



SEXUAL VIOLENCE



National Human Rights Commission
India

Sexual Violence



RESEARCH DIVISION

**NATIONAL HUMAN RIGHTS COMMISSION
INDIA**

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Manav Adhikar Bhawan, C-Block

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Email : covdnhrc@nic.in

Website : www.nhrc.nic.in

Technical Assistance :

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SMAT FORMS

3588, G.T. Road,

Old Subzi Mandi, Delhi-110007

Ph.: 9810520802

E-mail: smatforms@gmail.com

News of women being raped in different parts of the country appears in the newspapers every day.

The law to punish rape and other sexual offences has become stricter and more stringent. The punishment has been made severe. Women victims of sexual offences are provided with more relief but incidents continue to occur every day.

Women are now willing to report incidents of sexual violence which they did not earlier.

To prevent women being subjected to sexual violence there is a need to promote understanding of equality and respect for women's independence in society. The law alone cannot stop sexual violence.

Girls have to be brought up to be confident and independent instead of keeping them inside homes and teaching them to be meek and unquestioning. Honing their skills for self defence will be of help too.

Rape occurs both inside and outside the house. As per the data of National Crimes Record Bureau over 90% of the rape cases perpetrators are known to the victims.

In our society, a girl or a woman is still blamed and held responsible for the offence of rape being committed upon her. She is blamed and shamed for the clothes she wears, her behaviour, having a boyfriend, going out alone at night, etc.

Society treats a victim of sexual violence as a woman who has lost her honour and reputation and her character is questioned.

A woman subjected to sexual violence is not at fault and should not be blamed.

SEXUAL VIOLENCE

Outraging Modesty of a Woman / Molestation

Asiya was travelling in a crowded public bus. Suddenly she feels a hand groping her bottom. When she turns around she finds a man winking and smiling at her. She tells him not to do it or else she will complain. The man only laughs.

The man has committed the criminal offence of molestation which is called 'outraging the modesty of a woman' under **Section 354 Indian Penal Code**. Asiya can file a complaint and the man can be arrested. Using force to outrage the modesty of a woman is an offence. Outraging modesty means hurting the dignity of a woman or sexually humiliating her such as bottom pinching, breast groping etc. The offence u/s 354 IPC is punishable with imprisonment of a minimum 1 year which may extend to five years plus fine.



Deliberately leaning on a woman, touching her or feeling her up is molestation and an offence.

Sexual Harassment

Daisy lives alone in an apartment complex. Ajit is her neighbour and lives in a flat one floor above her. Whenever Ajit sees her in the lift alone he asks if she will have sex with him. Daisy is fed up and does not know what to do.

Daisy can file a police complaint against Ajit for demanding or requesting sexual favours which is an offence under Section **354A IPC** and is punishable with imprisonment up to 3 years or with fine or both.

Rosy works in a clothing factory. The Factory Supervisor has told Rosy that if she does not have sex with him he will give her a bad report and she may lose her job. Rosy is very worried and does not know what to do.

By asking for sexual favours, the Factory Supervisor has committed an offence of Sexual Harassment under Section **354A IPC**

The offence of Sexual Harassment is committing the following acts

- Physical contact and advances which are unwelcome sexual advances,
- demanding sexual favours from a woman,
- showing pornographic material against a woman's wishes such as videos, magazines, sending pornographic jokes on email, whatsapp, etc
- making sexual overtures, or
- making sexually coloured remarks .

Doing such acts anywhere, whether in a home, office, educational institution, police station or any other public place is an offence



Any unwelcome sexual physical contact is sexual harassment

Stalking

To catch a bus to college, Meera has to walk about 10 minutes in the morning. She is always scared during the walk as it is quite lonely. One man has been following her on his bicycle. He talks to her but she does not respond. When Meera changes her route he still follows her.

The man has committed the offence of stalking which is punishable under **Section 354D Indian Penal Code**. Physically following a woman repeatedly despite clear indication of disinterest by such woman is an offence and punishable

Anil's friend works in the same office as Usha. Anil has taken Usha's mobile phone number and email address. Anil has been sending Usha messages saying I love you. When Usha blocked his number Anil messaged her from another number. Usha has also messaged and told him not to contact her but he had paid no heed.

Anil has continuously contacted Usha despite clear indication that Usha is not interested and therefore committed the offence of stalking under **Section 354D Indian Penal Code**. Monitoring a woman's use of internet or email or any other electronic form is also stalking. Stalking is an offence punishable on first conviction with imprisonment up to 3 years and on being convicted again with imprisonment up to 5 years plus fine.



Physically following a woman repeatedly after she has said no is stalking and a punishable offence.

Criminal force to disrobe a woman

Veerawati and her son Hari live in a village near Karnal, Haryana and belong to the Dalit community. Veerawati's son Hari married a girl Pooja who belongs to the so called upper caste and has left the village and are living in Delhi. Pooja's family is very angry with the marriage as Hari is a dalit. They cannot find Hari and Pooja and have tried to put pressure on Veerawati to tell their whereabouts. (To teach Veerawati a lesson). Pooja's father and brother, painted her face black and stripped her clothes and paraded her naked in the village.

Pooja's father and brother, by using criminal force with the intention of disrobing Veerawati, have committed the offence under **Section 354B IPC** which is punishable with minimum imprisonment of three years and maximum of seven year and also fine.



Removing or attempting to remove clothes of a woman is an offence

Voyeurism

Poonam works in a city and lives in a working women's hostel. One day she found the warden's husband peeping from the bathroom window when she was bathing.

The warden's husband, by watching Poonam while she was bathing, when any woman would expect privacy, has committed an offence of voyeurism under **Section 354C IPC**.



Nagarajan and Nithya were in a relationship since one year and were physically intimate. One day Nagarajan suggested that he wished to film them having sex. Nithya agreed and Nagarajan filmed the act on his mobile. Two months later Nithya received a video on whatsapp from another friend Ravi, where she was shown to be involved in a sexual act with a man, whose face was not clear. Nithya understood that Nagarajan had circulated the video that he took during their intimate moment. Can Nithya file complaint against Nagarajan?

Yes she can. She agreed to film the sexual act but not for dissemination. Nagarajan can be booked under Voyeurism 354C IPC. A man who commits the act of Voyeurism will be punished with imprisonment for a minimum of one year and a maximum of three years if the offence has been committed for the first time. If the man commits the offence of Voyeurism for a second time then the punishment will be imprisonment for a minimum of three years and a maximum of seven years plus fine.

The offence of voyeurism is:

Where a man watches or photographs or films a woman

- while she is engaged in any private act (e.g. using restroom, bathing, changing clothes, sexual act) and
- at a place where she does not expect to be observed,

When a woman has agreed to be filmed doing a private act but has not consented to the film/image being made public and shown to others, dissemination of the image or film is an offence.

Capturing, transmitting and publishing any person naked or in undergarments or any private area such as buttocks without consent through email, social media or any other electronic manner is an offence of violation of privacy under **Section 66E of the Information Technology Act, 2000**. This is punishable with upto 3 years imprisonment or fine upto two lakh rupees or with both.

Verbally and by gestures insulting the modesty of a woman/ sexually teasing

Shanti had gone to the nearby town for a mela (fair). She was returning to her village by bus. Shanti got off the bus and was waiting on the roadside for her brother to fetch her on his motorcycle. She saw one man standing nearby and showing his genitals to her. She was disgusted and got scared. The man has committed an offence under Section 509 IPC and will be punished.

Insulting the modesty of a woman that is sexually insulting her by sound or words or gestures is an offence under **Section 509 IPC** punishable with imprisonment up to three years plus fine.

Rape

Senna is from Manipur and works and lives in Kolkata. She has taken two rooms on rent. The landlord's nephew Chandu is visiting and is friendly with Senna. One evening on pretext of giving Senna a message Chandu goes to her room and when she turns to have water he catches hold of her and puts her on the ground and forcibly has sexual intercourse with her.

Chandu has raped Senna and when Senna files a police complaint he will be arrested. Rape is an offence punishable under **Section 376(1) IPC** with imprisonment of not less than 10 years but may be extended to life imprisonment plus fine.



Sexual intercourse without the consent of the woman is rape

In a dispute and clash between different castes in the village, the so called upper caste men shoved sticks and rods into the vagina and anus of the women of the other caste. These men have committed rape. Since rape has been committed in a situation of sectarian violence the punishment is higher. The men of the so called upper castes will be punished under **Section 376(2) IPC** with imprisonment of not less than 20 years or maximum of life imprisonment. Life imprisonment in this case means imprisonment till the remainder the convict's life.



Penetration by any body part or object into the vagina, urethra or anus of the woman against her will is rape

Anisha has been going for medical coaching classes for the last 4 months. One day her tutor Praveen Singh told her to stay back so he could give her extra classes for days she has missed. Anisha was happy as she had not been able to catch up for the 5 days of classes she missed due to viral fever. Praveen Singh asks Anisha to come to his office for the classes. Anisha goes to the office where he puts his hands inside her “pajamas” and a finger inside anus. Anisha is shocked and runs away from the coaching centre. Praveen Singh has raped Anisha. Since Praveen Singh is Anisha’s teacher and a person in a position of trust and authority the punishment is more severe. Praveen Singh will be punished under **Section 376(2) IPC** for imprisonment of a minimum of 20 years and a maximum of life that is his entire natural life. This means that Praveen Singh can be given imprisonment of any years from 20 years upwards till life.

Jhaku would throw parties and invite many of guests. His parties were very popular and some very famous people attended these parties. After one party two of the women guests complained that they were forced by Jhaku against their will to take the penis of one guest in their mouths. They were horrified and disgusted and got out after the party as soon as they could. The next day they complained to the police. The police registered a case against Jhaku and guests for rape for forcibly making women insert the guest's penis into their mouth and arrested both of them.

The offence of Rape as defined under **375 IPC** consisting of the following acts of penetration to any extent by a man on a woman who is not his wife without her consent:

- ❖ Penetrates his penis into the vagina, mouth, urethra or anus of a woman
- ❖ Makes the woman penetrate his penis into her vagina, mouth, urethra or anus
- ❖ Makes the woman penetrate another man's penis into her vagina, mouth, urethra or anus
- ❖ Inserts any object or a part of the body (other than penis), into the vagina, the urethra or anus of a woman
- ❖ Makes the woman insert any object or a part of the body (other than penis), into the vagina, the urethra or anus of a woman or him
- ❖ Makes the woman insert any object or a part of another man's body (other than penis), into her vagina, the urethra or anus or
- ❖ Uses any part of the woman's body to penetrate into the vagina, urethra, anus or any part of body of the woman
- ❖ Use any part of the woman's body to penetrate him or any other man
- ❖ Applies his mouth to the vagina, anus, urethra of a woman
- ❖ Makes the woman ply her mouth to him or any other man

Any of the above mentioned sexual acts by a man with his wife who is above 18 years of age is not an offence whether she has consented or not.

If the wife is less than 18 years of age then it will be rape even if she has consented

These acts are an offence when they are done:

- (i) against the will of the woman
- (ii) without the consent of a woman

Senna is from Manipur and works and lives in Kolkata. She has taken two rooms on rent. The landlord's nephew Chandu is visiting and is friendly with Senna. One evening on pretext of giving Senna a message Chandu goes to her room and when she turns to have water he catches hold of her and puts her on the ground and forcibly has sexual intercourse with her.

The police tells Senna that since she did not shout or hit him and there is no scratch mark she has consented to sexual intercourse. Senna tells them that Chandu came up behind her suddenly and she was taken by surprise and could not shout or fight him. Also that Chandu is physically bigger than her. The Police is wrong. ***All because Senna did not physically resist the rape does not mean she has consented.***

CONSENT MEANS CLEAR VOLUNTARY AGREEMENT WHEN A WOMAN BY WORDS; GESTURES; VERBAL AND NON VERBAL MANNER COMMUNICATES WILLINGNESS TO ONE PARTICULAR SEXUAL ACT

- (iii) consent is taken by putting the woman or someone in whom she is interested in fear of hurt or death;

Godhuli works at the construction site. On the day of payment of wages the contractor asked her to come to his office to collect the wages. The contractor told Godhuli that he wanted to have sex with her but Godhuli clearly told him that she was not interested. The contractor then threatened to get Godhuli's brother arrested and beaten at the police station so badly that no one in his family would recognise him. Godhuli was worried about her brother's safety so consented to have sex with the contractor. The contractor has raped Godhuli as he has compelled Godhuli to consent on the fear of hurting her brother.

- (iv) Consent is taken by falsely making the woman believe that the man is her husband.

Ravi and Mita have been meeting each other and romantically involved. Even though Ravi was married, Mita did not know about it. Ravi was intending to have physical intimacy with Mita. Ravi knew that Mita will agree to have sexual intercourse only after they get married. So Ravi took Mita to a temple and exchanged garlands and put 'sindoor' on her. Later he had sex with her. Mita only consented to the sexual act as she believed Ravi was her husband. But since Ravi was already married, his 'marriage' with Mita in the temple was not valid. Ravi has raped Mita as she consented to sexual intercourse only under misconception that Ravi was her husband.

- (v) Consent given by a woman because of unsoundness of mind, or being drunk or being drugged by the man himself or someone else due to which a woman is unable to understand the result of the consent given.
- (vi) With or without the consent of a woman is below the age of 18 years. The consent of a girl below the age of 18 years for a sexual act is irrelevant. The consent of a wife below the age of 18 years is also irrelevant. That means **any sexual act with a wife below the age of 18 years is an offence.**



Sexual intercourse with a wife under the age of 18 years is rape

(vii) When a woman is not capable of giving consent.

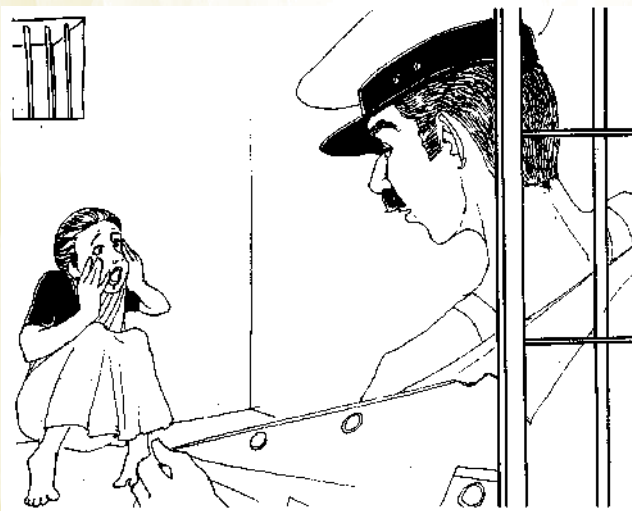
Punishment for Rape

Punishment for the offence of rape is a minimum imprisonment of 10 years and maximum imprisonment of life plus fine as stated in **Section 376(1) IPC**.

The punishment for the offence of rape becomes more severe in special circumstances **Section 376(2) IPC**.

In the following situations the person convicted for rape will be given a minimum imprisonment of 20 years and a maximum of life which means for the full natural life of the person plus fine, when:

- A police officer commits rape on a woman in the limits of police station to which he is appointed; premises of any police station or in the custody of the police officer or a police officer subordinate to him.
- A public servant commits rape on a woman in his custody or in the custody of an officer subordinate/ junior to him.



More severe punishment when rape is committed by a policeman on a woman in police station

- Any person in the Armed forces stationed in any area commits rape in such area.
- A man on the management or staff of the jail, remand home, or any women or children's home or any such place set up by law or a hospital commits rape on a woman who is an inmate of the home.
- A man being a relative, guardian, teacher or a person in a position of trust or authority towards the woman commits rape on her.

Zoya got admission in a college in Delhi to study law, but her parents live in Patna. Zoya's uncle (father's younger brother) Ali lives in Delhi so Zoya began living with him. One day when Zoya did not have college and was studying at home her uncle Ali came home in the afternoon saying that he was not feeling well. About half an hour later Ali entered her room and suddenly pulled her tights down and inserted his fingers inside her vagina. All this happened very suddenly and Zoya could not do anything. Ali has raped Zoya. Ali is Zoya's uncle and a person in whom Zoya had trust with whom she should be able to feel safe. Therefore Ali will get the more severe punishment for rape.

- Rape is committed on a woman during religious riots, caste conflicts, etc



- The woman raped is pregnant or incapable of giving consent or is suffering from mental and physical disability.
- The man is in a position of control and dominance on a woman and commits rape on her.

Mira works in a company. Dev Ahuja is her boss. Once when they had gone on tour, Dev Ahuja walked knocked on Mira's room door at night and barged in and forcibly had sexual intercourse with her. Dev Ahuja has raped Mira. Since he is her boss and in a position of control and dominance and he will be given the higher punishment.

- While committing rape grievously injures or disfigures or maims or puts her life in danger or repeatedly rapes the woman.

The punishment for raping a girl less than 16 years of age is imprisonment of a minimum of 20 years and a maximum of life which will be for the remainder of natural life of the convict plus fine.

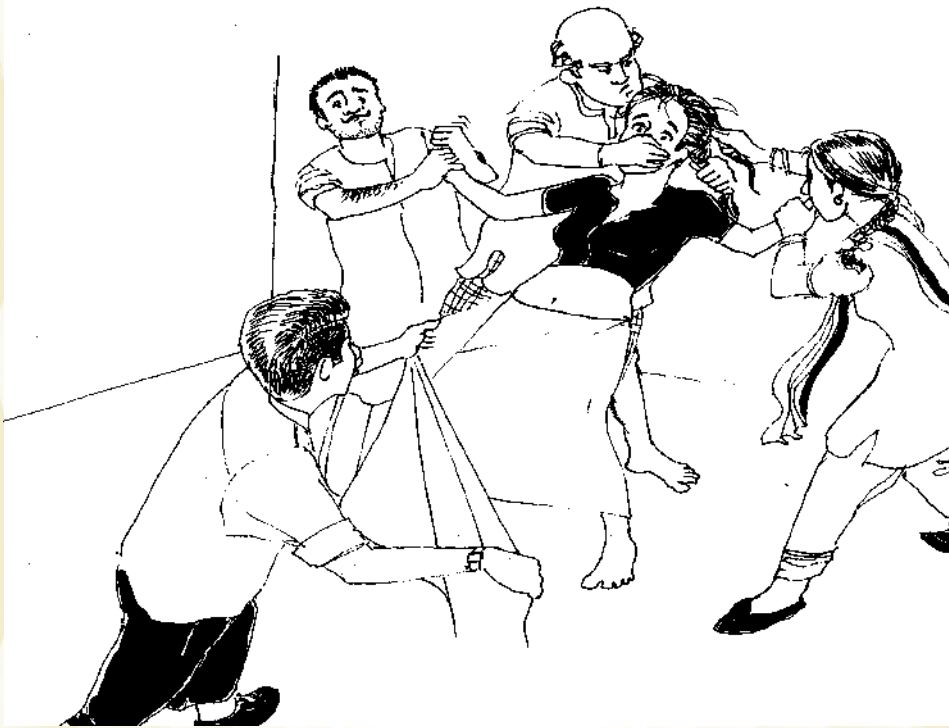
The punishment for raping a girl less than 12 years of age is imprisonment for a minimum term of 20 years, which may extend to imprisonment for life which will be for the remainder of that person's natural life of the convict, plus fine or with death.

The fine imposed must be enough for the victim's medical treatment and rehabilitation and will be given to the victim.

When a person is given punishment of imprisonment for life, usually after 14 years in prison the government may release the convict saying he has completed his term of punishment. But in cases where the law says that the punishment is for the natural life then the person cannot be released after 14 years and he will have to remain in prison till he dies.

Chandini worked in the same factory as Rahul. He was very interested in a relationship with Chandini but she had said no to him. One evening when she was returning from work, Rahul and his friend Pawan stopped her taxi and pulled her out and took Chandini to Pawan's sister Rani's room. There Pawan and Rani left Rahul and Chandini alone together and locked the door from outside. Rahul raped Chandini.

*This is **gang rape**. Rahul, Pawan and Rani acted together in a group and planned and acted on the plan that Rahul commit rape of Chandini. Each person i.e. Rahul, Pawan and Rani has committed the offence of gang rape and will be punished. When a woman is raped by two or more persons in a group or two or more person are acting on a common intention to commit rape, each of them will be punished for the offence of gang rape. The punishment for gang rape is imprisonment for a minimum term of 20 years and a maximum of life which is for remainder of his natural life plus fine. The fine imposed will be given to the victim and must be an amount sufficient for her medical treatment and rehabilitation.*



Gang Rape is when two or more people in a group rape a woman or further common intention of raping a woman

The punishment for the gang rape of a girl less than 16 years of age is life imprisonment which will be for the remainder of the natural life of the convict plus fine.

The punishment for the gang rape of a girl less than 12 years of age is life imprisonment which will be for the remainder of the convict's natural life of the convict, plus fine or with death.

Acid Attack

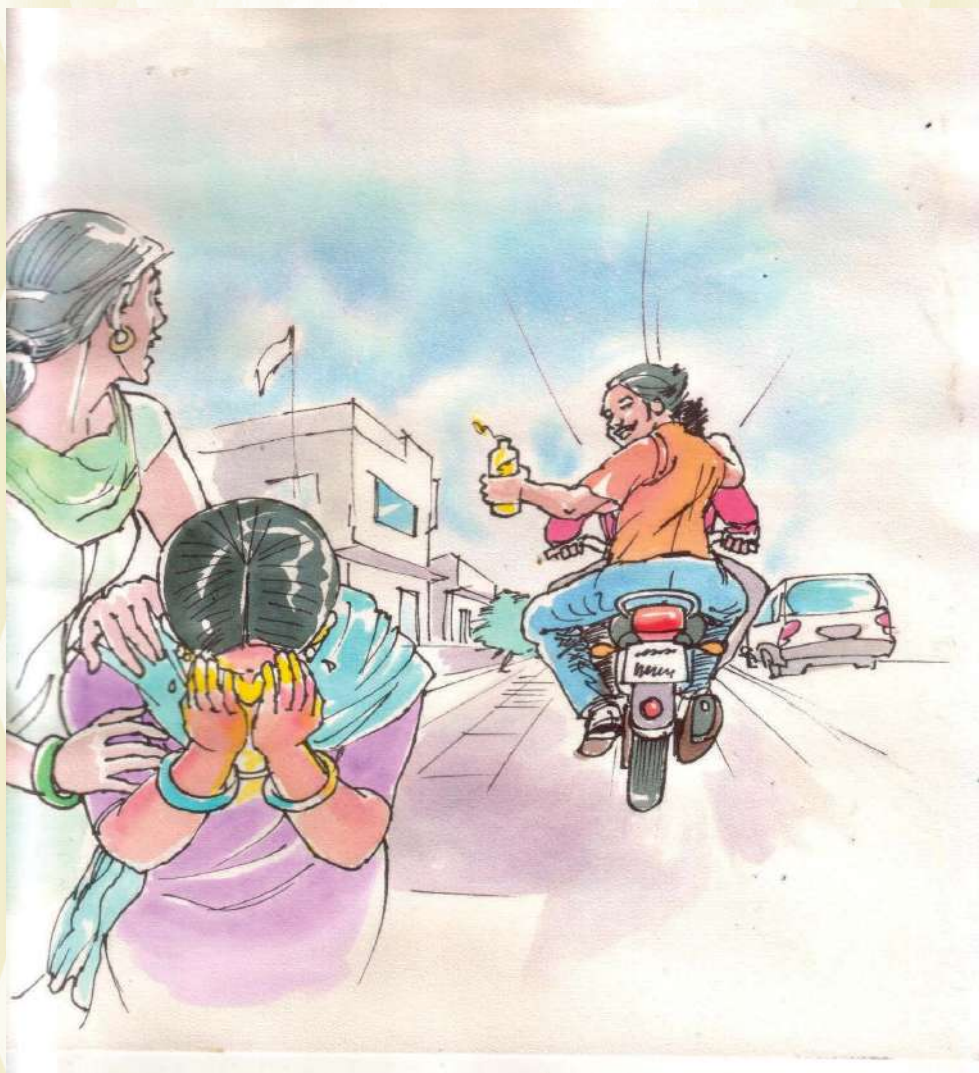
*Tambi wanted to marry Vidya and proposed to her several times. Vidya was not interested in marrying Tambi. Some months later Vidya's marriage was fixed with Narshingha. Tambi could not tolerate this. In anger Tambi bought acid and threw it on Vidya's face saying that 'if she can't be his, she won't be anybody else's'. Vidya's face has got burnt and disfigured. She has lost sight in one eye and required many operations to put .***Throwing acid and causing injury and deformity and disability is a heinous offence and is punishable under the 326A Indian Penal Code.**

Throwing acid on a person or making a person drink acid which permanently or partially damages or disfigures or deforms the body or causes disability is punishable under **Section 326A of IPC** with imprisonment of not less than 10 years and may extend to life imprisonment plus fine. The fine amount must be given to the victim.

An attempt to throw acid and attack a person is punishable under **Section 326B of IPC** with imprisonment for 5 to 7 years plus fine.

Men can also be victims of the offence of acid attacks and are protected under the law.

Acid means any substance which has an acidic burning or corrosive nature. The Supreme Court has directed that the sale of acid be regulated and controlled, which means people need licenses to sell acid and have to keep record about the person to whom acid is being sold.



REPORTING / MEDICAL EXAMINATION/TRIAL

Reporting a case of Rape and other sexual offence

After an incident of rape, sexual assault, voyeurism, etc the victim should file a complaint with police as soon as possible at the nearest police station. If there is a delay in filing the FIR the reason for the delay should be recorded. The complaint of the victim of rape, acid attack or any other sexual offence must be recorded by woman police officer. The police will

register a First Information Report (FIR) which will have number. The case is identified by the FIR number and the police station.

If the police do not register a FIR in a case of rape, sexual assault or disrobing a complaint can be filed against the police also under **section 166A I.P.C.** and they will be punished. The police commit an offence if they refuse to register an FIR in a case of rape, sexual assault (S.354 IPC) and disrobing.

Gurpreet Kaur was raped by two boys Kuldip and Sanjit from a neighbouring village while going to work. She was in a state of shock and when she came home she did not tell anyone. Her mother kept asking her why she was so quiet but she did not say anything. After a week of asking Gurpreet Kaur finally told her mother who told her father. The next day Gurpreet Kaur's father went to the village headman and along with him went to the police station to file a case. Sanjit and Kuldip's lawyer has said that the case is a false case as it was registered almost 10 days after the alleged incident.

The Supreme Court has stated that in cases of rape it is understandable that a woman may not register a police complaint immediately after the incident. A woman may be embarrassed or feel ashamed or may be in a state of shock or the family thinks that the reputation and honour of the family will to be affected. If clear and convincing reasons are given by the victim for not registering a FIR immediately the Courts cannot dismiss the case of the victim because of the delay.

The First Information Report (FIR) must have as much details of the incident of rape or sexual assault, etc as the woman can remember such as:

- time of the incident,
- where it happened,
- what happened,
- name of the man/men who did it and, if the person is not known then description of the man/men.

Medical Examination

After the incident of rape, sexual assault or acid attack the woman must be given medical treatment. No government or private hospital can refuse

treatment to the woman. The treatment has to be free of cost. The hospital cannot insist on first calling the police and only then begin treating the woman. Denying a woman who is victim of rape or acid attack medical treatment is an offence.

After an incident of rape the woman must be examined by a government doctor or if a government doctor is not available then by any registered doctor.

Consent of the woman for the medical examination is necessary.



The doctor examining the woman on whom rape has been committed after examination will prepare a report containing the following information:

- Name, age and address of the woman
- Who brought the woman
- Marks of injury on the woman and where
- Mental condition of the woman
- Any material such as blood, hair, nail, vaginal smear taken as sample from the woman and sent for forensic and DNA testing
- Time and duration of the examination ;

- Any other information such as history of the incident as told by the woman , whether she has had a bath or not, etc

The report will be handed over to the Investigating Officer. The Ministry of Health and Family Welfare, of the Central government have a form on the basis of which information has to be given after medical examination of a rape victim.



Rashida's boyfriend had sexual intercourse with her against her will and injured her. Rashida was bleeding from her vagina and was in a lot of pain. She was in a state of shock that her boyfriend whom she trusted had raped her. Rashida's friend took her to a private gynaecologist for treatment of her injury. Rashida did not tell the doctor about being raped. The doctor gave her medicines for the injury and pain and asked her to undergo tests. About one week later when Rashida was feeling physically better got the courage to make a police complaint. At the request of the police she has a medical examination at a government hospital. This medical examination may not show any of the injuries that she had got during the rape. Can the first medical examination by a private doctor be used as evidence?

Yes. Rashida should inform the police about going to the doctor on the day of the rape. Rashida should hand over the medical report or prescription of the private doctor and any tests she has got done to the police. Besides making these documents a part of the case file, the police will also take the statement of the doctor. This way the first medical examination conducted on the date of the incident will become a part of the case file or charge-sheet and the doctor a witness.

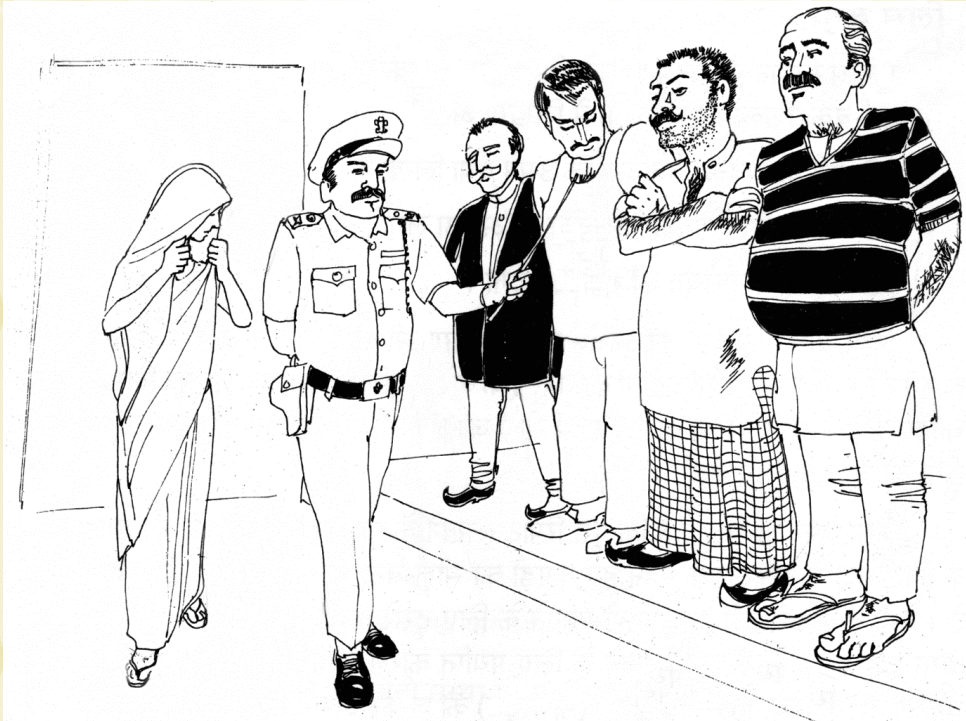
Police Investigation

After registration of the FIR the police will begin investigation.

During investigation the police will collect evidence as per the facts of the case, such as:

- Recording statements of the witnesses. There are usually no eyewitnesses in a rape case. But statements of the person owning the premises where the offence occurred; any person to whom the woman told about the incident; doctors; etc.
- Get the statement of the victim recorded before a Magistrate under Section 164 of Cr.P.C.
- Make a map of the spot where the incident occurred.
- Collect any evidence found at the spot such as finger prints, bed-sheet, or broken objects, etc.
- Collect clothes of the victim worn at the time of the incident if not handed over to the doctor,
- Seize the mobile phones of the accused and victim,
- Getting the call detail records of the numbers of victim and accused.
- Test Identification Parade of the accused for the victim to identify the accused if she does not know him.
- Send the clothes or samples taken by doctor for forensic/scientific examination.

The statement of the victim U/S 164 of Code of Criminal Procedure is recorded by a Magistrate in the chambers and no one else is present. The victim can freely inform the Magistrate about the incident. The Magistrate will record what she says in her own handwriting. This statement will be included in the police report/charge-sheet.



Test Identification Parade for the victim to identify the accused when not known to her

The investigation in a rape case must be completed within two months from the date the police complaint was filed. All the evidence collected will form a part of the police report which has to be sent to court. This court is the area Magistrate's court. This police report is also known as the charge-sheet. The charge sheet should contain the following details:

- o Name of the victim and accused persons
- o What information has been given
- o What offence has been committed
- o Names of the witnesses
- o Whether the accused has been arrested / released on bail.
- o Copy of medical report
- o Copy of the statements of the witnesses and other documents related to the case.
- o Copy of the statement of the victim U/S 164 of CrPC

The identity of a woman who is a victim of rape cannot be made known or public. This means that her name, address, school name, where she works cannot be published in any media that is television, magazines, newspapers, social media such as face book , twitter etc.

Whoever prints or publishes the identity of a rape victim will be punished with imprisonment which may extend to two years plus fine

Arrest and Bail

On filing of the FIR in a case of rape and acid attack the police may arrest the accused.

The law gives the police discretion regarding arresting the accused. This means it the decision of the police whether to arrest the accused or not. In heinous offences such as rape and acid attack the police will arrest the accused.

Rape and acid attack are non-bailable offences which mean after arrest the accused can only get bail on the orders of a Sessions Court. In the case of rape bail is not a right of the accused.

If bail is granted in a rape or acid attack case it can be cancelled if the accused violates any of the conditions of bail.

Ajit got bail from the Sessions Court in a case of rape. After being released from custody Ajit began threatening the sisters of the victim to get the victim change her evidence and not implicate him. The victim can file an application in the Sessions Court for cancellation of Ajit's bail.

Trial

The trial of a rape case is conducted by a Sessions Court. After the police report/charge-sheet is filed in the Magistrate's court he will commit (send) the case to a Sessions Court where a trial will be held against the accused.

It is the duty of the government to prevent crime in society. When a crime occurs it is considered that it is an offence against society and not a

dispute between individuals. Therefore it is the duty of the government to prosecute the accused person. The cases are named as “State versus Ajay Kumar”(name of accused).

In a rape case it is the government who will conduct the case against the accused on behalf of the victim. A government lawyer called the Public Prosecutor will conduct the case against the accused. A victim may engage her own private lawyer for the case but lawyer can only assist the Public Prosecutor. If the victim does not have money to engage a private lawyer she can get a lawyer through the legal aid authority at the district court. The victim will not have to give any money to the legal aid lawyer.

The trial in a rape case is held in- camera which means only those people connected with the case can be present in the court room. During the recording of evidence of the victim only the judge, typist, public prosecutor, the accused, his lawyer and the victim’s lawyer can be present in the court room. The court room is closed for other people such as lawyers, witnesses, media, public persons, etc



In Camera trial

PAST SEXUAL HISTORY OF A VICTIM OF SEXUAL VIOLENCE IS IRRELEVANT

Rosy had been raped by her neighbour and filed a case against him. The neighbour admitted to having sex with Rosy but said that she had consented. According to him she had filed a false case to extract money from him. The neighbour's lawyer asked Rosy if she was married. She replied no. Then the lawyer asked Rosy if it was correct that she had many boyfriends who would stay the night in her house and she had sex with them also. The judge did not allow him to ask this question on the grounds that it was irrelevant to the case. The lawyer said that he wanted to establish that Rosy had many boyfriends with whom she had sex and was an immoral woman and of bad character and cannot be believed.

Previous sexual relationships of a victim of rape and other sexual offences are not relevant and she cannot be questioned about them.
Rosy having sexual relationship with someone else does not prove that she had consented in the present case. The victim's testimony cannot be doubted or it cannot be presumed she consented only because she had previous sexual relationships.

The court will find the accused guilty or innocent based on what was said by witnesses in court and the documents placed before the court.

Victim Compensation

Victims of crimes are given compensation for their injury and suffering. Victim means the person who has suffered any loss or injury by the accused person because of the crime he has committed. The heirs and guardians of the victim are also included in the meaning of victims.

Each state has a victim compensation scheme which states the amount of money to be given as compensation to a victim for different crimes. For rape and acid attack the amount of compensation in most states is Rs 3 lakhs. This money is ordered by the court and given by the District Legal Services Authority Compensation.

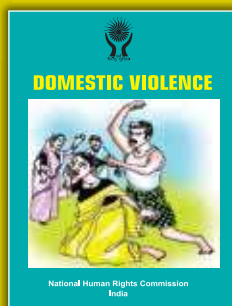
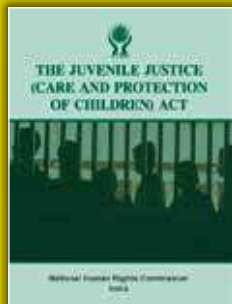
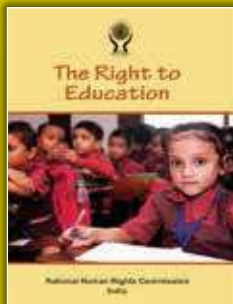
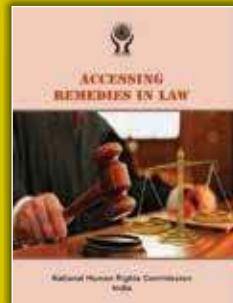
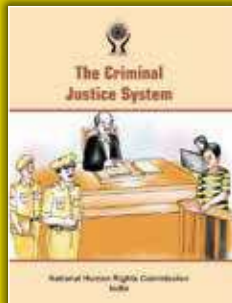
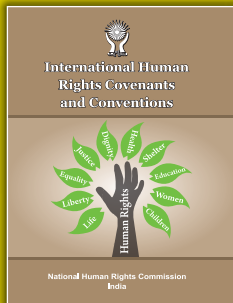
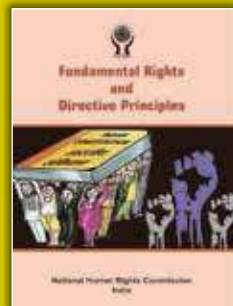
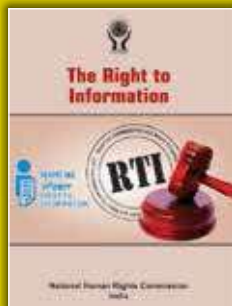
Compensation is usually given at the end of the trial when the accused is convicted. But if the victim has suffered an immediate loss and urgently requires money the court can order compensation to be given while the trial is going on. This is called Interim Compensation.

Angoori got pregnant because of being raped and had to have an abortion. She also had to stop working because of the mental trauma and depression. Angoori needs the money now and cannot wait till the end of the trial. The trial will take at least one year to conclude as only two witnesses have been examined and there are 15 more witnesses. Angoori made an application to court for interim maintenance and was given Rs 1 lakh as compensation. This is interim compensation.

An application has to be made to the court asking for compensation.

Besides receiving compensation from the Victim Compensation Scheme, the court can order that the fine imposed as punishment on a person convicted to be paid to be the victim.

In cases of rape or gang rape of a girl below 16 years and 12 years the fine amount must to be given to the victim.



NATIONAL HUMAN RIGHTS COMMISSION

Manav Adhikar Bhawan, C-Block, GPO Complex
INA, New Delhi - 110 023
Email : covdnhrc@nic.in Website : www.nhrc.nic.in