that scientific tools designed for credibility assessment were limited and might fail to detect implausible statements. Taupin (2000) and Daly et al. (2009) reported that clothing damage analysis at Forensic Science Laboratory could assist in the resolution of false sexual assaults case. Associated bodily injuries on the victim of sexual offence, corroborates rape allegation on some occasions. While evaluating bodily injuries, possibility of self inflicted injury must be ruled out. Most of self inflicted injuries to bring out false allegation are superficial incised wounds, multiple, grouped together, parallel to each other, situated on the accessible parts of the victim and often without clothing damage (Payne-James, 2003; Nandy, 2010; Mathiharan et al., 2006). In the present case, as per the statement of victim, she could not offer too much resistance because the perpetrators were more in number. There was no clothing damage. Presence of self inflicted injuries on her body parts further negated her

accusation. Later, with confrontation, the alleged victim admitted that she was trying to help her family members.

CONCLUSION

Medico-legal examination of victim has great significance in case of sexual assault. However, every effort should be made to differentiate true accusation from false accusation so that no innocent is punished. Presence of self inflicted injuries and very unusual findings may indicate towards fabricated sexual assault.

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