



**ORIGINAL RESEARCH PAPER**

**Forensic Medicine**

**MEDICOLEGAL EXAMINATION OF SEXUALLY ABUSED CHILDREN: A STUDY ON CASES REPORTED TO A TERTIARY CARE CENTRE OF WEST BENGAL, INDIA**

**KEY WORDS:** Sexual Assault, Violence, Medicolegal, Female child, Refusal.

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**ABSTRACT**

Sexual assault on female child is ubiquitous that occurs in every culture and reflects a scenario of a portion of society. Females, being a definite column of social structure, violence, primarily sexual abuse on them at minor age group implies high risk in total social strata. A medicolegal examination on such cases supposed to reflect the scenario. A retrospective Study was conducted at Malda Medical College, a tertiary care center of West Bengal State. The center being on international border with Bangladesh and close to other border locations, such study on sexual violence on female gender of minor age group, carries importance. Besides the other aspects, it has been observed that in considerable number of reported cases refusal to be examined, as well as, absence of specific finding of sexual harassment at body and private parts were noted. Such observation shows that medicolegal examinations are not always sufficient to prove the sexual violence and thus may be of little help for the Hon'ble courts to conclude.

**INTRODUCTION-**

India having 225 million girls out of 472 million children of below age 18 yrs. <sup>(1)</sup> has been always vulnerable for sexual abuse cases which is basically a threat to country's development. The Parliament of India has passed the Protection of Children against Sexual Offences bill and thus the act on 22 May, 2012<sup>(2)</sup>. Last two decades showed an increase in prevalence of Sexually Transmitted Diseases among children<sup>(3)</sup> Malda, being located along the Bangladesh border of West Bengal is exposed to crimes including human trafficking the effect of which is definite among the female population of under 18 age group. Medical evidence is a definite proof of rape as evident from verdicts of Id Courts (Manjali V Emperor, AIR 1941 Sind 121:42 CrLj 715<sup>(4)</sup>). The present study shows in several cases, Victim Girl refused to be examined. In number of cases also, no mark of injury could be found either due to late reporting or any other cause. In both types of cases, importance of medicolegal examination carries least relevance in submission to the Hon'ble Courts and thus the actual scenario of Society is not reflected.

**OBJECTIVES-**

- 1) To find out incidences of genital injuries supposed to be caused by sexual assault
- 2) To find out which age group is most vulnerable in below 18 yrs.
- 3) To assess the risk factors for sexual abuses on children for formation of concepts of preventive measures

**METHODOLOGY-**

The Retrospective study was conducted at Department of G&O, Malda Medical College during October 2018 to December 2018. Concerned Study population was Female child cases below 18 yrs. as reported with allegation of sexual assault. The Inclusion criteria were - i) girl child below 18 yrs. ii) Cases examined in Dept as sexual abuse cases and Exclusion criteria being- i) Cases not given consent. Meticulous Data collection was done based on - i) observation of the findings as per the medical officers note, ii) Entry of the findings as per the preformed cases study form and iii) Data have been transcribed to MS Excel database.

**Confidentiality-** No identity has been exposed and strict confidentiality has been maintained accordingly.

**CASE STUDY FORM-** Date of examination/Date of case/Date of incidence/IPC or other Sections given /Age/Injury- Genital Other /No Injury /History/Any other point

**RESULTS-**

**Table -1- Delay in examination from date of alleged incidence (N=51)**

DELAY IN EXAMINATION	NUMBER OF CASES (%)
Within 48 hrs.	10(19.6%)
>2 to 7 days	12(23.5%)
>7 to 30 days	08(15.7%)
More than 30 days	07(13.7%)
Refused to answer	14(27.5%)

**Table-2- Delay in examination from date of Case formed at police station (N=51)**

DELAY IN EXAMINATION	NUMBER OF CASES (%)
Within 48 hrs.	17(33.3%)
>2 to 7 days	15(29.4%)
>7 to 30 days	13(25.5%)
More than 30 days	06(11.8%)

**Table-3-Distribution of cases as per Age Group (N=51)**

AGE GROUP	NUMBER OF CASES (%)
> 1yr to 5yr	03(05.9%)
6yr to 10 yrs.	01(01.9%)
11 yrs. to 15 yrs.	19(37.3%)
16 yrs. to 18 yrs.	28(54.9%)

**Table-4- Sections of IPC as charged by Police**

SECTIONS OF INDIAN PENAL CODE CHARGED	NUMBER OF CASES
Sections of POCSO	11
Sec 363	36
Sec 365	26
Sec 34	07
Sec 109	02
Sec 368	01
Sec 366A	02
Sec 448	01
Sec 506	01
GDE	03

**Table-5- Cases or legal guardians refused to give Consent for examination as per age group (N=30)**

AGE GROUP	NUMBER OF CASES REFUSED TO GIVE CONSENT FOR EXAMINATION (%)
>1yr to 5yr	NIL
6yr to 10 yrs.	01(03.33%)
11 yrs. to 15 yrs.	10(33.33%)
16 yrs. to 18 yrs.	19(63.33%)

**Table -6-Injury found in examination(N=21)**

AGE GROUP	NUMBER OF CASES (%)		
	GENITAL	OTHER PART OF BODY	NO INJURY FOUND
>1yr to 5yrs.	02(09.52%)		01(04.76%)
6yr to 10 yrs.			
11 yrs. to 15 yrs.	07(33.33%)	01(04.76%)	01(04.76%)
16 yrs. to 18 yrs.	07(33.33%)		02(09.52%)

**Table-7- History of the alleged incidence as available (N=51)**

HISTORY OF THE CASE	NUMBER OF CASES
Left home with fiancée-	13(25.5%)
Left home after hot talk with parents	06(11.76%)
Kidnapped-	08(15.68%)
Forcefully raped by person invading the house-	01(01.96%)
Forcefully raped while coming back to house after some work-	08(15.68%)
Denied any assault as per own statement of VICTIM GIRL-	02(03.92%)
Raped after intoxication with unknown drugs (syrup etc.)-	01(01.96%)
No history available-	12(23.52%)

**DISCUSSION-**

As per Table -1, we find that out of 51 cases reported, 14 cases (27.5%) refused to give information on date of alleged incidence. 12 cases (23.5%) reported within 2 to 7 days of the incidence while . This carries importance since delay in examination causes loss of evidence which is of high value.

As the delay is considered on the basis of reporting to police station, it is observed that in 17 ( 33.3%) cases, police presented the case for examination within 48 hrs. , while in 6 cases ( 11.8%) the delay was more than 30 days from police, which is a matter of concern.

As per age distribution is concerned, it is found that no victim girl was of below 01 yr. age. Total 03(05.9%) cases were of 01 to 05 yrs., while 28 ( 54.9%) cases were of 16 to 18 yrs. age group which is highest of the distribution.

As shown in Table 4, POC SO SECTIONS were given in 11 cases followed by Sec 363 IPC (36cases) and Sec 365 IPC (26 cases). Other Sections given were Sec. 34/109/368/366A/ 448/506. In 03 case, police reported only based on GDE as has been found.

Sections of Indian Penal Code mentioned are as follows-

- a) POC SO –Protection of Children from Sexual Offences Act,2012. Formulated in order to effectively address sexual abuse and sexual exploitation of children through legal provisions.
- b) Sec 34 IPC- Acts done by several persons in furtherance of common intention
- c) Sec 109 IPC- Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.
- d) Sec 363IPC- Punishment for kidnapping
- e) Sec 365 IPC- Kidnapping or abducting with the intent secretly or wrongfully to confine persons
- f) Sec 366A IPC- Procurement of minor girl.
- g) Sec 448 IPC- Punishment for house- trespass.
- h) Sec 506 IPC- Punishment for criminal intimidation.
- i) Sec 368 IPC- Wrongfully concealing or keeping in confinement kidnapped or abducted person.

It is a matter of concern that specific Section of RAPE like Sec 376 IPC has not been included while formation of cases has been done.

When the question of consent is considered, it is seen that

total 30 Victim Girls or their legal guardians refused to give consent for examination among which 19(63.33%) cases were of age grp 16 yrs. to 18 yrs., 10(33.33%) cases were of 11 yrs. to 15 yrs. while 01(3.33%) case was of age grp 06 to 10 yrs. It may be the case that the victim girls were not agreed to be examined due to fear of unknown method, but question of truthfulness of the case should also be concerned.

After examinations, Injuries were detected either at the Genital or over other body parts in 21 cases. It has been seen in no case both genital and body injury was seen together. In 04 cases, in spite of thorough examination, no injury could be detected. Body injury could be detected in 01 case. In 11yr to 15 yrs. and 16 yrs. to 18 yrs. age grp, genital injury was found in 07 cases each as depicted in Table 6.

Table 7 is self-explanatory. The history depicts that leaving home in good faith with known persons has been a risk factor in several cases.

**CONCLUSIONS-**

The study depicts a scenario of child sexual abuse at a border area location. Though findings of examinations are important as presence of genital injuries are of value in the court the cases of sexual intercourse for fear of death, injury, blackmail or some other reasons like application of drugs etc<sup>(6)</sup> where a victim girl cannot resist, chances of injury at the private parts are less. Regarding the consent and rape, it is considered that injury indicates forcible intercourse<sup>(6)</sup>. This in turn helps in formation of policies to prevent such heinous crimes and reallocation of funds for it. It has been noted that in Sex Assault cases on minor girls, a change in pattern of sexual assault has been studied.<sup>(7)</sup> In other studies also it has been noted that unmarried young women are at a increased risk<sup>(8)</sup> . Medicolegal examination finding though carries much value, but its absence does not make a genuine case at loss<sup>(9)</sup>. Besides all these, child Sexual abuse has various adverse effects on psychological, behavioral, and interpersonal wellbeing of the victim<sup>(10)</sup>. Considering different aspects, sexual abuse crimes should be tackled in stringent way.

**Conflict of interest-None declared**

**Ethical clearance -Done**

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