

honour

easy

shame

indulge

resist

smashing

immoral

prey

virtue

romeo

lust

dignity

modesty

intergrity

precious

maiden

struggle

humility

injury

eager

chastity

promiscuity

TALKING ABOUT RAPE

10 Telling Quotes from
Reported Judgments

Published by

Bangladesh Legal Aid and Services Trust (BLAST)
1/1 Pioneer Road | Kakrail | Dhaka 1000 | Bangladesh
T: +88 (02) 8391970-2 | E: mail@blast.org.bd
www.blast.org.bd | facebook.com/BLASTBangladesh
First Published November 2019

Author

Taqbir Huda

Editor

Sara Hossain

Designers

Taqbir Huda and Jahangir Alam

© Bangladesh Legal Aid and Services Trust | UN Women (2019)

This publication may be freely reviewed, abstracted, reproduced and translated, in part or in whole, subject to acknowledgement of BLAST and UN Women, but may not be used in conjunction with or for any commercial purposes. Any changes to the text must be approved by BLAST and UN Women. Enquiries should be addressed to publication@blast.org.bd

Preface

This booklet compiles ten quotations from judgments of the High Court Division of the Supreme Court of Bangladesh in appeals relating to cases filed under section 9 of the Nari O Shishu Nirjatan Daman Ain 2000 (Women and Children Repression Prevention Act 2000).

All of these are publicly available and have been reported in three leading law reports, namely the Dhaka Law Reports (DLR), Bangladesh Legal Decisions (BLD) and Bangladesh Law Chronicles (BLC).

This booklet aims to offer a quick insight into prevailing perceptions on rape and highlight the language used by courts. These ten quotes are sourced not only from cases where the court overturned rape convictions on appeal (finding the rape complainant to be unreliable) but also cases where it upheld rape convictions.

I. “Prestige” and “Honour”

*“[T]he mother and two brothers of [the] victim also saw the commission of rape on the victim, but they also could not save the **chastity** of the victim due to threat of the accused and also reaction of the medicine administered to them.... But considering the **prestige** and **honour** of herself and her family she kept the commission of rape on her undisclosed.”¹*

1 Fatema Begum daughter of Azizer Rahman vs. Aminur Rahman Son of Afser Ali and others 25 BLD (HCD) 2005 342, para 3.

II. “Outraging Modesty”

*“This victim is an unmarried college student and comes of a respectable family. She has given testimony before the tribunal **outraging her own modesty and honour** which are dearest to an unmarried girl. We find no reason to disbelieve the testimony of this victim. Her testimony inspires confidence in our mind and we find her testimony reliable.”²*

² *Fatema Begum daughter of Azizer Rahman vs. Aminur Rahman Son of Afser Ali and others* 25 BLD (HCD) 2005 342, para 50.

III. Losing “Precious Chastity”

“[The] crime committed by accused-appellant No. 1 Md. Wasim Mia is a dehumanizing one and an affront to human dignity. [The] [T]ribunal responded to society’s cry for justice in imposing appropriate punishment to the real offender who is no other than accused-appellant No. 1 Md. Wasim Mia and, also, awarding compensation as a solace to victim...though, compensation in the circumstances cannot be a solace as because victim...lost her most precious article which is her chastity.”³

³*Md. Wasim Mia and another vs. The State* 23 BLD (2003) (HCD) 621, para 46. This quote has been shortened to remove the name of the rape complainant to maintain confidentiality.

IV. “Deathless Shame”

“Rape is the ‘ultimate violation of the self’. It is a humiliating event in a woman’s life which leads to fear for existence and sense of powerlessness. Rape is not merely a physical assault. It is destructive of the whole personality of the victim. A rapist not only violates the victim’s personal integrity but leaves indelible marks on the very soul of the helpless female or girl... Rape for a woman whether major or minor is deathless shame and must be dealt with as the gravest crime against human dignity, (Emphasis ours).”⁴

⁴*Al Amin vs. The State* (1999) 19 BLD (HCD) 307, para 39.

V. Family's Dignity and Honour

*“In the instant case the victim girl comes of a respectable educated family having good background as she is a daughter of a professor of a college and it is not expected that such a person will lodge any false case **outraging her modesty and dignity and honour** of her family.”⁵*

⁵*Ibrahim Dewan vs. State* 21 BLC (2016) (HCD) 813, para 16.

VI. A Woman's Invaluable “Asset”

*“Before parting of, we must record that, if in this case of gang rape committed by three fully grown up men resulting in the death of a helpless teenager, and thereby **smashing** her person, her **dream**, her **modesty**, her **dignity**, her **chastity** being regarded as the **invaluable** and **inviolable asset** by any women, and when such a crime is committed by the convicts caring the least about the sanction provided for by the prevailing law and caring not at all about any social resistance, as proved by their preplan and conduct, we are surprised to see as to why this case was not treated as a ‘rarest of rare cases’ and death sentence was not imposed on these three rapists and on their accomplice.”⁶*

⁶*Rehana Begum and another vs. State* 63 DLR (2011) (HCD) 548, para 51.

VII. A “Maiden’s Virtue”

*“[M]aterials on record tend to show that the victim was senior to the jail appellant by age. Then was it possible on the part of a boy who was junior to her by age and also a minor to commit rape upon her forcibly? Should she not try to resist him by physical obstruction or at least by raising outcry. Should she fall **easy prey** to his lust without any least **resistance** to save her **virtue** which was more **precious** to a **maiden** than her life itself ?”⁷*

⁷*Sohel Rana vs. State* 57 DLR (2005) (HCD) 591, para 28.

VIII. “Immoral Act”

“She kept the matter of sexual intercourse *secret* to her parents. She did not disclose the fact of her becoming pregnant till before 3 months when the jail appellant allegedly refused to marry her. The parents of the jail appellant came to know about the occurrence only the day before the salish was held. Such a *conduct* on the part of the victim does not appear to be one of a *virtuous girl, eager and anxious to protect her virtue...*The birth of a child was the result of an *immoral act* for which the victim was *equally responsible.*”⁸

⁸*Sohel Rana vs. State* 57 DLR (2005) (HCD) 591, para 28.

IX. Resistance and Injury

*“According to Modi’s Medical Jurisprudence, 13th Edition, page 31, the body, specially the face, breasts, chest, lower part of abdomen, limbs and back should have **marks of violence**, such as scratches and bruises, as a result of **struggle**. Such marks are likely to be found on the bodies of grown up women who are able to resist. In the instant case, the victim is a **grown up lady** and there is absolutely no evidence on record of any struggle having taken place, nor were **marks** of any **injury** found on the person either of the complainant or of the accused. We therefore, hold that rape has not been proved to have been committed upon the prosecutrix.”*⁹

⁹*Monowar Mallik vs State* 59 DLR (2007) (HCD) 301, para 24.

X. “Promiscuity” and “Free Mixing”

‘Here I feel tempted to recall a comment of the aforesaid case of Jayanti Rani¹⁰ that:

*“If a **full grown girl** consents to the act of sexual intercourse on a promise of marriage and continues to **indulge** in such activity until she becomes **pregnant**, it is an act of **promiscuity** on her part.”*

*Here, in the case, there was no charge of abduction. The prosecutrix reached the bedroom of the **romeo**, on her own accord and stayed there for quite few days. Meanwhile they two came out and once again went back to the refuge of the appellant. Amidst such **free mixing**, it is presumed that these two adults, man and woman, amicably indulged in sexual intercourses.’¹¹*

¹⁰Jayanti Rani Panda vs. State of West Bengal 1984 Cri.L.J. 1535.

¹¹Sanjay Kumar Biswas vs. State 68 DLR (2016) (HCD) 185, paras 25-26.

This booklet compiles ten quotations from reported judgments to provide a quick insight into prevailing perceptions on rape and the language used by courts in rape cases. It is published as part of our ***Rape Law Reform Now*** campaign, which highlights barriers to justice faced by rape survivors in Bangladesh to emphasise the urgent need for reform.



Bangladesh Legal Aid and Services Trust (BLAST)

📍 1/1 Pioneer Road, Kakrail, Dhaka-1000, Bangladesh
☎ +88 (02) 8391970-2 ✉ mail@blast.org.bd 🌐 www.blast.org.bd
📘 facebook.com/BLASTBangladesh

For free legal advice call BLAST's Hotline: 01715220220
National Legal Aid Hotline: 16430
National Helpline for Violence Against Women: 109