

**2013 MUMBAI GANG RAPE: SHAKTI MILLS GANG RAPE**- Sharanya Chakraborty<sup>1</sup>**Name of the Case:** 2013 Shakti Mills Gang Rape**Citation:** Unit-VII in C.R.No.18 of 2014**Bench:** ShaliniPhansalkar-Joshi**Date of Occurrence:** 22nd August, 2013**Introduction**

The 2013 Mumbai Gang Rape case is a very known case which has spread all over the internet. It is also named after Shakti Mills Gang rape case because the case occurred in the Shakti Mills compound. There was a 22 years old girl who was a photojournalist. She was interning with an English language Magazine and for that purpose, was staying in Mumbai. Due to a college project and assignment, she went to Shakti Mills Compound which was located near Mahalaxmi, in South Mumbai. She went there with her male friend on August 22, 2013. She was gang raped by 5 people where one of them was a juvenile. The boy was tied up by the rapist with ropes and belts so that they can rape the girl. All the rapist took photos of her when they were raping her and during sexual assault. They threatened her to release all the pictures over social media if the girl reported this incident or told anyone about rape. Later, it was found out that an eighteen year old girl who was working in a call centre was also gang raped inside the shakti mills compound on 31 st July, 2013. This statement was given by that particular girl only. The Mumbai sessions court convicted all five rapists on 20 th March, 2014 in both cases. On April 4, death penalty was awarded to the three rapists or offenders in the rape case. Amongst the other two rapists, the one was punished with life imprisonment and the Juvenile was punished with an imprisonment of 3 years. There were two separate juveniles in both the

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rape cases of the photojournalist and the call centre girl. Both of them were convicted and sentenced to three years of imprisonment which included time Custody. This is the maximum punishment under law which a juvenile can receive even though he is raping twice or thrice. Three years is the maximum.

### **Complete incident in an elaborate way: Statement of Facts**

There was a 22 year old photojournalist. According to a statement reported to the police given by two victims, a boy and the girl, the girl being photojournalist and her friend left the office at 5 pm for an assignment. They had to take some photographs of the Shakti Mills compound for their project work. The five men came to them and tied up the boy with belts and rope. Later they raped the photojournalist turn by turn and were holding a beer bottle against her neck. This was done so that she doesn't shout for help. Not only that, the rapists has forced the photojournalist girl to clear the crime scene and took the photos during sexual assault and rape. There was a threatening and blackmailing by the rapists that if she reports that to the police, they will release those pictures over social media and make her life hell. After saying this, the men took her to the place where her colleague was. The rapists took both of them to the railway track at 7:15 pm and told them to stay there and not move. The girl informed her friend that she has been raped by 5 men six times continuously and needs immediate medical treatment. The criminals had left during that time. They phoned their boss and told him to come to the hospital when they reached the Mahalaxmi station. The boy took her to Jaslok Hospital by Taxi which was at Peddar Road. The victim aka the girl was bleeding a lot and she called her mother and said the entire incident. She was admitted to the hospital and was subjected to immediate treatment. She gave her statement on 26 August to the Police officers and was discharged from the hospital on 27th August night.

The photojournalist said that she does not want any other girl to suffer the same. She went through such a brutal physical humiliation. She cursed the rapists and told from the hospital bed that all the rapists should be punished and hanged to death. She said no punishment short of time will take away the pain she suffered and the physical humiliation she faced. The girl even said that she wanted to return to work and continue fighting. She claimed "Rape is not end to life". A member of the National commission named NirmalaSamant met her and she said that the victim is recovering from her injuries and trauma. Though she is not completely recovered, she is strong enough and trying her best to come back to normal.

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The other girl who was working in a call centre faced the same thing where she was raped by 5 men inside the shakti mills compound. She also went there with her boyfriend. She reported this incident to the authorities on 3rd September. The rapists approached them and raped the girl brutally. Before raping her, they had beaten the boyfriend. The two victims being so scared fled away to Chattisgarh and did not report this to anyone as she had been threatened by them. Later the Mumbai police conducted a two finger test where a hymen was found as proof of sexual activity. The Maharashtra government resolution stated that the finger test is very much irrelevant and is scientifically not applicable.

### **Arrests**

Total twenty teams were formed by the police and 16 police Stations were informed in this whole case and investigation. Twelve crime branch units were also there. The Mumbai police found all the 5 rapists as reported by the victim and arrested all of them. They were arrested within 65 hours after the victim lodged a complaint on 22nd August at 8:30 am. The names of the accused were Vijay Jadhav who was 19 years old, 21 years old Mohammad kasim, 28 years old SirajRehman, and 24 years old ChaandShekh. The fifth person was a minor or juvenile whose name is not disclosed. All of them were the same person who raped the call centre girl as well. The person who was added here was AshfaqShekh. ChaandShekh was arrested first. He used to live with his grandmother and sell vegetables. Vijay Jadhav was the second person to be arrested who was sleeping at a video club with his friend. He was arrested before for breaking into a house. The other rapist lived in a footpath where his mother was dead and no contact was there with his father. The person Qasim Sheikh was arrested in the morning when he was outside a hospital. After the crime, he returned to his home. His mother said that he changed his dress and took Rs 50 from her and left the house. 27 years old Salim Ansari was the last person to be arrested by the Delhi Police. He was on the Delhi Haryana Border and was hidden in Govandi on 25 th August, 11 am. After he committed the crime, he fled away to Delhi from the train. He was hidden at a relatives house and was planning to migrate to Nepal. Later he was found and arrested by the police while he was out for a walk. The Mumbai police said that they have used mobile phone tracking and it came up in Times of India as well. Ansari was produced before the Delhi High court and later was transferred to Mumbai.

### **Trial: Charges Against the Accused**

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The Mumbai Crime branch filed charges against four adults on 19th September, 2013 and the fifth person being the minor was transferred to Juvenile court. The accused or all five rapists were charged under Sections of Indian Penal Code (IPC) covering section 376(d) for gang rape, Section 377 for unnatural offence and Section 120(b) of IPC for criminal conspiracy. There were other sections charged against them such as sections 342 and 343 for wrongful restraint, 506(2) for criminal intimidation and Section 34 for common intention and 201 for destruction of evidence. The trial proceedings were started from October 14, 2013. The prosecutor wanted to add a few more charges against the rapists which comes under Section 67 A of the IT Act. This defines punishment for transmitting and publishing sexually explicit information and acts electronically over the internet. This charge was given only against Ansari as he showed porn clips to the victim aka photojournalist. The matter was heard in the fast track court by Justice ShaliniPhansalkar. She after hearing both the sides told the prosecutor who was UjjwalNikam that the trial should be ended within 60 days.

The witnesses said their words and gave their statements on the first day of trial. The mother of the victim cried continuously but gave her statement as well. The boss of the photojournalist made his deposition. Everything got recorded in the camera the second and third days of the trial. The photojournalist girl of 22 year old came to the court on 17 th October and found out the four rapists or perpetrators during the four hour deposition. Also the call centre girl who was raped before was called before the court on 30 th October. The girl became scared and started crying. She was so afraid that she started trembling. The judge asked the court to put a partition between the victim and the accused. After some time, when the girl became normal, she identified all the four persons out of five. The boyfriend of the call centre girl came and identified the same. Later on 13 th January, 2014, the male friend of the photojournalist came to the court and identified all the rapists.

The two Juveniles involved in both rape cases was subjected to three years of imprisonment at a Nashik reform school on 15th July, 2014. Three years of imprisonment is the maximum punishment for a juvenile rapist and includes time in custody.

### **Judgement: Verdict and Sentencing**

The sessions court brought all the five rapists involved in the case and convicted them on March 20, 2014. They were convicted on 13 cases or counts such as gang rape, wrongful restraint, assault, criminal conspiracy, destruction of evidence and unnatural sex of the IPC

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Sections. Other sections of the IT act were also included here. The public prosecutor told the court that all the accused should get very strict punishment as they had criminal tendencies. In both gang rape cases, few of the accused were convicted and the other two were found guilty in the rape case of photojournalist and telephone operator. The four accused involved in the case of call centre girl were awarded life sentences on 21st March. The bench said that the rape was very brutally done and they left her in a very pathetic situation. They must be deterred. Qasim Bengali, Vijay Jadhav and Salim Ansari were three repeated accused in both the rape cases and were awarded death sentence. The public prosecutor added the charge of Section 376 E of IPC and provided them with the death sentence. The death penalty was also offered to three repeated accused on April 4, 2014. The accused in the photojournalist case Siraj Khan was awarded with life imprisonment. The judge said that these rapists do not have respect for law and they have violated all crime. The judge added that the accused were enjoying sexual assault with the victim as well as enjoying the victim's helplessness.

The defence lawyer quotes "the rapists were very poor and they were deprived of fundamental rights". The judge further added a Judgement of the Supreme court saying "**Conviction does not depend on social and economic status and this statement of the accused cannot be taken into consideration**". The judge stated that the rapists were enjoying doing rape and they did their act not under compulsion or were not at all provoked. She rubbished the statement of defence and asked whether the rapists had done charity by leaving the girl with no physical injuries. Lastly the two Juveniles or minors who were involved in the rape cases got three years of imprisonment in Nashik reform school and after three years they can go back to their normal life.

### **Analysis**

Following the above case, the statement of the judges were very good and whatever the decision was taken was very satisfactory. The accused were punished with life imprisonment and death penalty. The only thing our law should change is less punishment for juvenile even if the person is doing rape. Our Indian law should bring changes in this. A boy less than 18 years whose mindset has grown up to be mature and can rape a girl even end her life will also be entitled to three years of imprisonment. This is very unjust and I strongly oppose this fact of Indian law. Lastly, if a juvenile rapes that means he knows how to do it and he has proper knowledge, thus does not matter if he is 16 years or 14 years, that person will be entitled to

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death penalty, death sentence as well as life imprisonment. No one should be spared. Rape can end someone's life and three years of punishment does not bring back a person's self respect or life nor death sentence does. But still this law for juveniles should be changed and I raise my voice for this.



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