



## THE HYDERABAD VET MURDER CASE

By *Jyotsna Seth and Sachin Singh*  
From *ICFAI University, Dehradun*

### Abstract

Rape is one of the most prevailing crimes occurring in India. It includes sexual violence and sexual abuse with women without her consent. It gives physical and psychological injury to women and sometimes leads to death. Hyderabad vet case is one of the most brutal case that led to murder of a rape victim as well.

This paper discusses about the facts of the case, encounter of the four accused, relevancy of fast-track courts and suggestions to eliminate these kinds of crimes from society.

Keywords- rape, fast-track court, encounter, justice.

### Introduction

The Telangana Police stated that the victim had parked her scooty near a toll plaza, which brought the attention of two lorry drivers and their assistants. According to police, they punctured her tire and pretended to help her, then pushed her into nearby bushes, where they raped her. Then they allegedly loaded her corpse onto a lorry and threw it on the roadside. The police arrested four men based on the evidence gathered from CCTV cameras and from the victim's mobile phone. The accused were taken into judicial custody for fourteen days. All four accused were killed in a police encounter on 6 December 2019, under a bridge on Bangalore

Hyderabad national highway, while they were in police custody. According to the police, the suspects were taken to the place for a reconstruction of the crime scene, where two of them allegedly snatched guns and attacked the police. In the sudden shootout, all four suspects were shot dead. Police demanded strict and organized fast-track court laws against rape and rapist.

### Encounter of four

The four suspects<sup>1</sup> united together and began attacking the officers with stones and sticks, they also took away weapons from the officers and started firing. The officers tried to maintain peace and asked them to surrender but they continued their firing. Lastly, the police had to respond and the four were killed. News of the police action led to the celebration all over the country, many went to twitter and Facebook to applaud the police.

People who supported the encounter were- Arhish Yadav, Mayawati, Jaya Bachchan, Saina Nehwal, Vivek Anand Oberoi. And who spoke against the encounter are- Sitaram Yechury, Yogendra Yadav, Vishal Dadlani, whereas Shashi Tharoor, Rajeev Chandrashekhar and Arvind Kejriwal took the middle ground.

### Laws

Section 375 of Indian penal code provides for rape, according to the first clause, sexual intercourse by a man with a woman against her permission leads to rape if it does not fall under the exception given in the section. The expression 'against her will' means that the act is done in spite of opposition on the part of the woman. An element of force or

<sup>1</sup> Mohammad Areef, Jollu Shiva, Jollu Naveen and Chintakunta Chennakeshavulu.



compulsion is present. It imports that the victim has been forced by the man. It shows that the man has used coercion against her. Where the accused had sexual intercourse with the woman victim by overpowering her and while the other accused had held her hands tightly, it was held to be a case of rape.

If the sexual intercourse by a man with a woman is without her consent, it amounts to rape under the second clause if it does not fall under the exception given in this section. According to section 90 of the Code, consent given under fear of injury or under a misconception of fact is not a valid consent if the offender is aware or has reason to believe that the consent was given in consequence of such fear of injury or misconception, or, if the consent is given by the victim who because of unsoundness of mind or intoxication is not able to understand the nature and consequences of the act to which she gave her consent. The third part of the section that the consent is not valid if it is given by the victim who is under twelve years of age, unless the contrary appears from the context, does not apply to rape cases because the contrary does appear from the context in the form of the sixth clause as well as the exception given in section 375 wherein consent given by a girl under sixteen years of age is immaterial, and sexual intercourse by a man with his own wife, the wife not being under fifteen years of age, is not rape respectively. A sleeping person cannot give consent<sup>2</sup>.

Where a man performs sexual intercourse with a woman with her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of injury, he is guilty under the third clause of committing rape. Under this

clause the prosecution must prove that the offender had put either the victim or any person in whom she is interested in fear either of death or of injury and her consent was obtained because of this fear. Section 376 provides for the punishment of rape, it says he shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which extend to ten years and shall also be liable to fine unless men raped his own wife and is not under twelve years of age, in which cases, he shall be punished with imprisonment of either description for a term which may extend to two years or with fine or both. The Supreme Court clarified that consent is great defense for accused and he has to place materials to show that there was consent.<sup>3</sup>

Fourthly, where a man has sexual intercourse with a woman with her consent when he knows that he is not her husband but she has given her consent because she believes that he is another man to whom she is, or believes herself to be, lawfully married, it amounts to rape under the fourth clause. Knowledge on the part of the man that he is not the husband of the woman with whom he is having sexual intercourse and that she has given her consent because she believes him to be another man who is her husband is the essential requirement of this clause. Fifthly, a man is guilty of committing rape if he has sexual intercourse with a woman with her consent, when, at the time of giving such consent, by reason of either unsoundness of mind or intoxication or the administration by him either personally or through any other person of any stupefying or unwholesome substance, she is unable to understand the nature and

<sup>2</sup>[www.shareyouressays.com/knowledge/section-375-of-indian-penal-code-1860-explained/118699](http://www.shareyouressays.com/knowledge/section-375-of-indian-penal-code-1860-explained/118699)

<sup>3</sup>State of Himanchal Pradesh v. Shreekant Shekari



consequences of that to which she gives consent. The sixth clause of the section states that a man is guilty of committing rape who has sexual intercourse with a woman with or without her consent when she is under sixteen years of age. This clause specifically makes consent given by a woman under sixteen years of age of no importance at all in rape cases.

The exception to this section provides that sexual intercourse by a man with his own wife is not rape if the wife is not under fifteen years of age. This age limit was first raised to thirteen years by Act XXIX of 1925, and then to fifteen years by Act XLII of 1949. This exception has been added with a view to keep a check on husbands who may be inclined to take advantage of their marital status prematurely. A husband should not have a right to enjoy the person of his wife without taking into consideration her physical safety first. It was held that penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape. In other words, it is not necessary for this offence that there must be a complete sexual intercourse. The private part of a man must penetrate the private part of the woman; it is not mandatory to know as to how far it has entered.

#### Relevancy of fast-track courts

It was introduced in the year 2000 in order to decrease the burden of high courts and district courts. These are the special kind of courts having additional jurisdiction over sexual offences and children cases. The aim of the fast-track court is to resolve huge number of cases in a limited period of time. The 11th Finance Commission had suggested a scheme for the establishment of 1734 fast-track courts for the quick disposal of cases pending in the lower courts. In this regard,

the Commission had allocated Rs 500 crore. FTCs were to be established by the state governments in consultation with the respective High Courts. An average of five such courts was to be established in each district of the country. The judges for these courts were appointed on an adhoc basis. The judges were selected by the High Courts of the respective states. There are primarily three sources of recruitment. First, by promoting members from amongst the eligible judicial officers; second, by appointing retired High Court judges and third, from amongst members of the Bar of the respective state. These courts were initially established for a period of five years (2000-2005). However, in 2005, the Supreme Court directed the central government to carry on with the scheme, which was extended until 2010-2011. The government discontinued the FTC scheme in March 2011. Though the central government stopped giving financial assistance to the states for establishing FTCs, the state governments could establish FTCs from their own funds. The decision of the central government not to finance the FTCs beyond 2011 was challenged in the Supreme Court. In 2012, the Court upheld the decision of the central government. It held that the state governments have the freedom to decide whether they want to continue with the scheme or not. However, if they decide to continue then the FTCs have to be made a permanent and stable feature. As of September 3, 2012, some states such as Arunachal Pradesh, Assam, Maharashtra, Tamil Nadu and Kerala decided to continue with the FTC scheme. However, some states such as Haryana and Chhattisgarh decided to discontinue it. Other states such as Delhi and Karnataka have decided to continue the FTC scheme only till 2013.



### Conclusion

There is no justification and applicability of the notion of rape in current fast evolving world. This can be destructive as well as fatal for the women's mental and emotional state of mind. Rape and sexual assault are amongst the most injurious crimes a person can do. The effects are devastating including unwanted pregnancy, sexually transmitted infections, sleep and eating disorders etc. Exact information about the extent of sexual assault and rape is difficult to obtain because most of these crimes remain unreported. If we put light on Hyderabad rape case then encounter like this is not a solution to deal with the crime and it will not decrease the crime rate. If we will encourage this kind of encounters then one day innocents will get trapped in it surely.

### Suggestions

Some of the preventive methods through which these kinds of crimes could be eliminated are as follows:

- Students must be taught in the school about sexuality and sexual intercourse.
- Laws for rape and sexual assault should get strict and more humiliating.
- Fast-track courts must be established in each and every district to deal with such heinous crimes rapidly.
- Women today who suffer from such crimes must be made aware about their rights and remedies made available to them.
- Women should raise their voice against such inhuman treatment backed by support from the society. Indian culture has always given importance to equality, strength and not to abuse and control.
- The legislature must look into the problem of enacting fresh laws for crimes as devastating as rape.

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