

A Case of Alleged Sexual Assault

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Here we present a case of 16 year's old unmarried girl, who is sexually assaulted by son of her house owner on 22/4/16 at 1.00 pm and came in forensic department of Dhaka Medical College for medicolegal examination on 24/04/16 with prerequisites for her examination. On general examination she was average built, weight 39 kg, height 5 feet 1 inch, number of teeth – 28 (all are permanent), secondary sex characteristics are normal, marks of violence and marks of struggles are absent, her LMP was 10/4/16 and on local examination labia majora on both sides in close apposition. vaginal canal was one finger dilated, red, congested and tender, hymen was rupture at 3, 5, 8'O clock position. Laboratory workshop was done are radiological and microbiological and ended up an opinion that she has sign of recent forceful sexual intercourse.

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Introduction

According to B.P.C.351, assault is an offer or threat or attempt to apply force to the body of another in a hostile manner. Rape is an example of natural sexual offence and is common all Over the world. Rape is a legal term and not a diagnosis to be made by the examining physician.³ Offence means any act or omission made punishable by law for the time being in force.¹ Sexual offence can be defined as sexual intercourse performed in a way, which is against the provision of the law of the land.² Sexual offence may be defined as an act of illegal sexual Intercourse with a second person or with an animal to obtain sexual gratification. The laws and customs of the society normally permit heterosexual intercourse between a man and his wife as provided by nature with the sex organ intended for reproduction. If intercourse is

carried out with the use of sex organs in natural manner, the alleged act by convention is known as natural sexual offence. If there is no valid consents, intercourse who is not his wife would constitute an offence in law. The moral values of the society and traditional culture and heritage is declining from the society for various reasons, violation of human rights, in the form of rape is spreading over the world. In our country, the incidence of rape is very high due to low-socio-economic condition and diminished law and force orders. No age is exempted from such kinds of sexual assault. No age is safe for rape.⁴ Children are the common victims due to superstition that sexually transmitted diseases (STDs) may be cured by intercourse with a virgin. Younger a girl, greater the possibility of her being virgin. Rape (Section 375) may be defined as sexual intercourse with a woman under

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circumstances falling under any of the five following descriptions: Firstly-Against her will. Secondly- without her consent. Thirdly-with her consent, when her consent has been obtained by putting her in fear of death or of hurt. Fourthly-with her consent when the man knows, that he is not her husband and that her consent is given because she believes that is another man to whom she is or believes herself to be lawfully married. Fifthly-with her consent, when at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration of any stupefying substance, she is unable to understand the nature and consequences of that to which she gives consent. Sixthly-with or without her consent when she is under sixteen years of age. Slight penetration is sufficient to constitute the sexual intercourse necessary to offence of rape. Hence full erection, intermission and ejaculation are not essential; old age is not a bar for a man to be capable of performing sexual intercourse. there are important features related with sexual offence: Social and economic insecurity, Political instability, Political terrorism, Pornography culture, Dish culture, Sex linked ego and super ego of man over woman, Social insecurity of women, Downward position of woman in society, Lack of appropriate laws for the punishment of accused delay in legal procedure, dishonesty of police administration. Complications after unlawful sexual acts may be: a) Death of the victim may occur from Chock due to fright and emotion or by blunt force. Haemorrhage from injuries to the genitals and perineum. Suffocation if the mouth and nostrils are closed by the hand or cloth or by strangulation.⁶ Septic infection. Rape may be followed by murder usually by throttling, head injury or stabbing. Research has shown that such killing is usually not carried out by firearm. Death may also occur due to suffocation by closure of the mouth and nose or the victim by the accused or due

to gagging to stop her cry b) Pregnancy c) Contracting sexually transmitted disease d) Psychological complications such as rape trauma syndrome which has two stages: (1) Disorganization phase (2) Reorganization phase. Fox and Scher described three possible phases of reaction following a rape attack. (i) The acute reaction phase includes shock, dismay and fear. (ii) Her outward adjustment phase when denial, suppression, rationalization take place. (iii) Finally integration when there may be depression, guilt felling and a desire to talk or felling of being damaged or unclean. 5 The unpleasantness of having to be interrogated and examined by medical personal, the police, the magistrate, the long drawn out legal procedure, the publicity all added to the strain, Here, in our country, no referral system to sympathetic psychiatric counseling.

Case History

The victim named Kaniz Fatema Runa, Age-16 years, unmarried girl from Natunbazar, Badda Dhaka a college student. Permission was taken from the concerned authority before interviewing the victim. According to the statement of the Victim On 22/04/16. she was going to her college, she has been forcefully taken in a microbus by Asad, son of house owner beside her residence at about 08:00 hours by his friends. Asad was proposing her to get married with him but she did not agree with him. On that day Asad took her to an unknown place and raped (as stated by the victim) at 01.00 PM 22/04/16. The victim came to Forensic Medicine Department of Dhaka Medical College for medico legal examination on 24/04/16 with the prerequisite for performing medicolegal examination. These were authorized requisition from investigating police officer, 3 copies attested passport size photographs, Written informed consent given by the victim,(as she is above 12 years old), Identification of the victim by escorting

police constable and there also presence of a female attendant for helping as well as the witness of the medical examination. On general examination, she was an average built with light complexion; no abnormality was detected in her gait. Number of teeth-28 (all are permanent), with Identification Mark: A black mole right side of cheek. One black mole over the left side of cheek. Secondary sex characteristics are normal, marks of violence and marks of struggles are absent, her LMP was 10/4/16, She was worn a red sallower and printed Kamiz. The clothes were clean and showed no tears or stains because the dress was changed at night. And on Local examination: Mons Pubis was healthy and no matting of semen with pubic hair was observed. Labia majora normally developed reddish, fleshy and both sides are in close apposition. Vaginal canal admits tip of one finger, red congested and tender. Hymen ruptured at 3, 5, 8'O clock position. Posterior commissure healthy and intact. Laboratory investigation was done, high vaginal swab for spermatozoa and Gonococcus, Radiological examination for age determination.

Discussion

For the purpose of coming to a definite conclusion, the following points should be taken into consideration: Medical evidence of rape are (1) Marks of violence on victims or accused (2) Marks of violence over genitalia of the victim (3) Presence of stain of semen in the body or clothing (4) Presence of semen In vagina (5) Evidence of gonorrhoea or STD in both partners (6) Forceful sexual intercourse has taken place but no evidence is left. Rape on different ages: Infant and children a) A little general violence would be absent in children b) Signs of local violence- depends upon the degree of penetration- when penis has been forced into the vagina. i) a little redness and tenderness of the vulva. ii) Hymen is usually intact but may become red and congested. iii) The victim may complain

of difficulty in walking, micturation and defecation. Adolescent girl a) Marks of general violence- sign of active resistance may be present round the mouth, throat, breast, arm, wrist, inner aspect of thigh and back. b) Marks of local violence- 1) Vulva- swelling and inflammation with or without bruising of vulva and vagina with effusions of blood. 2) Stain of semen- may be found over pubic hair, genitalia or clothing. 3) Gonorrhoeal discharge and inflammation of the part of signs of syphilis may be founded. Rape on Defoliated or Married Women: a) Signs of general violence- will be found over the body and limbs. b) Sign of local violence- The vagina may show some deep injury, laceration or bruising and inflammation of vulva. Tearing or perforation of vagina may occur. When old women are raped- vaginal laceration and perineal tear may occur. Detection of Semen: Detection of semen is not so easy in Bangladesh. The only absolute proof of semen is the finding of at least one unbroken spermatozoa and by DNA analysis. Semen can be detected by-chemical examination-Florence test, Barberious test, The acid phosphatase test, Creatinine phosphokinase, Microscopic examination, Precipitin Test. In the absence of spermatozoa, a stain which gives characteristic fluorescence in ultra violet light, positive precipitin test, a high level of acid phosphatase and a high creatinine phosphokinase can be considered to be due to semen. In this case, radiology report bearing the Plate No. 48017 is received on 27/04/16 age appears 15-16 years. In vaginal swab, no spermatozoon was found. Punishment Of Rape: According To The Existing Legal system of a country, it varies from nation to nation. In our country, the punishment in a rape case is according to the B.P.C. 376, But recently on 14/02/2000, this law was modified and amendment made to provide higher punishment in a charge of rape. According to

the recent law, the maximum penalty for rape is the death sentence with or without fine.

Social Aspects

In our country the interaction disappointingly exists between the rape victim and society. The woman has no liability to the act of rape, but she has to bear all the consequences. A series of problems may arise out of such act. After rape occurrence, the victim is isolated from the society. If working, unemployed, modesty lost, not easily get married-burden to the parents, psychologically disturbed and may destroy herself. If delivered, the issue is a bastard child. Psychiatric referral system introduction should be introduced. STDs if not screened, may spread to the healthy citizen of the country. Encouragement to the young female to learn self defense technique. Legal prostitutions in the brothels should be allowed for adults. Reassurance and advice to both the victim and family. Make awareness to the society that the rape victim is innocent. Studies on rape cases show the study by Willet and Allured of the persistence of sperm in the vagina of living individuals. They examined 1332 vaginal swabs taken in alleged rape cases. 57% of the cases were positive for sperm. The longest time for identified up to 120 hours. A cervical swab was positive for sperm at 179 hours.⁷ In an analysis of 451 rape victims examined at Parkland Hospital in Dallas by staff gynecologist Mr. Stone, found that only 34% showed any evidence of trauma (abrasion, contusion or lacerations) of the 451 victims, only 18% had any trauma to the genitalia (reddening abrasions, contusions or lacerations), vaginal fluid examinations revealed the presence of motile spermatozoa in 19.3% cases, with motile in and non-motile spermatozoa observed in 47% of all the victims. Absence of trauma to a rape victim does not negate the validity of their claim of rape. Again, failure to demonstrate the sperm does not preclude intercourse. Non availability of sperm in a rape victim may be

due to drainage of semen or assailant is azoospermic, vasectomy, long delay in appearing to the doctors, ejaculation outside the vagina. Graves et al, found that, mean period of acid phosphates detected in vaginal fluid 14 hours after intercourse, whereas semen specific glycoprotein P³⁰, mean period is 27 hours after intercourse. Graves et al, also showed that of 27 females alleged raped in which acid phosphates was negative, 26% were positive for P³⁰, this indicating sexual intercourse had taken place.

Conclusion

Rape is an accusation easily to be made and hard to be proved and harder to be defended by the party accused. From legal point of view, rape can be committed without producing any injury to the genitals or having any seminal emission. Only slight vulva penetration of penis may produce rape. So diagnosis of rape is a very complicated matter. The diagnosis of rape mainly depends on circumstantial evidence. In this case the pathological report stated that no spermatozoa were found. The radiological findings state that the age of the victim is about 16 years. Here, in this case, it was observed that no matting of semen with pubic hair. Labia Major was found reddish and fleshy and both sides in close apposition. Labia Minora were slightly congested and reddened. Vaginal canal was one finger dilated, red, congested and tender. Hymen was found ruptured at 3, 5, 8'O clock position. On general examination, no signs of violence were seen over the body. The incidence of rape occurred on 22/04/16 but the victim came to forensic medicine department for medico legal examination on 24/04/16. During this interval, the signs of violence may disappear. So from above discussion we come to a decision that, 'Considering physical examination findings, microbiological report and radiological findings (as regard to bony ossification) the opinion is that the age of the victim is about

15-16 years and signs of recent force full sexual intercourse were found on her body, which are consistent with the history given.

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