THE JAMMU AND KASHMIR CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL, 2013.

(Act No. 09 of 2013)


Be it enacted by the Jammu and Kashmir State Legislature in the Sixty fourth year of the Republic of India as follows:

1.) Short title and commencement:

(1) This Act may be called the Jammu and Kashmir Code of Criminal Procedure (Amendment) Act, 2013.

(2) It shall come into force from the date of its publication in the Government Gazette.

2.) Insertion of Section 164-B.- After section 164-A of the Code of Criminal Procedure, Samvat 1989, the following section shall be inserted, namely:

"164-B Medical examination of the victim of rape:- (1) where, during the stage when the offence of sexual assault or attempt whereof is under investigation, it is proposed to get the person of the women with whom such offence is alleged or attempted to have been committed or attempted, examined by the medical expert, such examination shall be conducted by the registered medical practitioner employed in a hospital run by the government or local authority and in absence of such practitioner, by any other registered medical practitioner, with the consent of such women or a person competent to give such consent on her behalf and such women shall be sent to such registered medical practitioner within twenty-four hours from the time of receiving the information related to the commission of such offence.

2) The registered medical practitioner, to whom such women is sent, shall without delay, examine her person and prepare a report of his examination giving the following particulars, namely:-

(i) the name and address of the women and of the person by whom she was brought;

(ii) the age of women;

(iii) the description of material taken from the person of the DNA profiling;

(iv) marks of injury, if any, on the person of the woman;

(v) general mental condition of the woman; and

(vi) other material particulars in reasonable detail.
(3) The report shall state precisely the reasons for each conclusion arrived at.

(4) The report shall specifically record that the consent of the woman or of the person competent to give such consent on her behalf to such examinational had been obtained.

(5) The exact time of commencement and completion of the examination shall be noted in the report.

(6) The registered medical practitioner shall, without delay, forward the report to the investigating officer who shall forward it to the Magistrate referred to in section 173 as part of documents referred to in clause (a) of sub-section (5) of that section.

(7) Nothing in this section shall be construed as rendering lawful any examination without the consent of the women or of any person competent to give such consent on her behalf.

Explanation: "registered medical practitioner means a medical practitioner who possesses any recognized medical qualification as defined in clause (1) of section 2 of the Indian Medical Council Act, 1956, and whose name has been entered in a State Medical Register."

STATEMENT OF OBJECTS AND REASONS.

It is generally seen that the rape victims are subject to medical examination which results in harassment to the victims. It also lacks on scientific aspects which results in acquittal of the accused in the criminal cases. The Bill seeks to provide for comprehensive methodology for medical examination of rape victims.

Sd/-
(Dr. Bashir Ahmad Veeri)
MLC