

The Bareilly case and a flawed criminal justice system

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(Polity)

A few weeks ago, the case of a woman who had filed a rape case, was sentenced to imprisonment, and fined by a court in Bareilly, Uttar Pradesh, dominated the headlines. The narrative, echoed by select media users, painted a picture of a woman who had brazenly fabricated rape accusations. This, of course, perpetuated the damaging stereotype that false claims by women are the norm. But, a deeper dive into the trial proceedings reveals a range of systemic shortcomings in our law enforcement machinery and social complexities that demand urgent attention (ST 15/2020 before Additional Sessions Judge (Fast Track Court), Bareilly).

Lackadaisical investigation:

In 2019, Pooja's (name changed) mother filed a missing person's complaint stating that her 15-year-old daughter was missing and that she suspected Ramesh (name changed) of having kidnapped her. But Pooja appeared a few days later saying that she had been taken to Delhi by Ramesh and raped by both him and several other men, with the knowledge of his mother and sister. She claimed that she ran away from Delhi to her home. No proof of her age was available, but an external medical examination showed her to be 18, and not 15 years old as she claimed to be. A more thorough examination was crucial for the prosecution's case for any evidence of sexual assault, but she refused to undergo this. Another fact is that she is a married woman.

Her statement to a magistrate was recorded, and Ramesh arrested. In her first statement to the court during the trial, she said that she had been kidnapped and raped. In her cross-examination four months later, she said that she had been made to give a false complaint against Ramesh by her mother as there was personal animosity between the mother and Ramesh.

She also said that a police officer had coerced her to lie. Based on glaring loopholes in the prosecution's case, such as the contradictions in her statements on her abduction and recovery, the lack of medical evidence due to the negligence of the investigating officer and her refusal to undergo a medical examination, Ramesh was acquitted in 2024. A perjury case was registered against Pooja, for which she was convicted and sentenced to imprisonment and a fine (SC No. 215/2024 before Additional District Judge Bareilly) imposed.

This case is a telling example of the lackadaisical approach to police investigation and where the prosecution did not even attempt to patch together a case. At the time of filing the charge sheet, other than Pooja's statement and her family members supporting the fact that she was missing, there was absolutely no evidence against Ramesh. Of course, the statement of a prosecutrix in a sexual assault is crucial, but this was a case where there were claims of her being taken to another place and where multiple accomplices were allegedly involved. But those angles were not probed. There is no circumstantial evidence placing Ramesh along with Pooja at any point. There is

no medical evidence to corroborate the claim of rape. There is a claim of the mother calling Ramesh when Pooja went missing but there is no evidence placed on record to prove this. The alleged crime scene — a room in Delhi — remained unlocated and unexamined, and the clothes worn by Pooja were not even collected for forensic analysis. Even the rented property where Ramesh was living in was not examined. The site map produced as evidence was a map showing the front door to Pooja's house since her mother said she had been abducted from their house. A vegetable market, from where she was taken, as in Pooja's statement to the magistrate, was not examined. Even though it was alleged that Ramesh's mother and sister witnessed the rape, they were neither charged for abetment nor examined as witnesses.

Multiple stakeholders overlooked what has been a notably weak case along the way. Section 173(8) of the CrPC allows a magistrate to direct further investigation in case of a flawed investigation. However, in this case, the magistrate committed the case for trial despite the glaring gaps in the investigation. The magistrate could call for the case diary under Section 172(2) of the CrPC, which may have revealed discrepancies or inadequacies in the investigation. The public prosecutor's endorsement of a patently weak charge sheet shows a lax attitude, and a failure to fulfil their duty, to the court and the public.

Focus on undertrial detention:

Arbitrary and prolonged undertrial detention is, unfortunately, pervasive within India's criminal justice system. In this case, where an individual had to undergo over four years of incarceration, other than the judge noting that there were issues in the investigation, there was a startling absence of accountability directed towards the investigating officers or the prosecution. That there were no repercussions for those responsible for wrongful detentions perpetuates a culture of impunity and undermines public confidence in the integrity of judicial processes.

Pooja's version of events in her statement to the magistrate, her initial court statement, and her cross-examination all differed, which suggests coercion.

During the cross-examination, she attributed it to her mother and a police officer. Thereafter, during the sentencing hearing of her perjury case, Pooja's husband claimed that he told her to claim that her mother had coerced her to lie about the kidnapping and the rape so that they would not have to be bothered by the case any more. Even if not a minor, she was clearly a very young person who had been coerced by various adults. This was not taken into consideration by the court that sentenced her.

This is not to take away from the fact that Ramesh was a victim of the system. His trial dragged on in a fast-track court in Bareilly amidst the disruptive backdrop of the COVID-19 pandemic. Fast-track courts were set up to ensure swift justice for victims of sexual crimes and corruption cases.

Although, ideally, these cases are to be finished within a year of filing the charge sheet, this timeframe is rarely adhered to. The trial in this case spanned 1,559 days, in which there were 109 hearings (data from the e-Courts portal). The data also show that most of these hearings just resulted in adjournments, 13 of which were because of the COVID-19 pandemic. The examination of witnesses went on from November 2020 to February 2024. These timelines are shocking because the case itself was not complicated, given that there were only six witnesses and six exhibits. Ramesh remained in jail throughout this time.

The state of fast-track courts:

The functioning of fast-track courts has been far from ideal. New courts with the necessary infrastructure and dedicated judges are not set up for fast-track purposes. Instead, existing courts are typically designated as fast-track courts, requiring judges to manage their regular caseloads in addition to these expedited cases. Without looking into these systemic challenges, the centrally sponsored scheme for Fast Track Special Courts (FTSC) has recently been extended till 2026, with a budgetary allocation of

around ₹2,000 crore.

This case also raises questions about the issue of bail in India. Ramesh filed a bail application before the sessions court in 2021, but it was rejected because of the serious nature of the offence. His family did not have the economic means to file an appeal, so he remained in jail till his acquittal. Notwithstanding directives from the Supreme Court of India to decongest prisons during the COVID-19 pandemic, Ramesh was not granted bail even during this period. And, despite the constant discourse in policy realms and constitutional courts in favour of a reduction in undertrial detention, the grim reality within trial courts shows how indifference along with poverty prolong such detention.

Ultimately, the notoriety surrounding this case, cited to bolster the stereotype of women lodging false accusations against men, underscores a critical call for reforms within the criminal justice system. Rather than weakening laws safeguarding women, this case highlights the necessity for enhancements in police investigation protocols, prosecutorial autonomy, and judicial supervision to mitigate the risk of wrongful and protracted imprisonments.

Expected Question for Prelims

Que. Consider the following statements:

1. Fast Track Special Court was established on the basis of the Criminal Law (Amendment) Act implemented in the year 2018.
2. The Centrally Sponsored Scheme for Fast Track Special Courts has recently been extended till 2026.

Which of the statements given above is/are correct?

- | | |
|------------------|---------------------|
| (a) Only 1 | (b) Only 2 |
| (c) Both 1 and 2 | (d) Neither 1 nor 2 |

Answer : C

Mains Expected Question & Format

Que.: 'India's criminal justice system requires enhanced police investigation protocols, prosecutorial autonomy and judicial supervision to reduce the risk of long-term undertrials.' make a comment.

Answer's Approach:

- ❖ In the first part of the answer, briefly explain the status of long-term undertrial imprisonment in the criminal justice system of India.
- ❖ In the second part, solutions to overcome this problem discuss the need for police investigation protocols, prosecutorial autonomy and judicial supervision.
- ❖ Finally give a conclusion giving suggestions.

Note: - The question of the main examination given for practice is designed keeping in mind the upcoming UPSC mains examination. Therefore, to get an answer to this question, you can take the help of this source as well as other sources related to this topic.