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Digital Rape: A Life Devastating Crime

DR. ASISH KUMAR¹

ABSTRACT

The disreputable digital rape is on the rise in India and continues to be a stealthy headline, even as a crime against women and children continues to rise. Digital rape serves as a warning sign about the depth of social corruption present as well as a sign that rape laws need to be improved. "Digital Rape" can lead one to believe that it is connected to the internet or the digital world. The term refers to unlawful penetration of someone's toe, finger, or thumb. The Indian Penal Code's definition of rape did not include digital rape before the Nirbhaya Act of 2013. India's Supreme Court has expanded the definition of rape in several high-profile cases. IPC and POCSO Acts specify the penalty.

Up until December 2012, "digital rape" was classified as molestation rather than rape and did not meet the criterion. Because crimes committed under Digital rape, using fingers, foreign material, or any other part of the human body, were not considered a crime under any section," this highlighted numerous flaws in section 376 of the IPC, which deals with sexual offenses.

Keywords: digital rape, penetration, sexual assault, dignity, foreign material, punishments.

I. INTRODUCTION

Before knowing about the above-mentioned topic, we should know what is Rape?

It is an illegal sexual activity most often involving sexual intercourse means penetration of Males penis into female vagina, anus, or mouth of the female where age does not matter to the criminal.

There are many ways of committing the offense of rape:-

Marital Rape:- Spousal rape also known as marital rape, wife rape, husband rape, partner rape or intimate partner sexual assault (IPSA), is rape between a married couple without one partner consent. Spousal rape is considered a form of domestic violence and sexual abuse.

Date Rape:- Acquaintance rape can occur between two people who know one another usually in social gatherings, between people who are dating as a couple and have had sex with mutual understanding in the past, between two people who are starting to date, between people who are just friends, and between the people who are familiar to each other.

¹ Author is an Assistant Professor at Amity University, Jharkhand, Ranchi, India.

Digital Rape:- Digital rape is the act of forcibly penetrating a person's toes, fingers, or thumbs without their consent and has nothing to do with computer or any online applications.

Statutory Rape:- This offence is usually based on the victims age means the kid who cannot give the consent but involved in physical activity or sexual activeness which violates the age of consent law but is neither violent nor physically pressurizes the victim, is sometimes described as "statutory rape", etc. Apart from all that what happens when this occurs with a girl child or a lady or an old age woman, it destroys a person's life these crimes make a person sensitive for their lifetime and gave them many injuries. According to current data " In the state of Orissa 10,000 or above women's and girls are raped between the year 2019 and 2022. The duration of time when there was lockdown and strict instructions was given by government not to move from one place to another due to covid, 3,327 registered cases were there in the year 2021.² The major concern of all people is how the kids of their family will be safe despite their gender because of these crimes a person doesn't spend their life properly in their own way and these all avert our Fundamental Rights and Human Rights. So, we have to know about the problem and then we need to find the ways to get rid of it.

The data above mentioned is of one state we could imagine the situation of all over India thus this all needs to be paid attention to and it should be the concern of legislative assembly to regulate these all through restrictive law making and implementation and responsibility of people and organizations to develop a safe and secure environment where no one hesitates to put forward their thought and feel safe all the time.

II. DIGITAL RAPE: - A HEINOUS CRIME

Commonly what people will understand about digital rape, any crime which is related to the cyber world because as the word implies, any sexual offense which is done online via social media and different apps. But no digital rape is a life-destroying and heinous crime. It is a most heinous form of rape as it is actual "when someone forcefully penetrates any object or body part other than the reproductive organ in the vagina, mouth, the urethra or anus of a person" and then it destroys a person's life forever mentally and physically too. It is generally gender-neutral in nature but the Indian laws majorly focus on women in IPC and children anyone can become a victim of this disgusting act so it is most important that we know about it and spread awareness.

² Debabrata Mohapatra / TNN / Updated: Jul 5, 2022 (no date) *State saw over 10k 'rape' cases in 2019-22, Govt tells Assembly: Bhubaneswar News - Times of India, The Times of India.* Available at: <https://timesofindia.indiatimes.com/city/bhubaneswar/state-saw-over-10k-rape-cases-in-2019-22-govt-tells-assembly/articleshow/92666095.cms> (Accessed: 07 May 2024).

The literal interpretation of Digital rape is made up of a combination of two words: - **Digit + Rape** = Digital rape. English vocabulary meaning of the word digit means “number,” while it has an additional meaning thumb, finger, toe i.e., these body parts. Meaning: - Such sexual penetration, which is caused by a finger, thumb, or toe by a person to another person³. Rape is done without consent or against the will, and is called digital rape. "Digital rape" is gender-neutral and applies to all types of victims.

Victims of Rape are divided into two categories: - 1- Adults 2- Minors

(1) Adult: - People who reach 18 years of age or above come under the definition of adult. Here people mean any man or a woman.

(2) Minor / Child: - As per the **POCSO Act 2012**, a person who is below the age of 18 years comes under the definition of the word minor, who is referred to as a child in the POCSO Act.

(3) According to the Juvenile Justice (Care and Protection of Children) Act, 2015: - As per this act, any person who is below the age of 18 years is a child.

(4) According to *section 10* of the Indian Penal Code 1860: - In section 10 the words ‘man’ or ‘woman’ were defined, the word ‘man’ represents all the male human beings & ‘woman’ represents all female human beings.

(5) According to *section 82* of the Indian Penal Code 1860 “The act of a child under the age of seven years is not an offence.” Its trial will go under Juvenile Justice Act and no harsh punishment will be given to that age group people. Our legislature tries to make them a good human being.

III. LAWS, PUNISHMENT AND FINES

According to IPC section 375 and 376 are defined for rape. Section 375 defines rape, making us understand the conditions in which the heinous act is punishable.

Sec. 376 tells us the punishment defined for the above crime: -

The offender of sexual violence must be punished with imprisonment of at least ten years, or up to life imprisonment (which means imprisonment for the natural lifetime of that person), with a severe prison sentence, and is also responsible to be fined. if the offender repeatedly rapes the woman, then the same punishment is allotted to the offender⁴.

If the offender rapes a child or a girl below the age of 16 years, the imprisonment extends to 20

³ S.N. Mishra, Indian Penal Code, 1860, Publication- CENTRAL LAW AGENCY (1-01-2021), ISBN NO.- 10. 8195076284

⁴ Criminal Law (Amendment) act, 2013

years or lifetime imprisonment and a fine. Provided the fine is fair and reasonable to cover the costs of treatment and rehabilitation of the victim⁵.

POCSO Act's (Sec. 3): - section 3 of this act defines the penetrative sexual assault which means except penis of a male, any other body part or any foreign object is penetrated inside female vagina, not only this matter there are many more things which is taken into account imposing punishments in case of digital rape.

Section 5: - it defines Ravish penetrative sexual assault and if it is done against a child below 12 years of age, as per the provision is a strict 20 years of sentence to life in prison or even the death penalty.

Section 6: - In this there is sentence of 20 years or prison for the rest of natural life or death penalty. The fine will be fair enough for the victim to cover medical costs and rehabilitation costs.

(A) Rape laws in India

- **U/s 228A [2] of the IPC**, no person can reveal the name of the rape victim, and if anybody reveals the name, he shall be punished with either explanation and suspension for a term which may extend to two years and shall also be liable for a fine.
- **U/s 114-A [3] of the Indian Evidence Act**, the presumption can be made as to the absence of consent in certain prosecutions for rape.
- **U/s 53(1)[4] of the CrPC**, when a person is arrested on a charge of committing an offense of such a nature and supposed to have been committed under such situations that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of an offense, it shall be lawful for a registered medical practitioner, acting at the request of a police officer, not below the rank of sub-inspector, and for any person acting in good faith in his aid and under his direction, to make such an examination of the person arrested as is reasonably mandatory to discover the facts which may afford such evidence, and to use such force as is reasonably necessary for that purpose.

(B) India's Recent Cases of Digital Rape: -

A special PocsO court at the city sessions court on Friday sentenced 25-year-old Dipak Prajapati to 20 years in jail for committing digital rape on a seven-year-old girl. In May 2022, Amraiwadi

⁵ THE CRIMINAL LAW (AMENDMENT) ACT, 2018

police arrested Prajapati for rape and molestation of a minor who lived next door to him⁶.

The Surajpur District and Sessions court Tuesday awarded life imprisonment to a 65-year-old man for committing digital rape on a three-and-a-half-year-old girl at Salarpur village under Noida Sector 39 Police Station in Uttar Pradesh⁷.

The accused has been identified as Akbar Ali, a native of a village in Malda, West Bengal. The court of district and sessions judge Anil Kumar Singh pronounced Ali to life imprisonment based on evidence and eight testimonies.

There are many more cases like this which are coming in the view after 2013 (Nirbhaya Gang Rape Case) and strict Laws ,Punishments and Fines are given to the culprit.

(C) Important cases of digital rape before the year 2013: -

It was not that there were no incidents of digital rape before the Nirbhaya case. Many such cases are seen when incidents of digital rape have taken place, but then it was considered only as a crime of defamation and no action was taken under section 376. This was the biggest reason that even the most heinous criminals used to get away with the charge of rape very easily and such criminals were punished with very short -term imprisonment which was up to two years, but after the Nirbhaya case Through the Criminal Law Amendment Act 2013, the term of this punishment was increased and the term of imprisonment was increased to a maximum of five years and it was only after this amendment that digital rape was kept in the category of rape.

Digital Rape of Two-Year-Old Girl by Father In Mumbai: - This was a case where the father himself shamed the dignity of father-daughter relationship. It was presumed that he used to penetrate the private part of his 2-year-old daughter with his fingers. Due to which bleeding started from the girl's genitals and in that condition the girl was taken to the hospital, then on examination by the doctor it was found that the private part of the girl was badly disfigured but there was no evidence of sexual abuse or rape against him. The charge of rape could not be proved and then he was punished only for assault or use of criminal force with intent to outrage the modesty of a woman under section 354.

A 60-year-old woman was digitally raped by an auto rickshaw driver Another case related to digital rape came to light in Delhi, in which a 60-year-old woman was digitally raped. This

⁶ TNN / Updated: Mar 23, 2024 (no date) *Man gets 20 years for digital rape of seven-year-old girl: Ahmedabad News - Times of India, The Times of India*. Available at: <https://timesofindia.indiatimes.com/city/ahmedabad/man-gets-20-years-for-digital-rape-of-seven-year-old-girl/articleshow/108719958.cms> (Accessed: 07 May 2024).

⁷ (No date) *West Bengal: Man gets life imprisonment for 'digital rape' of a minor in Noida | Crime News, Times now*. Available at: <https://www.timesnownews.com/mirror-now/crime/west-bengal-man-gets-life-imprisonment-for-digital-rape-of-a-minor-in-noida-article-93935833> (Accessed: 07 May 2024).

woman was going to her relative's place for a wedding ceremony. Meanwhile, the auto rickshaw driver had inserted an iron rod in the private part of the woman. Once again, the criminal was arrested but not charged under section 376 of the Indian Penal Code, 1860⁸.

Digital Rape of A 3-Year-Old Girl in Greater Noida Play School - A case of digital rape with a 3-year-old innocent girl came to light in a play school in Greater Noida West. The girl's father is an officer. An FIR was registered by the guardians, but the girl, being very scared and fearful, was unable to name the culprit, due to which the culprit could not be traced.⁹

81-Year-Old Painter Digitally Raped a 17-Year-Old Minor for 7 Years, 81-year-old painter has been arrested by the Noida Police for raping a 17-year-old girl. The name of the painter is said to be Maurice Ryder who was originally from Prayagraj. The victim alleges that Maurice Ryder digitally raped the girl for 7 consecutive years.¹⁰

IV. INTIMATION FOR THE BETTER IMPLEMENTATION OF LAW & PREVENTION OF SEXUAL HARASSMENT

The real problem with why heinous crimes like digital rape happen in society is the sympathetic implementation of the law, no fear of the law, and the mentality of the culprits which needs to be changed totally otherwise the people will neither respect the law and nor they will respect the integrity, dignity, self-respect of any individual and in this fear of lawless society emerges as why anybody will have faith in the law if they get assaulted in the democracy where they have the fundamental rights which the right to life is given which includes to live with integrity, dignity and respectfully but in that country, that person is not getting the justice from the entire legislative system and even they face problems from this system also when they fight for their rights and justice.

In cases of digital rape, we can easily see that the criminals age doesn't matter and even things happened to the persons instead of the victim's age. Thus, the changes we need changes in the government legislative system and the society so the authorities become easily approachable and we become able to prevent such acts from both at the legal and societal levels, they are:

1. Sensitisation of the system: In India the people working as a part of the government or

⁸ Prime Legal (2022) *Digital rape*, *Prime Legal*. Available at: <https://primelegal.in/2022/11/20/digital-rape/> (Accessed: 07 May 2024).

⁹ Shikha Salaria / TNN / Jul 15, 2018 (no date) *3-year-old raped by Greater Noida School staffer: Noida News - Times of India*, *The Times of India*. Available at: <https://timesofindia.indiatimes.com/city/noida/3-year-old-raped-by-greater-noida-school-staffer/articleshow/64992901.cms> (Accessed: 07 May 2024).

¹⁰ India, P.T. of (2022) *81-year-old artist arrested for raping minor over 7 years in Noida*, *NDTV.com*. Available at: <https://www.ndtv.com/noida-news/81-year-old-artist-arrested-for-raping-minor-over-7-years-in-noida-2978842> (Accessed: 07 May 2024).

judicial system, first of all, we need to be sensitive towards the sexual assaults victim and this can also be through awareness but till complete awareness comes in the society we need the regulations that how a governmental or a judicial person machinery person should have their behavior towards victims.

2. **Transparency and communication:** We all know that rape is irreparable once it's done so that's why we need to prevent it this could happen when we all will start talking and discussing about it and will recognize that the problem exists and it is not something we are supposed to accept, we are here to prevent that thing and this can be done by bringing transparency in the society so a talk could be initiated among the general people and we have to start bringing transparency first at governmental level by putting all the data related to it in the public forum and then talk could be initiated at different institutions and public influencers and then people will start recognizing and problem and will develop a passion to prevent it.
3. **Victim blaming needs to be stopped:** When a person gets assaulted by anyone then society as a whole starts victim blaming and they start telling him or her how should they had dressed up and how they should have behaved in the particular situation and many other things but this behavior of the society needs to be changed and we need to shift our focus on the perpetrator for blaming and we need to make them feel from there that they have done a heinous crime and then there are also chances that they change.
4. **De-normalize Sexual violence:** In the society in general if we try to find then we will find out that there are many jokes on the jokes and this behaviour of the society normalizes sexual violence which needs to be stopped then this could happen only in two ways one is when they get themselves go through the same situation and second one is awareness through the transparency and communication in the society we talked previously so people understands the seriousness of the matter.
5. **Rehabilitate criminals :** Generally when the government plans policies they pay attention to the victim (which they should do) but making only a victim-centric approach is not going to do much benefit the society as a whole apart from providing care for victims we also need to reform the victims thus we should make policies also regarding them which could be like a fair and speedy trail so they don't have to spend the equal years of punishments before the trail finalize and then in jail the psychologists should evaluate if there are chances for their reformation and if there are chances then we should work upon it with keeping the eyes on victims get justice also.

6. Policy to balance the power imbalance: In society, sexual violence also happens because the criminal finds that they have more power than the victim in a particular organization, institution or office, etc., thus they dare to ask for sexual favours and when they don't as they want then they misbehave as they believe that he or she will not raise their voices because they are at the superior posts so government need to make policies so that this imbalance of power could be balanced and anyone can raise their voice and don't get fear from doing so and for this Indian Government is making laws but those all need to more strict.
7. Institutional education: In India where the literacy rate is increasing (In 2022 it's 77.7%[13]) it could be believed that people are attending educational institutions so the government should start campaigns so the students could understand how consent matters before any sexual act and what are the consequences of the assault and should frame their mind in a way so they start respecting the feelings of others and other genders.
8. Media's Role and Responsibility: In a society, media plays a very important role as they are the ones who set the topic and trend of talk among the public thus the media's role is very crucial in this so people could get transparent information and other things related to it and therefore their responsibility is to talk about digital rapes and other sexual offenses, media could play a big role in breaking the rigid mindset if people when media will interview the victims and will let them represent themselves either anonymously or face to face.
9. Demand Changes: The most important is in democracy is demanding the changes you want so everyone who is getting to know about this thing should talk about it and then if they think that any policy needs to be made or should be reformed for the betterment of everyone then they all should raise their voice and should the same from their representatives and officials.

V. CONCLUSION

The acknowledgement of digital rape in legal terms is an important step, earlier it was known as molstation and there was not a proper punishment for that but after the nirbhaya gang rape case it came into view of Indian legal system. the battle against such life devastating crime needs efforts of not only effective laws and its execution but also needs social understanding. with the combined effort India can combat with the digital rape accused and make sure justice must be done for victims.

The recognition and understanding of digital rape represent a very important development in the Indian legal system's evolution. With effective legislation and execution coupled with increased awareness and education, it is hoped that the country will make significant progress in combating such offenses and ensuring justice for victims.
