

How should sexual abuse survivors be treated? | Explained

Why was timely medical care denied to a minor rape survivor? What were the guidelines issued by Justice Swarana Kanta Sharma to hospitals about treating sexual assault survivors? Can a sexual assault survivor seek the termination of a pregnancy beyond 24 weeks?

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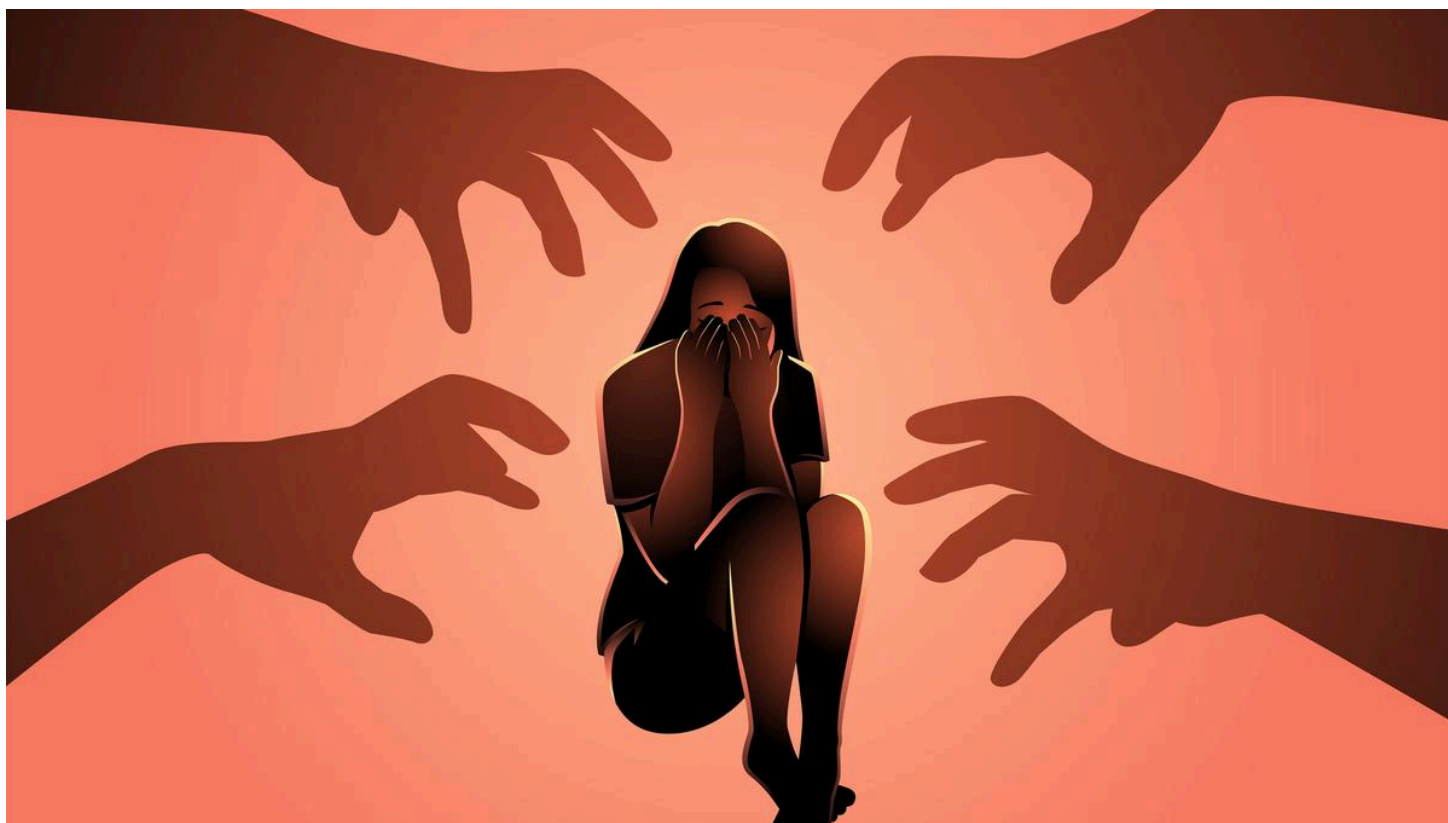


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The story so far: The Delhi High Court recently issued a series of guidelines to streamline procedures in hospitals handling Medical Termination of Pregnancy (MTP) cases involving sexual assault survivors, after finding that miscommunication, and administrative lapses had resulted in the denial of timely medical care to a minor rape survivor.

What was the case?

Justice Swarana Kanta Sharma issued the **guidelines while adjudicating upon the plea of a 17-year-old rape survivor** who had been taken to the All India Institute of Medical Sciences (AIIMS), Delhi, for medical examination and termination of pregnancy. Although accompanied by a police officer following the registration of an FIR, hospital authorities initially refused to conduct an ultrasound, citing the absence of identity documents. The matter was then referred to the Child Welfare Committee (CWC), which directed the hospital to proceed with the termination and submit a status report. However, the hospital continued to insist on identity proof and age verification through an ossification test.

The ultrasound was eventually carried out after a CWC member personally intervened. By that time, the minor was found to be approximately 25 weeks and 4 days pregnant. The hospital then declined to convene a medical board, contending that a court order was required as the pregnancy appeared to exceed the 24-week statutory limit prescribed under the Medical Termination of Pregnancy (MTP) Act, 1971. Following the court's intervention, a seven-member medical board was finally constituted at AIIMS to assess the feasibility of terminating the pregnancy. After conducting an ultrasound, the board determined that the gestational age of the foetus was 23 weeks and 4 days, and that the survivor was physically and mentally fit to undergo the procedure. This contradicted the hospital's earlier record, which had put the gestational age at 25 weeks and 4 days. The court noted with anguish that no explanation was provided for this discrepancy.

What directions were issued to hospitals?

The court observed that when an investigating officer presents a sexual assault survivor for medical examination, along with the official case file and FIR details, separate identity verification may be dispensed with. It further stressed that in cases involving minors, procedural safeguards applicable to routine diagnostic cases should not be applied rigidly or mechanically.

Justice Sharma directed that in all cases where a rape or sexual assault survivor is found to be pregnant, a comprehensive medical examination must be conducted without delay. In instances where the gestational age appears to exceed 24 weeks, hospital administrations were instructed to immediately constitute a medical board to conduct the necessary examination and submit a status report to the appropriate authorities without awaiting specific court orders. Hospitals were also directed to ensure that updated Standard Operating Procedures and relevant legal guidelines are readily accessible in both Emergency and Gynaecology Departments, and that duty doctors are regularly briefed and sensitised on their obligations under the MTP Act, the Protection of Children from Sexual Offences (POCSO) Act, and other binding directives issued by the Supreme Court and High Courts.

The court further mandated that quarterly training programmes be organised for doctors and medical staff in coordination with legal aid bodies such as the Delhi State Legal Services Authority and the Delhi High Court Legal Services Committee (DHCLSC). Each government hospital was also directed to designate a nodal officer to oversee MTP cases and related medico-legal processes, serving as a single point of contact for the CWC, investigating officers, and the courts. Additionally, consent for MTP procedures was to be obtained from the survivor or her guardian, in a language they fully comprehend, such as Hindi or English.

What was the Delhi police instructed to do?

The court directed the Delhi Police to ensure that investigating officers handling POCSO and sexual assault cases undergo mandatory training every six months, with a focus on MTP procedures, court orders, and coordination with medical and welfare authorities. Certificates of completion are to be duly recorded in the officers' service files. Police officers were also instructed to ensure that sexual assault survivors are presented before the concerned doctor, hospital, or medical board at the earliest opportunity, along with all requisite case files.

What were the guidelines issued earlier?

On April 17, Justice Sharma issued guidelines for CWCs and the DHCLSC to prevent delays in such cases, while hearing a plea involving a minor sexual assault survivor seeking termination of a pregnancy beyond 27 weeks. She directed that whenever a minor survivor with a gestational age exceeding 24 weeks is referred by the CWC to a hospital for examination or termination, the CWC must immediately notify the DHCLSC. Upon receiving such information, the DHCLSC shall promptly assess the need for legal intervention, including approaching the competent court for permission to terminate the pregnancy, so as to avoid further delay.

Earlier, in January 2023, the judge mandated that during the medical examination of a sexual assault survivor, a urine pregnancy test must be conducted. If the survivor is found pregnant and is an adult seeking termination, the investigating officer must ensure that she is presented before the medical board on the same day. State governments were also ordered to ensure that medical boards are constituted in the hospitals.

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