

Judicial Attitudes Towards Testimony of the Disabled Prosecutrix

As per Sections 118 and 119 of the Indian evidence Act, the disabled are capable of testifying in court and the court is authorised to record the testimony of such persons with the help of an interpreter, if he/she is unable to write. In a recent judgment, *State of Rajasthan v Darshan Singh*¹, the Supreme Court of India has reiterated that there is nothing, in law or otherwise, that prevents a deaf and speech impaired person from being a competent and credible witness. A survey of judicial decisions however shows that in most cases disabled victims of sexual abuse are either not examined in court and their testimony recorded. Or even if recorded, it is not done in the legally relevant manner, thus making it redundant.

Where Testimony Is Not Recorded

In *Suresh vs. State of Maharashtra*², a twenty-year-old woman who was deaf, speech impaired and 'mentally retarded', was alleged to have been raped by the accused. The only person who had seen Suresh committing the rape was the prosecutrix's grandfather. The grandfather died before the trial could begin, and hence his evidence could not be recorded by the court. The prosecution did not examine the woman, and the trial court did not insist on the same either, on the ground that her non-examination 'did not adversely affect the prosecution case because [the prosecutrix] was a retarded girl'. But the accused was convicted on the basis of other sources of evidence, including medical evidence. When the case went before the High Court on appeal, one of the primary arguments of the defence was that the prosecutrix had not been examined. The High Court accepted this contention, stating that a person does not become an 'incompetent witness' simply because of the presence of disability. It further held that since the prosecutrix was not produced in court, the defence had not been given the opportunity to cross-examine her. Owing to this oversight on the part of the prosecution, the benefit of doubt had to be given to the accused. The accused was thus acquitted of the charge of rape, owing to the non-examination of the prosecutrix and non-observance of the legal procedure by the trial court.

In the case of *State of Rajasthan vs. Balram*³, two persons were alleged to have raped the prosecutrix, who was deaf and speech impaired. Following the arrest of the accused persons, a Test Identification (TI) Parade was held, for the prosecutrix to identify the rapists. The Judicial Magistrate, in his report of the TI Parade, noted that

¹ (2012) 5 SCC 789

² MANU/MH/0660/2003.

³ MANU/RH/0502/2009.

[t]he prosecutrix was not able to understand anything and her mental state was not sound. Neither she was able [sic] to speak nor hear anything and she being not of healthy mind did not identify any accused.

The inability to articulate could have been due to the trauma of the sexual assault or the prospect of facing and identifying the alleged rapists. For the Magistrate reporting on the outcome of the TI Parade however, her inability to respond to his questions was a sign of her unsound, unhealthy mind. Eventually, it was understood that her disabilities had led to the judge's conclusion, although no medical opinion was cited in the judgment that the prosecutrix was of 'unsound mind'. We further learn from the judgment of the High Court that the

[p]rosecution endeavoured to examine her but since she was not able to understand anything nor able to express the incident tangibly, her statement was not recorded by the court.

The High Court judgment does not tell us if the help of sign language interpreters was sought at the time of the TI Parade or at any other point during the trial. Most likely, it was not. The other source of evidence was the account of an eye-witness, which was discounted by the court as that of an 'interested witness'. Indeed, the testimony of the eye-witness was riddled with inconsistencies and hence not strong enough to convict the accused. Evidence from the forensic examination was not of any help either as the clothes of the prosecutrix and the accused persons were collected and examined several days after the incident. In the absence of any strong evidence, the trial court acquitted the two accused persons. On appeal against the acquittal, the High Court affirmed the relevance of the testimony of the prosecutrix and noted that it was a settled position of law that conviction could be based solely on the testimony of the prosecutrix 'if it is found trustworthy and worthy of credence'. But the testimony of the prosecutrix had not been recorded in this case. The acquittal by the trial court was therefore confirmed by the High Court.

Where The Testimony Is Not Recorded In The Legally Valid Manner

The case of *Dilawarsab Alisab Jakati vs. State of Karnataka*⁴, presents a slight variation to the situations encountered in the above cases. Here, the prosecutrix was indeed examined by the trial court. However, it was not done as per the procedure laid down in law, which rendered the testimony legally redundant. The prosecutrix was speech impaired and a minor, who was alleged to have been raped by her cousin, Dilawarsab.

⁴ MANU/KA/0159/2005.

The accused was caught in the act by the father of the prosecutrix, based on whose account, the trial court convicted the accused. The conviction was challenged in the High Court, which sought to examine the manner in which the lower court had recorded and assessed the evidence presented before it. There were three sets of evidence before the court: first, the account of the father of the prosecutrix, which was supported by the accounts of her mother and brother, who were present in the vicinity; second, the evidence from the medical examination of the prosecutrix; and third, the account of the prosecutrix herself, who was examined with the help of an interpreter. The injuries sustained by the prosecutrix had been tended to at home using household remedies and she was medically examined after more than 24 hours, due to delay in reporting to the police. As a result, the medical examination did not record any of the tell-tale signs of forced sexual intercourse, such as inflammation or abrasions in/around the genitalia. Instead, the medical report recorded that the hymen was not ruptured, thus leading the court to be more cautious about the allegation of rape. The High Court therefore held that the evidence from the medical examination could not be used to support the finding of rape, as had been done by the trial court. Regarding the evidence gathered from the account of the prosecutrix, the High Court pointed out that the trial court had erred in not recording her evidence as per the procedure laid down in the Indian Evidence Act. The Court held:

The questions put to deaf and dumb [sic] witnesses have to be recorded by signs and the answers so given by signs have to be interpreted and answers have to be recorded. But, that is not so in the case on hand. It is such evidence given by signs [that] is admissible and is to be taken as oral evidence. In the present case, as the procedure laid down under Section 119 of the Indian Evidence Act is not followed, such evidence recorded by the Court, without recording the signs is no evidence.

Hence, the only source of evidence that the court could rely upon was the account of the father of the prosecutrix. This, the High Court held, could only prove that the accused had made an 'attempt' to commit rape, but was not sufficient to prove that the prosecutrix had been raped, especially when there was no supportive medical evidence. The accused was hence convicted only of an 'attempt to rape'.

The same pattern is found in *Vinod vs State of Madhya Pradesh*⁵ and *Mohan Singh vs State of Himachal Pradesh*⁶, where the accused was acquitted due to the non recording of testimony of the prosecutrix in the legally valid manner and the lack of any supportive evidence from medical examination.

⁵ MANU/MP/0556/2009.

⁶ MANU/HP/0148/2001.

Where Testimony Given Through Sign Language Is Devalued

In *The Public Prosecutor, High Court of Andhra Pradesh vs Lingisetty Sreenu*⁷, the accused was charged with rape, but the trial court convicted him only of outraging the modesty of the prosecutrix, which is a less serious offence than rape. The State went on appeal against this, arguing that the accused should have been convicted for rape and not merely of outraging the modesty of the prosecutrix. Here the prosecutrix was a minor girl, who was speech impaired but not deaf. The eye witness account of her brother, who caught the accused lying on top of the prosecutrix, was deemed insufficient to prove rape. Hence in order to determine what the offence committed was, the High Court turned to the testimony of the prosecutrix that was recorded by the trial court with the help of a sign language expert. Her testimony was recorded in the High Court judgment, thus:

To the question whether the accused was known to her this witness knodded [sic] her head 'vertically' and the interpreter stated that her answer was 'yes'. As to the question, what happened to her in the past the witness stated that the accused slightly lifted her petty coat (lenga). To the question what else was done to her the witness pointing her private parts (vagina), with her right hand, stated that something was done on her vagina, and to a further question whether the same thing was done in a sitting position or in a lying position, she stated with signs that it was in a lying position. To a further question what the accused did exactly, she stated that her petty coat was lifted and also her jacket and at this point of time she started weeping. But, she was consoled by the interpreter. To the question whether she agreed or objected to such an act she replied by knodding [sic] her head horizontally indicating that she did not agree for the act done by the accused.

Here, the testimony of the prosecutrix was found to be unclear regarding the exact nature of the sexual act committed by the accused, the knowledge of which was essential to determine the offence. Evidence from the medical examination also could not be pressed into service to bring clarity, for it recorded that there was no tear in the hymen and no injury around the vagina of the prosecutrix. The testimony of the prosecutrix was therefore found to be incomplete evidence. The judge went on to observe:

It is not in evidence of P.W. 4 [the prosecutrix] that there was any penetration of the penis in the vagina and there is also no further evidence that at least accused put his penis on her private part.

⁷ MANU/AP/0188/1997.

With the help of the signs dumb [sic] girl only indicated that the accused did something in her private part. Having regard to this evidence on record, in my considered opinion it cannot be said that the prosecution has brought home the guilt of the accused under S. 376 of IPC.

The High Court however did not agree with the conclusion reached by the trial court. While the High Court was not convinced that the alleged act committed on the prosecutrix was 'rape', it did not agree with the finding of the trial court either, which had convicted the accused for 'outraging the modesty' of the prosecutrix.

From this evidence it is clear that the accused not only intended to rape her, he made all the preparations by lifting her lenga or jacket and was doing something in her vagina. What was that "something done" the girl did not disclose and she started crying. Unfortunately she is a dumb [sic] girl, otherwise she would have narrated the entire sexual act. Her weeping itself indicates that she was not ready to disclose those acts before the Court. May be out of shy [sic]. Thus, morally I am convinced that in fact, there was an actual intercourse but since there is no legal evidence on record regarding the actual sexual act, in my humble opinion, at least there is sufficient legal evidence to hold that the accused attempted to commit rape on P.W. 4[the prosecutrix].

The accused was therefore convicted of 'attempt to rape'. The testimony of the disabled prosecutrix, though recorded in the legally valid manner, was not regarded as 'legal evidence' for its lack of descriptive precision.

Where Testimony Is Dismissed Because Of Inconsistency With Medical Evidence

In *Abimannan vs. State by Inspector of Police*⁸, the conviction of the accused for committing rape of the prosecutrix, who was deaf and speech impaired, was challenged before the High Court. The High Court judgment records that the prosecutrix 'could not speak coherently but she could speak one or two words' and that she was a 'spinster'. She was examined with the help of the Headmaster of a school for the deaf and speech impaired, who deposed that the prosecutrix 'is partially impaired of hearing and was able to speak 'father' and 'mother' only.' The substance of her testimony, however, is not recorded in the judgment. In addition there was the testimony of the father of the prosecutrix, who had caught the accused coming out of the house immediately after the incident. The medical examination stated that the hymen was found ruptured and concluded that the prosecutrix had had sexual intercourse previously. At

⁸ MANU/TN/8613/2007.

the appellate stage, the High Court looked at the evidence from the medical examination alone, and observed:

If the victim girl would have resisted the accused from committing the offence certainly, she would have sustained minor injuries on her hands, neck or on other parts. But according to the doctor, she had not seen any external injuries on the person of the victim girl. But she had deposed to the fact that the hymen of the victim girl was found ruptured.

Based on this, the judge stated that it could not be inferred that the prosecutrix did not consent to sexual intercourse. However upon insistence by the Public Prosecutor, the judge concluded that the only offence that could be made out from the evidence on record was that the accused had 'outraged the modesty' of the prosecutrix. Hence the accused was sentenced under Section 354 of the Indian Penal Code instead of 376, and ordered to pay compensation of Rs. 5000/- to the prosecutrix.

In *Gopal Bhowmik vs. State of West Bengal*⁹, the prosecutrix was deaf and speech impaired, and she was examined in court with the help of a sign language expert. Based on her testimony and other evidence, the accused was convicted of rape by the trial court. On appeal before the Calcutta High Court, the accused argued that since the allegation of rape was not confirmed by medical examination, it was not prudent to convict the accused simply on the basis of the prosecutrix' testimony. The judge quoted various Supreme Court judgments that held that corroboration of the prosecutrix' testimony was not required if it 'inspired confidence'. However, after noting that the testimony of the prosecutrix was recorded in a legally valid manner with the help of a competent person, the judge went about poking holes in the prosecution case. In the course of cross examination of a neighbour of the prosecutrix, the neighbour had deposed that though the prosecutrix could not speak, she could 'make sound loudly'. This revelation left the judge surprised that 'strangely none heard the cries of the prosecutrix although she could make loud sound'. The improbability of the allegation of rape was further bolstered by the medical examinations of the prosecutrix and the accused, which did not find any injury, bleeding or abrasion on the bodies of the prosecutrix or the accused.¹⁰ The accused was therefore acquitted.

⁹ MANU/WB/0224/2006

¹⁰ The examination of the prosecutrix recorded that she 'was found to be non-co-operative and resistible (sic) while she was being examined' and that no injury to the vagina or bleeding was noted. The doctor examining the accused noted that 'if a penis is put on the vagina there is possibility of abrasion on the penis'. However no such marks of injury was found on the penis of the accused MANU/WB/0224/2006.

In *Mafijuddin Sheikh vs State of West Bengal*¹¹, the allegation against the accused was that he lured the prosecutrix, who was deaf and speech impaired, with the promise of ornaments and marriage, and had sexual intercourse with her on several occasions. It was also alleged that subsequently, she was threatened with reprisals in case she disclosed the incidents to anybody. On appeal against the conviction awarded by the lower court, the Calcutta High Court stated:

According to the learned Sessions Judge, the victim girl could not raise any protest due to her physical handicapness [sic]. But I regret, I cannot agree with this observation of the learned Sessions Judge. Certainly, the victim girl has the physical handicapness [sic], being a deaf and dumb person and we have got full sympathy for her. But, that does not mean, that only for that reason, whatever the victim girl had stated in her evidence, should be accepted as gospel truth in order to convict a person for the offence under Section 376 of the IPC. Even if there is a forcible sexual intercourse of the victim girl by the accused/appellant, then I fail to understand as to what prevented the victim girl to make a sound of protest at the time of the incident particularly when the other family members were present in the house [sic]. There is no explanation for that.

¹¹ MANU/WB/0628/2005.

A few other Reported Cases

On 21st March 2012, an 11 year old girl with visual disabilities was raped in Nalhati, Birbhum, West Bengal by a neighbour. She used to stay with her grand-father as both her parents were working in a different village. She was a school drop-out. Her grand father was a daily wage earner. She was playing in a field when the neighbour told her that he will help her to reach home. When they reached her home, he realised that the house was empty. He raped her inside her house. But few people of the locality came to know of the incident and informed police. The grand-father filed an FIR. The blind girl gave full testimony verbally and the accused was arrested. Charge sheet framed but the man is out in bail at present (9th January 2013).

Fact finding visits by Srija Chakraborty (Anjali) and Shampa Sengupta (Sruti Disability Rights Centre) to Kolkata Pavlov Hospital after one female patient was reportedly sexually assaulted on 23.4.12

A young woman of about 30 years. Her intellectual disability is apparent from her looks. She was put in solitary confinement. When asked as to why she was there nurses said because of her 'violent' behaviour.

According to sources contacted at Missionaries of Charity (MOC), she was a "street-case" – she was found pregnant in the roads by one of the sisters of MOC. They brought her to one of their homes Shanti-Daan. She stayed there for almost 1 year. When sisters realised that she needs specific treatment which they were unable to give, they tried to admit her to Antara, another NGO run set-up in Baruipur. However she ran away from Antara home. After this MOC sisters again found her and admitted her in Pavlov Mental Hospital. We talked to her for some time. She spoke incoherently most of the time, saying "Bari Jabo"(I want to go home) several times. She could not give details of her family or address. But told us her husband's name and that she was pregnant when she was thrown away from home. We asked her gently if someone touched her in recent past. Immediately tears filled in both the eyes. She cried a lot and showed her breasts and vagina – she said "yes, he touched these areas. It hurts. The stomach hurts". She also made a motion by her hand whereby we felt that either sexual intercourse or penetration of hand/other object into her vagina took place.

The most important question that remains here is how do we make her and all the other women in this hospital safe.

Sumitra's case (as narrated by the victim)

I am 26. I studied till class VIII in a mainstream school. My parents tell everyone that I am 17. Most parents of girls and with Mental disabilities hide their age like that. I will finish my study and get married. I want to marry and raise a family. I do not want to take up a job and earn in future. I realized I am different when my mother took me out of my old school and admitted to a special school. I feel sad as all my "normal" friends are going to college. I will not be able to do that. I have been sexually abused several times. It happens so many times when I am travelling in a bus. So many people touched my private parts when I travel by crowded bus . I was raped by my music teacher once at my home. My brothers was in next room. My parents were not there at home. It was painful. Blood came out. I told my mother what has happened. When my mother tried to confront the music teacher, he denied it. He said, "your daughter is not normal". Who will believe her? Her testimony will not be accepted by the police or court. There's no witness, how will you prove this?" The music teacher did not come to our house after that. My mother says I should not talk about this to anyone. No one in the school knows about this.

**Source : Case study from "Disabled women In India" – a report published by Action Aid India, Kolkata Regional office in 2003
Researcher : Shampa Sengupta. Co-researcher: Jeeja Ghosh.**

Some newspaper reports

Times of India

December 23, 2012, web edition

Raped minor blind girl gives birth to female child

TNN | Dec 23, 2012, 06.37 AM IST

AKOLA: A 13-year-old blind girl gave birth to a female child at civil hospital, Akola, on Thursday night after she was admitted here with eight-and-a-half-months pregnancy from the adjoining Washim district. The rape victim, who had been born blind, is a std VI student of Gobra Naik School for Blind, Deaf and Dumb in IUDP area of Washim city.

The rape accused, Subhash Jadhav (36), a resident of Vitthal Nagar, Mehkar, district Buldhana, is a watchman at the school. He was arrested on the basis of a complaint filed by the girl's mother and remanded to police custody. Headmaster of the school Lokchand Rathod has also been arrested in this connection. The magistrate of Washim court remanded Rathod to police custody till December 26.

The girl was studying at the residential school since the age of 5. The rape came to light when she went home in village Adoli, Washim district, and the mother noticed her distended stomach. The girl was taken to hospital, where she was declared pregnant. The girl then revealed the rape to her mother. She was subjected to sexual assault many times, and threatened to keep the incidents secret.

Meanwhile, the recognition of the residential school has been cancelled by commissioner of handicapped welfare, Pune, following a consistent demand. Washim MP Bhavna Gawli and many social workers have demanded severe punishment to the accused.

Visually impaired woman 'identifies' jeep, rapists jailed

[Aditi Jathar Lakade](#) : Pune, Wed Aug 17 2011, 09:40 hrs



Two persons who had raped a visually impaired woman were sentenced to 10 years jail term here on Tuesday after she managed to recall details of their vehicle and her friend, also visually impaired, identified the two based on their voice.

Maruti Suresh Pawale (30) and Nitin Vitthal Pawale (32) were accused of raping the 48-year-old in 2008 while she was travelling from Shaniwarwada to her village near Khadakwasla with acquaintance Pravin Wankhede. The Pawales were also fined Rs 5,000 each, and will be jailed for six more months if they fail to pay the same.

The woman and Wankhede had gone to collect charity given by an institution for blind persons when they missed the return bus to their village and got into a jeep ferrying passengers. When the other passengers had got off, Nitin allegedly told the two that their village had arrived and asked them to get down.

However, they realised that the road was unfamiliar. When they protested, the Pawales allegedly pinned Wankhede down and took turns raping the woman in a nearby ditch.

Later they put the two back in the jeep and dropped them near their village.

“Being blind, we have a habit to touch and feel the place where we sit. Accordingly, we had noticed that the seat of that vehicle was torn and big iron rods were placed underneath,” the victim testified. The observation came in handy while identifying the vehicle.

Additional Public Prosecutor Sunil More said Wankhede had identified the Pawales based on their voice from 15 other suspects.

Times of India
January 8, 2012, web edition

Man booked for raping mentally challenged daughter-in-law for 2 years

GURGAON: The Gurgaon police have lodged an FIR against a man who allegedly raped his mentally challenged daughter-in-law for two years. A police team raided his house, located in Laxman Vihar Colony, but the house was found locked. The victim also alleged that her husband and mother-in-law supported her father-in-law when they were told of what was going on.

The complainant, who originally hails from Hisar, was married to Naveen in 2010. The victim's family claimed that they had already informed the groom and his family about the victim's mental illness and Naveen had agreed to marriage with a hefty dowry. Naveen, along with his father, runs a suitcase shop from their home.

"My father-in-law Suresh would come home on the pretext of having tea and would rape me. I informed my mother-in-law but instead of helping me she warned me against revealing it to anyone. Encouraged by this, my father-in-law kept on raping me and even my husband turned a blind eye. My brother came to take me home in December and it was then that I shared my plight with my family," said the victim.

The victim's family had taken the matter to a local panchayat in Hisar and got Suresh to face the panchayat. He reportedly admitted to his folly and promised not to repeat it. He offered to take the victim back to Gurgaon and raped her en route.

The woman allegedly called up her family on Monday to inform them and they in turn reported the matter to the Sector 5 police station.

"Based on the complaint and recommendation of Hisar police, we have lodged an FIR and our teams are on job. We went to the house of the accused in Laxman Vihar but it was locked," said Surinder Pal Singh, DCP (West).

Times of India

December 17, 2010

Minor disabled students allege sexual harassment

Ashish Tripathi, TNN Dec 17, 2010, 03.57am IST

LUCKNOW: After sexual abuse of a visually challenged girl in the government school for blind, another shocking case of alleged sexual harassment of minor deaf and dumb students of a private school for the hearing impaired has come to light. The district administration has ordered an inquiry on the complaint. The police have also been informed. Though initial investigations have found allegations to be true, no action has been taken so far.

Around 12 girls and boys of a hearing impaired school run by Saraswati Baghir Sewa Samiti, Rajendranagar, in a joint complaint lodged with the general secretary of UP Hearing Impaired Sports Council Rajeev Kumar Sharma accused two sons of the school manager of sexually harassing them. The complainants claimed that besides treating them as servants, manager's sons beat them regularly and force girls and boys to do 'indecent things'.

Sharma forwarded the complaint to the district magistrate who directed the district probation officer Vijay Pratap Singh Yadav to take necessary action. Yadav then appointed the divisional incharge, women and child welfare, Ramakant Pandey, as inquiry officer. Pandey, with the help of an interpreter provided by the disabled welfare department, recorded the statements of complainants. He also summoned the accused but they did not turn up. The school manager, meanwhile, denied the charges.

Pandey, when contacted, told TOI that since the two accused did not turn up to record their statements despite issuance of several notices, he submitted the report to the district probation officer on the basis of victims' statements. Yadav, when contacted, said that prima facie complaints appear to be true and added that he has issued instructions for lodging of an FIR. Yadav, who is presently on leave, said he will take action after resuming duty on Saturday.

Sources said most of the victims are from middle and lower middle class families from across the state. Some parents too came to the school to inquire about the well being of their wards after hearing the complaints

but were reportedly told by the school authorities to keep quiet. Sources added that the students were allegedly threatened not to depose against the accused before the inquiry officer.

When contacted, school manager Kamlesh said that students have lodged a false complaint after they were caught and punished for addiction. "We have briefed their parents about the entire incident. Parents agree with our stand. We don't get any grant from the government and run the school from our own sources," she said. Denying allegations that her sons refused to record the statement, she said, "The inquiry officer said that he will call them when required."

Last month, an alleged rape of a visually challenged girl student of the Dhrishtiheen Balika Vidyalaya at Mohaan road, had shocked the city. Deputy director disabled welfare SK Srivastava, when contacted, said: "We have recorded the statements of the victim, her family, school authorities and the accused. What remains is the deposition of another girl who complainant claims would corroborate the charges."

DNA, Dec. 4, 2012

Nine-year-old visually impaired girl raped in Delhi

Published: Tuesday, Dec 4, 2012, 19:06 IST

Place: New Delhi | Agency: IANS

A nine-year-old visually impaired girl was raped by her former neighbour in Delhi, police said Tuesday, adding that the attacker has been arrested.

The girl was alone at her home at the time of the attack. She reported the incident to her mother, a domestic help, when she came back to home. The girl's name has been withheld for legal reasons.

Her attacker, identified as Karan Nepali, 23, raped her at her residence in central Delhi's Desh Bandhu Gupta Road area on Monday night and fled from the spot.

"A case regarding the incident was registered Monday night and the accused was arrested from his residence in Sarai Rohilla in the early hours on Tuesday," said Additional Commissioner of Police Devesh Chandra Srivastava.

Nepali lived in the neighbourhood of the girl, but for the past few months he has been residing in Sarai Rohilla area.

TOI, Dec. 14, 2012

Neighbour rapes 12-year-old blind girl

Alka Panse, TNN Dec 14, 2012, 02.30AM IST

Tags:

NAGPUR: A 12-year-old visually impaired girl was allegedly raped by her young neighbour at the Servants quarters in Vayusena Nagar under the jurisdiction of Gittikhadan police station on Wednesday morning.

Accused Ajay Telgote (20), a gardener in Vayusena Nagar, was arrested within some hours of the crime by the investigating officer, woman police sub-inspector Deepmala Bhende. Police said the victim identified the accused by his voice. According to the police, Telgote had gone to watch television at the victim's house when he committed the heinous crime.

"Though they were neighbours, the victim would rarely speak to Telgote. Her parents said she would only step out of the house to attend her school," said Bhende.

On Wednesday morning, the victim's mother was at home when Telgote came to watch television. The victim's parents work as labourers in Vayusena Nagar.

Police said that the victim's mother left home around noon for her work. "Before leaving, she asked Telgote to go home since she wanted to lock the house, but he assured to lock the house after the serial ends," said Bhende.

Finding himself alone with the girl, Telgote sexually assaulted her. Police said the victim screamed and tried to fight him but Telgote beat and gagged her. Before fleeing from the house, he even threatened the victim that he would kill her if she told anybody about the incident.

Police said that the victim's 8-year-old mentally challenged younger brother was asleep in the same room when the incident took place. The victim's father has been out of town for the last two days.

Police said the victim even suffered minor bruises while resisting him. The incident came to fore when the victim's mother returned home from work

in the evening and found her daughter frightened. While asking her what happened, the mother found blood stains on her dress understood the matter.

With the help of her neighbours, she reported the matter to senior officials at Vayusena Nagar, who approached Gittikhadan police. On confirming the medical reports, a rape case was registered.

The girl's statement was recorded after she was declared fit by doctors. Later, a police team headed by Bhende was sent to Telgote's house to arrest him

Times of India

January 10, 2013, Web edition

Madhya Pradesh NGO sends minor girls to boys' hostel as punishment

By [Rageshri Ganguly](#), TNN | Jan 10, 2013, 03.20 AM IST

For now Sehore administration has ruled out sexual abuse of the girls though there is no information on whether they had already been sent for medical examination.

BHOPAL: Like lambs sent to the wolves, an NGO entrusted with the welfare of minor girls — many of them disabled and mentally weak — had been sending them for months to the boys' hostel next door in the name of "punishment".

The shocking fact, which has just come to light, has startled and enraged people across Madhya Pradesh where the Sehore-based NGO, [Bright Star Social Society](#), had been running the two hostels for boys and girls.

Girls terrorized

In raids carried out on Tuesday at the Mandi area of Sehore, which neighbours Bhopal, a team from the state commission for protection of child rights (SCPCR) found that the girls, almost all of whom were too terrorized to talk, would be forced into the boys' rooms whenever they "made a mistake" or complained to officials about the poor facilities they had to live with.

"Senior madam would send us to the boys whenever she thought we should be punished for something we had done wrong," one of the girls told the SCPCR officials. "We were then made to do dirty things. Often we were thrashed." Another disabled girl was so terrified on being asked by the team what exactly went on there that she broke down and wouldn't utter a word.

More worryingly, SCPCR chairperson Usha Chaturvedi told TOI that apart from gross irregularities in both the hostels, while records showed a total of 48 girls only 30 were present on Tuesday. "The rest, 18 of them, we were told by secretary (of the NGO) Avanish Jaffery, hadn't turned up since the Diwali vacation," she said. "Also, we found that all the 30 girls were stacked up in one room of 11 feet by 11 feet."

The Sehore district administration has cancelled the licence of the NGO to run the hostels but little action has been taken against Sangeeta and Irshad Jaffery, who were heading operations. Questioned about it, district collector Kavindra Kiyawat said directives had been issued to the NGO to vacate the hostel within three days.

Kiyawat has for now ruled out sexual abuse of the girls though there is no information on whether they had already been sent for medical examination. SCPCR has asked for a report now and ordered the district project coordinator to trace the missing girls.

Meanwhile, during initial interrogation, Avanish confessed before the SCPCR team that though he had 15 days ago taken one of the girls to the boys hostel "on account of bed wetting", he had not left her with them. "I kept the girl with me and my wife," he said.

Rajya Shiksha Kendra commissioner Rashmi Arun Shami, along with social justice commissioner B K Batham, also inspected the hostels and spoke to the girls. Calling the incident "very sensitive", both refused to divulge any further details about the alarming case.