

10 Most Important Things That The Survivor Must Do In Preparation For The Legal Process And Proceedings

1. SEEK IMMEDIATE MEDICAL ATTENTION:

Section 397 of the BNSS is the first step a rape victim can take by seeking immediate medical attention for her injuries. It obligates all hospitals whether public or private, and irrespective of whether they are run by the Central Government, State Government, local authorities, or any private entity to provide such first aid or medical treatment free of cost to victims of offences specified under Sections 64 to 68, 70, 71, and 124(1) of the BNS 2023, as well as Sections 4, 6, 8, and 10 of the POCSO Act 2012. Additionally, the hospital is legally bound under section 397 to immediately inform the police about the incident. This provision ensures that medical assistance for the victim's physical injuries is prioritized without delay or financial burden, independent from the formal process of medical examination for evidence collection.

2. PRESERVE PHYSICAL EVIDENCE:

By avoiding bathing, changing clothes, eating, drinking, or brushing teeth before the medical exam, the rape victim can preserve DNA evidence. Clothing worn during the assault should be placed in a paper bag and handed to the medical examiner. The Ministry of Health and Family Welfare's Guidelines for Medico-Legal Care for Survivors of Sexual Violence also stresses on proper evidence collection and that physical evidence must be collected promptly, scientifically, and with informed consent, ensuring a clear chain of custody, proper labelling, sealing, and documentation to maintain its forensic integrity and support legal proceedings.

3. REPORT THE INCIDENT TO POLICE:

Section 173(1) of BNSS mandates that a rape victim report the incident to the police. This can be done either orally or through electronic communication to the officer in charge of any police station, regardless of where the offence occurred. If the information is given orally, it must be reduced to writing, read over to the victim, and

signed by her. If given electronically, it must be signed by the informant within three days to be officially recorded. Importantly, if the victim is a woman reporting offences such as rape or sexual assault under Sections 64 to 71, 74 to 79, or Section 124 of the BNS 2023, her statement must be recorded by a woman police officer or any woman officer. If the victim is mentally or physically disabled, the statement must be recorded at her residence or a location of her choice, in the presence of an interpreter or special educator, and must be video graphed.

The FIR initiates the investigation. *Lalita Kumari v. State of Uttar Pradesh (2014 2 SCC 1)* mandates compulsory FIR registration for cognizable offenses like rape (Section 376, Indian Penal Code, 1860).

4. REQUEST A FREE LEGAL AID ADVOCATE:

Contact the District Legal Services Authority (DLSA) for free legal aid under the Legal Services Authorities Act, 1987. Furthermore, survivors are entitled to a lawyer to guide them through the legal process, as reinforced by the Supreme Court in *Delhi Domestic Working Women's Forum v. Union of India (1995 1 SCC 14)*.

Legal aid ensures representation and protects rights, especially for marginalized survivors.

5. UNDERGO A MEDICAL EXAMINATION:

Consent to a medical examination under Section 184 BNSS which includes documenting injuries and collecting samples e.g. swabs, blood etc. Additionally, providing emergency contraception or STI prophylaxis. The doctor must explain findings in simple language, per Ministry of Health guidelines. It is essential because the medical report is admissible evidence under the BSA and supports the case of the rape victim. In *State of Karnataka v. Manjanna*, the Supreme Court strongly disapproved of doctors refusing to examine rape victims without a police referral. It held that medical help must not be delayed, as crucial evidence can be lost. The Court emphasized that all government hospitals must provide immediate care, even if the police have not yet registered a complaint.

6. RECORD A STATEMENT BEFORE A MAGISTRATE:

Under Section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), a Magistrate may record the statement or confession of any person at any stage during the investigation or before the commencement of inquiry or trial. In cases involving sensitive offences such as rape or sexual assault, it is now a mandated direction of the Hon'ble Supreme Court (invoking powers under Article 142 of the Constitution) that the Investigating Officer must promptly take the survivor before a Judicial Magistrate for recording her statement under Section 164 of the CRPC. This decision is reported in *State of Karnataka v. Shivanna*, (2014) 8 SCC 916. Any statement other than a confession made under 183 (1) shall be recorded in such manner hereinafter provided for the recording of evidence as is, in the opinion of the Magistrate, best fitted to the circumstances of the case; and the Magistrate shall have power to administer oath to the person whose statement is so recorded. The victim is also entitled to receive a copy of her recorded complaint free of cost under section 173 BNSS. This statement is recorded in a private setting and can be used in court. Survivors can request a female magistrate if available. The statement locks in the survivor's account, reducing discrepancies during trial.

7. UNDERSTAND SURVIVOR RIGHTS UNDER INDIAN LAW:

Know your rights under the BNS, Act 2023, including the right to privacy, free medical treatment, and protection from media exposure. Section 72 BNS prohibits disclosing the survivor's identity.

8. SEEK COMPENSATION AND REHABILITATION:

Apply for compensation through the Victim Compensation Scheme under Section 396 BNSS, administered by the DLSA or State Legal Services Authority (SLSA). Compensation covers medical costs, counselling, and lost wages, even if the perpetrator is not convicted. Financial support aids recovery.

9. REQUEST SPECIAL MEASURES FOR COURT TESTIMONY:

Request “special measures” like testifying via video conferencing, behind a screen, or in-camera proceedings under Section 327 BNSS to reduce trauma. The Supreme Court in *Sakshi v. Union of India* (2004 5 SCC 518) directed that, trials of rape cases must invariably be held in-camera in terms of Section 327(2) CrPC. Wherever possible, such trials should be conducted by lady judges. This would enable victims to depose with greater confidence and reduce trauma and hesitation associated with open courtroom proceedings.

10. MONITOR CASE PROGRESS AND EVIDENCE:

The victim can request updates on the investigation from the police. As per Section 193(3)(ii) BNSS police must update the informant or victim on the progress of the investigation within 90 days. Section 193(2) BNSS requires police to complete the investigation within 60 days for rape cases.

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