

PROSECUTION AND VICTIMS RIGHTS

K. PALANISWAMY¹

ABSTRACT

The courts are administering justice by conducting the trial in fair and efficient manner. The investigation started by the inspector of police in the concern police station and the victim is female and in the context then it should be tried investigation by the All Women Police Station of the concern place of occurrence. To sort out the lacunas in the investigation the Central government announce the scheme of SAECK(Sexual assault evidence collection kit) in the fund of Nirbhaya and the same has to carry out the exercise of 60:40 contribution from the central and state government and to handle the victim by the doctor of the hospital in a very lethargic manner and except the section 2(wa) and section 372 provided clause and section 164A of the code of criminal procedure none of the provision speaks about the victim. The samples collected know that has to be carried out immediately for result but the central government instructs to that, has to be done within two months from the date of samples collected. This exercise taken for two months means the charge sheet filing prescribed limit is 90 days. Out of this 60 days over means whether the Judicial Magistrate of the concern Taluk will forward the case after Preliminary Register case to the concern Trial court and it form the delay of justice is denied and it should not in the same way of hurried justice is buried.

Note: keywords

1. SAECK 2. INVESTIGATION 3. VICTIM OF RAPE SUVIVOR.

Introduction:

The courts are administering justice by conducting the trial in fair and efficient manner. The investigation started by the inspector of police in the concern police station and the victim is

¹ Assistant Professor

The Tamil Nadu Dr. Ambedkar Law University, Chennai-113.

female and in the context then it should be tried investigation by the All Women Police Station of the concern place of occurrence. To sort out the lacunas in the investigation the Central government announce the scheme of SAECK(Sexual assault evidence collection kit) in the fund of Nirbhaya and the same has to carry out the exercise of 60:40 contribution from the central and state government and to handle the victim by the doctor of the hospital in a very lethargic manner and except the section 2(wa) and section 372 provided clause and section 164A of the code of criminal procedure none of the provision speaks about the victim. The samples collected know that has to be carried out immediately for result but the central government instructs to that, has to be done within two months from the date of samples collected. This exercise taken for two months means the charge sheet filing prescribed limit is 90 days. Out of this 60 days over means whether the Judicial Magistrate of the concern Taluk will forward the case after Preliminary Register case to the concern Trial court and it form the delay of justice is denied and it should not in the same way of hurried justice is buried.

SEACK(Sexual Assault Evidence Collection Kit)

The offence against the women committed by an accused person and the victim should be necessarily examined immediately in the nearest medical expert and such examination shall be conducted by a registered medical practitioner employed in a hospital run by the Government or a local authority and in the absence of such a practitioner, any other registered medical practitioner with the consent of such woman or of a person competent to give such consent on her behalf and such woman shall be sent to such registered medical practitioner within twenty four hours from the time of receiving the information relating to the commission of such offence.² The sexual assault evidence collection kit is newly proposed by the Central Government to enable the investigation in a swift manner. When the samples collected in the examination which has to be done by the Government Doctor or registered medical practitioner. If the sexual assault evidence collection kit available in all the hospitals of the Government means the collection of the controlled sample will be in a safe mode to send to the Forensic science Laboratory.

INVESTIGATION

² Section 164A of the code of Criminal procedure, 1973.

The investigation means collection of evidence³. It has to be done by the investigation officer and the ordinary place of inquiry and trial should be held where the offence was committed⁴. With regard to offence against women it has to be normally investigated by the woman officer in the All Women Police station of the concerned taluk. Further with regard to offence against women the medical examination should be conducted by the Government or any other registered medical practitioner⁵. But within the radius of the kilometer the victim has to be examined by the doctor and the distinction was given to the accused and the same has to be implemented to the victim and the 24 hours gap is making the loophole to the accused and it caused uneasy to the victim to go to check up. Investigation officer went to the scene of occurrence and prepared the observation mahazar and the rough sketch and photo and the controlled samples taken from the victim through the doctor. The samples which was collected by the doctor should be sent immediately to the Forensic science department and the forensic science department should not take too much of time to give the report on the samples received by them. Then the investigation officer should not added the witnesses of the victim interested witnesses except the father and the mother that too the incidence of the offence if narrated by the victim to their parents only and unnecessarily the victim relatives not added as the witness by the investigation officer. For example: one case with regard to dowry death, the accused was tried before the sessions court of Mahila in a sessions case⁶, the deceased was three months pregnant and except the family members witness and other witness in the case does not speak about the crime and seizure mahazar witnesses also turned hostile and the case has been in favour of the accused and finally end in acquittal because of the prosecution has not proved the accused committed the willful default and demand of dowry and the RDO⁷ report also does not speaks about the demand of dowry and everything is clear to the accused and finally it shows the lack of investigation. Even though the victim died in three months pregnant and why this was happened like this means FIR was in the year 2006 and the trial was in the 2014. This shows the investigation was done in a lackadaisical manner.

³ Section 2(h) of the code of criminal procedure.

⁴ Section 177 of the code of criminal procedure code.

⁵ Section 164A of the code of criminal procedure.

⁶ S.C. No. 66/2014 on the file of the Mahila court, Vellore.

⁷ RDO means Revenue Divisional Officer.

VICTIM OF RAPE SURVIVOR

The rape victim is the most vulnerable in the society and to redeem or restitution of the survival rape victims is highly improbable. To redeem the victim there is no prescribed formula as of now in the procedure and except the monetary compensation provided by the court and as well as state government. To sought out from the trauma the victim should get the employment opportunity and that can veiled to help the victim of rape survivor and apart from that the victim can get the compensation from the state legal services authority and the accused has not been found means the certificate issued by the investigation officer not below the rank of the in charge of the police station and it can be used as an interim relief to the victim. The specific provisions as to be insert in the law to enable the victim.

CONCLUSION AND SUGGESTIONS.

The investigation should be conducted in proper and effective manner and it should leads to the conviction and not in the form of lackadaisical manner. In most of the case the victim is examined by the doctor after the date of the incident and that should be avoided and the protection of the rape victim not speaks under the law of India. The sexual assault evidence collection kit should be provided to all the police station to take the samples in a swift manner then the conviction rate will increase.

1. SAECK to be provided to all the police station.
2. Forensic science expert report should reach the court in a swift manner sans dely.
3. Rape Survivor Victim interest should be protected by the special provision of the law.