
REVISITING TUKARAM V. STATE OF MAHARASHTRA: A CRITICAL ANALYSIS OF JUDICIAL REASONING IN THE MATHURA RAPE CASE

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ABSTRACT

Tukaram & Anr. v. State of Maharashtra (1979), widely known as the Mathura rape case, remains one of the most controversial and consequential judgments in Indian legal history. The Supreme Court's acquittal of two police officers accused of raping a minor girl inside a police station sparked nationwide outrage, catalyzing significant legal reforms. This analysis revisits the case to examine its flawed judicial reasoning and reflects on its enduring legacy in the ongoing struggle for gender justice in India, contextualizing its relevance within contemporary movements like #MeToo and ongoing debates on custodial violence and judicial accountability.

Keywords: Mathura rape case, custodial rape, consent vs. submission, Vishaka Guidelines, Sexual Harassment at Workplace Act, #MeToo India, Criminal Law Amendment, gender justice, judicial accountability.

INTRODUCTION

Tukaram & Anr. v. State of Maharashtra, universally known as the Mathura rape case, is a landmark in Indian legal history, critically shaping jurisprudence on sexual assault and custodial violence. The Supreme Court of India's acquittal of the accused, on grounds that the prosecution failed to establish the case beyond reasonable doubt, provoked widespread public indignation and protests. The judgment was sharply criticized for its indifference to the plight of rape victims, for victim-blaming, and for its restrictive interpretation of consent and evidence under rape law. This ruling became a pivotal moment, directly leading to crucial amendments in the Indian Evidence Act, 1972 and the Criminal Procedure Code, 1973, easing the process for survivors and enhancing penalties for sexual offences. Furthermore, it fueled the discourse that eventually led to the landmark Vishaka Guidelines and, subsequently, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

CORAM

The case was decided by a Division Bench comprising Hon'ble Justices A.D. Koshal, Jaswant Singh and P.S. Kailasam.

FACTS

Tukaram (Police Constable) and Ganpat (Head Constable), the two appellants in the case, sexually abused Mathura, a female hired at Nunshi's residence, on March 26, 1972, at Desai Gunj Police Station. Mathura had fallen in love with Nunshi's cousin Ashok, and their friendship had become close, culminating to their intention to marry. Mathura's brother, Gama, filed a complaint with the Desai Gunj police station charging Nunshi, Laxman (Nunshi's husband), and Ashok of kidnapping Mathura, and the three were arrested and taken to the police station. Ganpat pulled Mathura to the restroom at the back of the building and sexually attacked her after recording her and Ashok's testimonies. He then pulled her to the back verandah, where he had sexual relations with her despite her protestations and struggles. Tukaram also attempted to sexually assault her but was unable owing to his drunken condition; instead, he fondled with her private parts.

Nunshi, Gama, and Ashok grew concerned when they saw that the lights had been turned out and the door had been shut from the inside. They yelled for Mathura, drawing a gathering

outside the police station. Tukaram walked out of the police station, informing them that Mathura had already departed. Nunshi and Gama were told by Mathura that Ganpat had forced her to strip and raped her. A complaint was filed, and on March 27, Mathura was examined by Dr. Shastrakar and confirmed to be between the ages of 14 and 16. Her hymen showed signs of previous ruptures, despite the fact that she had no bruises on her body. On the advice of Dr. Shastrakar, a FIR was filed.

LEGAL ARGUMENTS

Argument by the Appellant:

- The Appellant contended before the court that there exist no direct proof of the victim's consent to the sexual intercourse, and thus it cannot be determined that she was subjected to any fear or coercion.
- The Appellants argued that the purported affair was not violent, and the victim's allegation of resistance is incorrect.
- The Appellants also put forth before the Hon'ble court that the victim's claim that she was yelling loudly is likewise incorrect.

Arguments by the Respondents:

- Despite the victim's protests, the appellants raped and sexually attacked her at the police station.
- The victim was requested to wait at the police station, and appellant Ganpat sexually attacked her before raping her by looking at her private parts with a torch.
- Tukaram, the second appellant, fondled the victim's private parts with the purpose to rape her but failed due to his intoxication.
- An inspection of the victim's and appellant Ganpat's garments indicated the presence of DNA.
- The victim's age was believed to be between 14 and 16 years old, indicating statutory rape.

RATIO AND REASONING

The matter proceeded through the whole legal process, with three courts reviewing and ruling on it: the sessions court, the high court, and the supreme court. However, the sessions court rendered an incorrect judgement, resulting in the accused's acquittal. After reviewing the case, the Bombay high court overturned the sessions court's verdict, condemning the defendants. When the matter was appealed to the Supreme Court, however, they rendered a ridiculous ruling, sparking significant protests and finally leading to essential amendments in different laws. The judge who acquitted the defendants said during the sessions court hearings that the victim was accustomed to sex and that her agreement was obvious, enabling Ganpat, one of the accused, to fulfil his cravings. Despite the fact that there was sexual contact, the court determined that it was not rape since there were no marks on the victim's body suggesting the use of force. Despite medical findings indicating that the victim was between the ages of 14 and 16, the court ruled that there was insufficient evidence to establish a rape accusation.

The Bombay high court, on the other hand, ruled the accused guilty of rape, stating that what occurred to the victim was the product of her passive surrender, which cannot be compared with permission. However, in 1979, the Supreme Court overruled the high court's verdict, agreeing with the sessions court's conclusion. Because there were no harm marks on the victim's body, showing that there was no resistance from her side, the supreme court concluded that this was a case of consenting sex.

The Session Judge was unable to discover sufficient evidence to indicate that the victim was under the age of 16 on the day of the incident. While it was determined that Mathura, the victim, was not a reliable witness and that sexual intercourse occurred between appellant No.1 and her, rape was not substantiated. As a result, the appellant was found not guilty. The High Court agreed with the Sessions Judge on Mathura's age, but overturned the acquittal on the basis that the sexual intercourse was forced, akin to rape. The High Court erred in recognising the distinction between consent and "passive submission." The Court said that it was unlikely that Mathura initiated the sexual contact, and that the initiative must have come from the accused. As a result, she was unable to resist the sexual act. The Court convicted and sentenced Tuka Ram to one year in jail and Ganpat to five years in prison.

The appellants filed an appeal against the High Court's decision, claiming that there was no direct proof of the girl's consent to the purported act of sexual intercourse. They maintained

that consent had to be inferred from the relevant facts, and that those circumstances did not show that the girl had been exposed to or was under any fear or constraint that would support an inference of "passive submission." They said that no injuries were located on her body, proving that the supposed intercourse was calm and that the narrative of strong resistance was incorrect. The girl's assertions that she cried for assistance were also shown to be untrue. The appellants contended that the High Court erred in concluding that her assent to the act of sexual intercourse was motivated by fear and did not constitute consent under the law. The Supreme Court ruled that the prosecution had the burden of proving that all of the elements of Section 375 of the IPC were present in the instance of sexual intercourse imputed to the appellant. The Supreme Court overturned the High Court's verdict, acquitting the accused since this was an instance of consenting sexual intercourse.

The Supreme Court ruled that the victim's assent had to be established based on the circumstances, indicating that the consent was not passive. Based on its findings, the Supreme Court stated that the prosecution had the burden of proving the existence of all components of Section 375 of the Indian Penal Code in the purported sexual intercourse with the appellant. Rape is defined as "sexual intercourse with a woman against her will, without her consent, by coercion, misrepresentation, or fraud, or at a time when she has been intoxicated or duped, or is of unsound mind, and if she is under 18 years of age" in Section 375 of the Indian Penal Code, 1860.

The Court noted that since the High Court failed to demonstrate that the victim's permission was gained out of fear of death or harm, the third clause of Section 375 would not apply. The Court also said that there was no evidence of terror since the child did not fight being taken away from her family members. According to Section 375(2), rape is sexual intercourse without the consent of a woman. The Court also noted that the victim's consent had to be established based on the facts, and it was clear that her consent was not passive. The Court rejected the High Court's judgement to convict the appellants and acquitted the accused on the basis that the sexual intercourse was consensual.

CONTEMPORARY RELEVANCE AND LEGACY

The Mathura judgment was a judicial failure that triggered a legal revolution. The public and academic outcry, most notably the open letter by law professors Upendra Baxi, Lotika Sarkar, Raghunath Kelkar, and Vasudha Dhagamwar, forced a national reckoning. This pressure was

instrumental in driving the Criminal Law (Amendment) Act, 1983, which introduced crucial reforms:

- Section 114-A in the Indian Evidence Act created a presumption of absence of consent in cases of custodial rape.
- Section 376(2) of the IPC prescribed higher mandatory minimum sentences for custodial rape.
- Provisions were made for in-camera trials and restricting the victim's cross-examination on past sexual history.

The case's legacy extends beyond statute books. It laid the groundwork for the Justice Verma Committee (2012) recommendations after the Nirbhaya case, which led to the Criminal Law (Amendment) Act, 2013. This expanded the definition of rape, prescribed stricter penalties, and created new offences like acid attack and voyeurism. The discourse on "consent" initiated by Mathura continues to evolve, with recent judgments striving for a more nuanced understanding, particularly in cases involving power dynamics.

CONCLUSION

The Mathura rape case was a terrible incident in which two police officers raped a minor girl. Both the Sessions Court and the High Court made a grave mistake in the interpretation of the offence, and the judgement seemed to imply that women may only have sex after marriage. The victim was held responsible for the attack, with the judges assuming that she had lured the cops. This decision was harshly panned by legal professionals and the general public. Law scholars questioned the Supreme Court of India on the reasoning underlying the ruling. The lecturers said that expecting a little girl to raise an alert or physically fight two powerful police officers was excessive. Despite overwhelming criticism, the Supreme Court stood firm and declined to find in favour of the victim.

Following this case, the government made substantial changes to the country's rape laws. The presumption of truth for women who allege non-consent, closed-camera rape trials, and a shift in the burden of evidence to the accused were among the modifications. Furthermore, women cannot be summoned to the police station before or after sunrise. Despite changes to the country's laws, the prevalence of sexual assault against women remains high. According to the

National Crime Records Bureau, 32,033 rape incidents were registered in India in 2019. This shows that India still has a long way to go in terms of developing a safe and fair society for women. In recent years, there have been several examples of police brutality and custodial assault against women. In the state of Uttar Pradesh, a 27-year-old woman was reportedly gang-raped by four police officials while in jail in 2019. This event underscores the continuous problem of police misconduct and a lack of accountability for such acts.

In recent years, there have been significant rallies and agitation throughout India advocating for more safeguards for women and tougher penalties for offenders of sexual assault. In 2018, the #MeToo movement gained pace in India, with women coming out to share their stories of sexual harassment and assault in a variety of sectors. The COVID-19 epidemic has aggravated the problem of sexual violence against women, with increasing complaints of domestic abuse and sexual assault during lockdowns. This highlights the need of continuing efforts to address the underlying causes of gender-based violence and ensuring that women have access to the assistance and services they require to keep safe.

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