
MANDATORY MEDICAL EXAMINATION OF PERSONS ACCUSED OF RAPE UNDER SECTION 53A OF THE CRIMINAL PROCEDURE CODE: A CASE COMMENTARY ON RICHPAL KHARRA VS. STATE OF RAJASTHAN¹

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ABSTRACT

This article provides a comprehensive analysis and commentary on the landmark case of “Richpal Kharra vs. State”², which revolves around the mandatory medical examination of individuals accused of rape under Section 53A of the Criminal Procedure Code (CrPC). The article delves into the implications and significance of this legal provision within the context of rape investigations, focusing on its role in safeguarding the rights of both the accused and the victim. By examining key arguments and conclusions presented in the case, the article aims to contribute to the ongoing discourse surrounding the necessity and effectiveness of mandatory medical examinations in rape cases, with the ultimate goal of promoting a fair and just legal framework for all parties involved. The research also highlights the importance of DNA profiling in criminal identification and its recognition within the criminal justice system. The article discusses the mandatory nature of Section 53A and the responsibilities of medical examiners in collecting materials for DNA profiling, emphasizing the provision's imperative role in establishing the innocence of the accused. Overall, the aim of this case commentary is to shed light on the legal framework surrounding mandatory medical examinations in rape cases, emphasizing the need for reliable evidence and fair justice.

Keywords: rape investigations, Section 53A, DNA profiling, criminal identification, fair trial

¹ (2013) 129 AIC 476.

² *Ibid.*

I. INTRODUCTION

Cases of false rape accusations can sometimes lead to unjust punishment for innocent individuals. However, Section 53A of the Criminal Procedure Code (CrPC) serves as a safeguard in such instances. This provision outlines the procedure for conducting medical examinations of individuals accused of rape, emphasizing the mandatory collection and description of the accused person's DNA material for profiling. DNA evidence plays a crucial role in establishing reliable proof in rape cases.

The primary objective behind the incorporation of Section 53A into the CrPC was to ensure the collection of concrete evidence that can substantiate the offense of rape. However, the present case presents a unique situation where the complainant initially lodged a rape complaint but later expressed her desire not to pursue the matter further. It is important to recognize that the mere withdrawal of a case does not automatically absolve the accused individual of their legal responsibilities, particularly if they have not committed any offense.

In such circumstances, it becomes imperative to consider the gravity of the matter. The complainant's statement of not wishing to pursue the case does not negate the need for a comprehensive investigation, especially when the accused party is innocent. Legal liabilities cannot be dismissed solely based on a complainant's change of heart or decision to withdraw charges.

Therefore, it is crucial to handle such cases with care, ensuring that proper procedures are followed and that the accused person's rights are protected. While respecting the complainant's wishes, it remains the responsibility of the authorities and the court to diligently examine the evidence at hand and ascertain the truth.

By upholding the principles of justice and fairness, the legal system can safeguard the rights of both the accuser and the accused. It is crucial to balance the need to address genuine cases of rape with the imperative of protecting the innocent from wrongful punishment. Through meticulous investigation and reliance on reliable evidence, such as DNA profiling, the truth can be unveiled, ultimately ensuring a just and equitable resolution.

The case presented before the High Court pertained to the application of Section 53A of the Criminal Procedure Code (CrPC), which pertains to the medical examination of individuals

accused of rape upon their arrest. The central issue under consideration was the obligatory nature of this provision. To put it differently, the court deliberated on whether compliance with this provision was mandatory or not.

II. FACTS OF THE CASE

- Sanju Devi, lodged a complaint accusing the petitioner of rape under Section 376 of the Indian Penal Code (IPC). However, Sanju Devi subsequently expressed her decision to withdraw the case, stating that no rape offense had been committed against her. This information was communicated to both the investigating officer and the court overseeing the trial.
- The respondent argued that despite the complainant's statement and the filing of a negative final report by the police, the magistrate returned the case file to the police, instructing them to obtain the F.S.L (Forensic Science Laboratory) report for the vaginal swab and underwear, which had been sent for medical examination.
- Conversely, the petitioner contended that according to Section 53A of the Criminal Procedure Code (CrPC), when a person is arrested on rape charges, they must undergo a mandatory medical examination. It is the duty of the medical examiner to collect materials for examination from the accused.
- Seeking to establish their innocence beyond reasonable doubt, the petitioner requested permission to provide their materials for DNA profiling. This step aimed to conclusively demonstrate that the petitioner had not committed any sexual assault against the complainant.

III. ISSUE RAISED BEFORE THE COURT

The court in this case focused on a crucial question: Is it mandatory to conduct DNA examination of the accused under Section 53A, even when the complainant admits that no rape offense occurred?

IV. ARGUMENTS

Arguments raised by Petitioner -

The counsel representing the petitioner has presented arguments asserting that under Section 53-A of the Code of Criminal Procedure (CrPC), individuals arrested on rape charges must undergo mandatory medical examination, wherein the medical examiner collects material for DNA profiling. Citing the case of “*Krishan Kumar Malik v. State of Haryana*”³, the counsel highlights the Supreme Court's determination that Section 53-A is of imperative nature. Consequently, the petitioner's counsel requests permission for DNA profiling, aiming to establish the petitioner's innocence beyond reasonable doubt by demonstrating the absence of harm inflicted upon the complainant.

Arguments raised by Respondent –

The respondent's counsel did not dispute the validity and importance of Section 53-A of the Code of Criminal Procedure (CrPC). The counsel acknowledged the necessity of this legal provision in the present case.

V. RELATED PROVISION

▪ Criminal Procedure Code

Section 53A- Examination of person accused of rape medical practitioner -

When an individual is arrested on charges of rape or attempted rape, and there are reasonable grounds to believe that their medical examination can provide evidence of the crime, a registered medical practitioner working in a government or local authority-run hospital, or another registered medical practitioner upon request, may conduct the examination within a sixteen-kilometre radius from the location of the offense. The practitioner must promptly examine the accused, record their name, address, age, any visible injuries, and the details of materials collected from them, providing a clear description and reasons for each conclusion. The examination's start and end times should also be noted. The registered medical practitioner must then submit the report to the Inquiry officer, who will subsequently forward it to the Magistrate mentioned in Section 173.

³ (2011) 7 SCC 130.

- **Indian Penal Code, 1860**

Section 376 – Punishment for Rape –

As per Section 376 of the Indian Penal Code, if someone commits an offense outlined in subsection (1) or (2) of Section 376 and causes injury to the woman during the commission of the offense, or leaves her in a persistent vegetative state, they shall be subjected to rigorous imprisonment for a minimum term of twenty years, with the possibility of life imprisonment.

VI. ANALYSIS OF THE JUDGEMENT

Upon considering the matter at hand, the court initially observed that the petitioner's request was limited in scope. Consequently, the court decided not to delve deeply into the factual aspects of the case. It also took note that the respondent did not contest the legal proposition of Section 53A nor present an alternative interpretation of the provision.

In light of this, the court turned its attention to the case relied upon by the petitioner, namely “*Krishan Kumar Malik v. State of Haryana*”⁴. Referring to the Supreme Court's direction in that case, the court affirmed that Section 53A is of mandatory nature. As a result, the court directed the Superintendent of Police (SP) in Jaipur to oversee the investigation. Furthermore, the court instructed the petitioner to provide his DNA sample, which would be handed over to the investigating officer for examination.

Based on these considerations, the court granted the petition, effectively allowing the petitioner's request. By emphasizing the mandatory nature of Section 53A and directing the necessary investigative steps, the court sought to ensure compliance with the legal provisions and facilitate the collection of crucial evidence.

This judgment underscores the significance of Section 53A in cases involving the charge of rape and highlights the court's commitment to upholding the mandatory requirement of medical examinations and DNA profiling. The court's decision to assign the investigation to the SP Jaipur demonstrates its intention to ensure a thorough and unbiased examination of the evidence.

⁴*Ibid.*

By affirming the petitioner's right to present his DNA sample for examination, the court recognizes the potential of DNA profiling as a reliable means of establishing innocence or guilt beyond a reasonable doubt. This judgment serves as a precedent for future cases involving similar circumstances, reinforcing the importance of proper medical examinations and the use of scientific evidence in rape cases.

VII. CONCLUSION

The case of “*Richpal Kharra vs. State of Rajasthan*⁵” shed light on the mandatory nature of Section 53A of the Criminal Procedure Code (CrPC), which mandates the medical examination of individuals accused of rape. this case commentary highlights the court's dedication to preserving the integrity of the legal system and protecting the rights of all parties involved. By emphasizing compliance with legal provisions, ensuring thorough investigations, and relying on reliable evidence, the court promotes a fair and equitable resolution of rape cases.

Moving forward, this case serves as a precedent for future cases involving similar circumstances. It emphasizes the role of scientific evidence in establishing the truth. By doing so, the legal system can strive to achieve justice, protect the innocent, and provide a reliable framework for addressing cases of rape.

⁵ *Supra* note 1.

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