

# A CRITICAL STUDY ON WOMEN IN WEAPONIZING AND VICTIMIZING THE PROCEDURE: LAW AND REALITY IN BANGLADESH

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## ABSTRACT

False charges are relatively uncommon compared to actual incidents, their effects on men and the public at large shouldn't be overlooked. Emphasizing how damaging such behavior is to the goal of justice. Legislative frameworks should also respect the rights of the accuser along with the accused to make sure that justice is carried out without unfairly affecting either party. To prevent injustice, protect the rights of those actual victims as well as accused, and develop a legal system which is fair and just, it is of the utmost importance to understand false rape accusations cause its polluting the sample of true allegations. Investigating the root causes of false allegations with general methods, their consequences on society, and their repercussions on all parties involved, society may develop successful procedures to eradicate false accusations, help sexual assault survivors, and give a thoughtful approach to managing these harsh circumstances. Case studies showed only touch on a fraction of the actual events. Although there are more true rape cases, the rise in false rape accusations for insignificant reasons discourages real victims from speaking out. The legal system has a responsibility to take victims' discrimination and the accused's prejudice into account. To determine whether a claim is true, all available evidence must be carefully considered. If this isn't done, it might develop to the point where it's challenging to identify those who are raped, jeopardizing everyone's access to justice.

## INTRODUCTION

According to the Supreme Court, rape is a very real worry for women in today's culture. The court's ruling stated that rape is the most heinous crime against human dignity because it is not just a physical assault, but it completely damages the victim's personality.<sup>i</sup> As a result, someone fabricating lies about this degrading crime is to be punished by laws of Bangladesh. Bangladesh's legal system goes beyond specialized rules that address fabricated rape allegations. The judicial system places an enormous value on the ideas of justice, fairness, and the protection of individual rights.<sup>ii</sup>

## THEORIES OF WOMEN IN WEAPONIZING AND VICTIMIZING THE PROCEDURE

### Theory of Ground Truth

Ground truth is crucial and significant for studies assessing the credibility of rape allegations.<sup>iii</sup> It refers to the actual events and how accurate systems are.<sup>iv</sup> Applying ground truth to false accusations helps prevent false results and real allegations in instances of false allegations.<sup>v</sup> False Rape allegations researchers have developed ideas to describe ground truth in investigations, with some substituting final judgment for facts.<sup>vi</sup> Police investigators determine authenticity but ultimately can apply false or no crime designations. Cases of marital rape or evidence problems can lead to baseless accusations, causing claimants to withdraw under pressure.<sup>vii</sup>

### The Theory of presumption of Innocence

One common fundamental principle of our legal system, that is a defendant is deemed innocent unless and unless proven guilty, addressed into doubt by allegations of rape.<sup>viii</sup> Although there has traditionally been a propensity to dismiss the claims of those who have experienced it there has also been a shift in society's perception of sexual assault victims toward acceptance and belief.<sup>ix</sup> Finding a middle ground is challenging because, if we decide that alleged rapists seem

innocent until proven guilty, we also must consider that victims may be lying unless they have proof to back up their statements.<sup>x</sup>

### **The Theory of Fabricated Rape**

According to the Literature, it would be discrepancies between the statements of a false complainant and a real victim because a false complainant must fabricate a situation that did not actually happen, but a true victim can rely on memories of the incident.<sup>xi</sup> On the one hand, the false complainant is a fraud and will behave in a pretend manner.<sup>xii</sup> On the other hand, they will create an entire story based on their experiences and opinions about rape. It will be significant differences between a true account of rape and a false story of rape, a created sexual assault if the experiences aren't representative of rape and the beliefs regarding rape aren't true.<sup>xiii</sup>

### **Sub theories of False Accusation**

Basic four criminological theories are related to describe female criminality in criminology. They are

1. Masculinity theory: Due to women empowerment they engaged more violent crime than non-empowerment women and they are depended on masculinity behavior.<sup>xiv</sup>
2. Opportunity theory: Women are involved different type of crime because of getting more opportunity but due to getting opportunity it reduces violent crime on the other hand increases property crime.<sup>xv</sup>
3. Marginalization theory: Then marginalization theory, basically its more reliable than other theories. Marginalization theory said that women are pushed to commit crime for low salary, family victimization, inadequate job for women.<sup>xvi</sup>
4. Chivalry or paternalism theory: This theory said the indirect involvement of female such as - male is instigated to commit crime by female.<sup>xvii</sup> Society gives privilege to the women and women are taking this advantage and pretended to be that they are.

## LAWS ON FALSE ALLEGATIONS

Bangladesh's current legal system is not effectively suited to deal with false rape charges, considering the socioeconomic conditions that lead to their development. Need reform in the low compensation provision under *section 250 of The Code of Criminal Procedure, 1898*<sup>xviii</sup> and suggesting separate actions which must be initiated in regarding penalize those who file false first information reports (FIRs) or initiate any fraudulent criminal cases under *Penal Code, 1860*<sup>xix</sup>, *sections 211 and 182 and latest amendment of NARI O SHISHU NIRJATAN DAMAN AIN (AMENDMENT) 2020*<sup>xx</sup> for connecting the topic with relevant issues and finding alternatives for notable reduction of false allegations of rape, instead of punitive measures. There must need a comparative study which will focus on similar jurisdictions and case references with the law. There will be additionally a few sub-topics to help delve further into specific aspects related to the primary research and provide a more comprehensive understanding of the issue. This inequality is a result of the cultural, social, and economical variations that exist among distinct nations and regions. Public access to official papers like police reports or court records is frequently restricted in Bangladesh. As a result, most of the data people get from sources that are open to the public. Considering there aren't many comprehensive studies that exclusively examine false rape accusations and their causes in the framework of Bangladesh, the material depends heavily on data acquired from other applicable research studies. Even though these secondary sources provide invaluable details on the topic, it is vital to understand that they might not present a complete and precise depiction of the situation.

### Case Reports on Women in Weaponizing and Victimizing the Procedure

Judges pronounced the verdict of false rape case and acquitted Shafat Ahmed and all five accused and verbally recommended that the police not to record about any sexual violence cases after 72 hours.<sup>xxi</sup>

**CASE NO. 1:** Cox's Bazar resident Runa Akhter filed a rape case, alleging that she was picked up from the courthouse grounds and gang-raped in March 2022. The court exonerated everyone accused when the case was shown to be bogus and dropped. One of the defendants in the case, Rasel Uddin, filed a complaint against Runa since he had spent a considerable amount of time

in jail after being cleared. Judge Md Muslem Uddin of the Women and Children Repression Prevention Tribunal-1 found plaintiff Runa Akhter guilty of filing a false rape accusation and sentenced her to five years in jail on April 12, 2023. She was also given a Tk 20,000 fine by the court.<sup>xxii</sup>

**CASE NO. 2:** Abdus Sattar, a citizen of Namganj's Jhumgaon Khasiabari hamlet, turned himself in to the authorities in a rape case but insisted he was innocent. The court nevertheless mandated that he be detained. Later, he was freed on bond. Manzil Mia filed the complaint, alleging that Sattar had raped his unmarried, speech-impaired sister, causing her to become pregnant. DNA testing, however, proved that Abdus Sattar was not the baby's biological father. In a report that was presented, the case's investigating officer stated that the accusations made against Abdus Sattar were unfounded. But regrettably, the humiliation her son endured caused his mother to have a heart attack and die.<sup>xxiii</sup>

**CASE NO. 3:** For falsely accusing people of rape, Munnujan Bibi of Bishnupur village in Joypurhat Sadar Upazila received a five-year prison term. Judge Rustam Ali of the Joypurhat Women and Child Torture Prevention Tribunal rendered the decision. At first, Munnujan accused four people of rape, including Maruf Hossain and his parents. However, before the inquiry was finished, Munnujan showed up in court, acknowledged that the accusations were false, and asked for a deal with the defendant. Munnujan received a five-year prison term from the court for bringing false accusations. According to the investigation, Munnujan's daughter and Maruf Hossain, who were married when they were both minors, had a marital conflict that was the root of the issue. Maruf and his wife resided in their in-laws' home at the behest of their mother-in-law Munnujan Bibi. However, Munnujan expelled Maruf and seized some of his savings. Munnujan opposed when Maruf moved to Dhaka and wanted to bring his wife with him. Munnujan got angry and reported the false rape charge after Maruf ultimately remarried.<sup>xxiv</sup>

**CASE NO. 4:** A lady in Joypurhat was found guilty of falsely accusing someone of rape and was given a seven-year prison term and a Tk 30,000 fine. The woman was found guilty of submitting a false rape accusation against Abul Hayat, a local, by the court, presided over by Judge Md. Rostom Ali. The claim was found to be unfounded by the police investigation, which

led to the submission of an investigation report to the court. The court then took into account the plaintiff's no confidence application against the police report. The plaintiff admitted during the proceedings that she had made up the rape case. She was consequently jailed, and the accused was cleared of all charges.<sup>xxv</sup>

**CASE NO. 5:** On June 22, 2019, Lilifa Banu, a local of Sundarpur Village in the Joypurhat Sadar Upazila, reported her neighbor Ruhul Amin for rape. Police were to investigate the situation, according to an order from the Joypurhat Women and Child Torture Suppression Court. However, it was discovered during the inquiry that the rape case was falsely reported due to prior animosity. Lilifa eventually came clean and confessed in front of the judge. The judge responded by expressing her fury over the waste of court time and the intimidation brought on by perjury. For submitting a fraudulent complaint, the court jailed Lilifa Banu for five years while clearing Ruhul Amin.<sup>xxvi</sup>

**CASE NO. 6:** Three people were found guilty in Narayanganj of killing a 15-year-old girl after raping her, and they confessed in a deposition made pursuant to Section 164 of the Code of Criminal Procedure. The young woman in issue, however, was not raped. She had instead run across one of the three suspects on the day of the event. She then made the decision to elope with Iqbal. After being hitched, they moved into a leased home in the Bandar Kushiara neighborhood as their home.<sup>xxvii</sup> The arrestees, according to the families of the accused, were subjected to such severe torture at the hands of Sadar police officers that they were compelled to confess to terrible crimes like rape and murder. They further asserted that to safeguard the safety of the suspects, they had to pay SI Shamim Hossain bribes totaling at least Tk47,000. Extreme torture was performed on the suspects, including hanging them by their hands and feet. If they refused to testify, the police allegedly threatened to kill them. The terrible event was made even worse by the fact that they were hauled out of the prison against their will and had a gun held to their head.<sup>xxviii</sup>

**CASE NO. 7:** Doros Mia, 84, was cleared of a rape charge in a recent decision rendered on January 24, 2023, by the Habiganj-1 Women and Child Torture Tribunal. Latifah Bibi, the spouse of Raja Mia, who had previously wed one of Doros Mia's daughters, brought the case

in 1999 against him and three other people. Doros Mia, Bulu Mia, and Iman Ali were accused of gang raping Latifah Bibi in the case. Bulu Mia, however, passed suddenly in the middle of the proceedings. Twelve witnesses for the plaintiff did not give any testimony. Doros Mia and the other three defendants were exonerated by the court since the accused was not found guilty. In this instance, the doctor's report had no indication of a rape.<sup>xxix</sup> After weathering the protracted legal dispute for 12 years, he voiced his emotions of insignificance and destitution. He claimed that he felt insignificant in the eyes of his family and neighbors and that he had fallen into poverty because of selling land to pursue the case. He wondered if he might die with unfounded accusations against him. His grandsons questioned him about the substance of the case after noticing that he had been making many trips to the Habiganj court during the previous 24 years, but he was unable to satisfactorily respond.<sup>xxx</sup>

**CASE NO. 8:** In Panchagarh, Bangladesh, Keramat Ali, 43, was found guilty of submitting a fraudulent charge and was given a three-year prison sentence. The court determined that Keramat Ali's brother-in-law Mosharof Hossain's rape case against him was false. The lawsuit started because of a disagreement between the victim's father and uncle, according to the victim, Keramat Ali's fifth-grade daughter, who testified in court that Mosharraf Hossain had not injured her. The accused was declared innocent when the case's falsity was established, and the court ordered punishment against Keramat Ali in accordance with Section 211. Keramat Ali was condemned in absentia following a protracted trial because he had fled the country.<sup>xxxi</sup>

## COMPARATIVE ANALYSIS ON CASE REPORT

**India:** The Delhi Commission for Women reported in 2020 that 53% of rape cases were false in 2019–20, sparking debates on men's rights.<sup>xxxii</sup> The NCRB Report 2018 shows that out of 23,801 false cases, approximately 25% were false under Section 376 of the Indian Penal Code, 1860.<sup>xxxiii</sup> To avoid innocent persons being imprisoned for protracted periods of time without receiving a just verdict, it is also crucial to speed up the legal system and ensure swift trials. The Delhi High Court ruled that Rizwan Shah V. Shweta Joshi & Ors. was a criminal case involving false facts and baseless allegations, leading to mental agony, job loss, and tampered employment prospects. The court awarded damages of Rs. 250,000 for the malicious prosecution.<sup>xxxiv</sup> Vinod Prakash<sup>xxxv</sup>

emphasized that the accused must be protected against false complaint and that the victim must be protected from the possibility of false reports, as it can increase the chances of violent behavior towards women and society.<sup>xxxvi</sup>

**United Kingdom:** The UK study suggests that a false case involving an accused could lead to a financial crisis<sup>xxxvii</sup>, as the females registered the case to extract money and perquisites for settlement.<sup>xxxviii</sup> In the UK, an IT consultant lost his job due to false rape allegations by his former girlfriend. He was sentenced to three years in prison.<sup>xxxix</sup> The Guildford Court ruled that the accused lost his reputation and job, which he will reclaim after proving his innocence for decades. Malicious prosecution is a common form of abuse of legal proceedings.<sup>xl</sup>

### **The Harsh Reality of False Accusations**

False allegations provide obstacles in contrast to other crimes because of the delicate nature of rape cases and the possibility for major psychological, social, and legal effects.<sup>xli</sup> Investigating the causes of false rape charges in Bangladesh is essential to identifying the underlying issues, which include societal attitudes, cultural norms, power dynamics, and procedural challenges.<sup>xlii</sup> “The examination of fictitious sexual harassment cases demonstrates the complexity of sexual assault and refutes widely held assumptions and prejudices.<sup>xliii</sup> The prevalence of false charges can be acknowledged for society to better understand the complexity of sexual assault. It enables us to see the need for a more complex strategy and get past a simplistic narrative that assumes all accusers are telling the truth and all accused are guilty.<sup>xliv</sup> One can assess the effectiveness of the legal system in handling such situations by looking at fictitious rape cases. It clarifies the challenges that law enforcement agencies, prosecutors, and courts face while handling these complex cases. The assumption of innocence and the principle of due process must be the cornerstones of any just legal system.<sup>xlv</sup> By investigating fictitious sexual assault cases, it is feasible to more effectively ensure that these standards are upheld and that innocent persons are not wrongfully accused of crimes or imprisoned. It aims to successfully exonerate males who have been falsely accused of sexual harassments’ and to ensure that the burden that women who make fictional rape charges place on men and women does not overwhelm the experiences of true rape victims.<sup>xlvi</sup> False allegations are extremely serious in Bangladesh since they cause the criminal justice system and the entire society several issues.<sup>xlvii</sup> The reputation

**Violence Against Women (Rape) January- May 2023**

Documentation Unit

Ain o Salish Kendra (ASK)

Form of rape	Age Under 6	7-12	13-18	19-24	25-30	30+	Age not mentioned	Total	Death	Suicide	Case filed	No information on case filing
Rape	19	22	24	9	7	8	107	196	11		145	48
Gang rape		4	9	6	5	4	19	47	6	2	32	15
The type of rape not mentioned								0				
<b>Total</b>	<b>19</b>	<b>26</b>	<b>33</b>	<b>15</b>	<b>12</b>	<b>12</b>	<b>126</b>	<b>243</b>			<b>177</b>	<b>63</b>
Murdered after rape	2	5	2	1	2	4	1		17			
Suicide because of rape			1	1						2		
Murdered after attempt to rape		1					1					
Suicide because of attempt to rape				1								
Attempt to rape	12	7		2			35	56	2	1	34	22

Source: Prothom Alo, Ittefaq, Samakal, Sangbad, Janakantha, Naya Diganta, Daily Star, New Age, Dhaka Tribune (include their epapers), some online news portals and Ain o Salish Kendra (ASK)

of a rapist can have a catastrophic effect on their personal and professional lives, causing psychological distress, loneliness, and public shame.<sup>xlvi</sup> False accusations have come under scrutiny in Bangladesh recently due to their potential to ruin people's reputations and shatter societal cohesion.<sup>xlix</sup> Beyond the way they affect the accused, these allegations have adverse effects for society since they destroy faith in the justice system and promote prejudices.<sup>1</sup> For feasible solutions to this issue to be established, it is vital to comprehend the origin and current importance associated with false accusations in Bangladesh. Many people are filing fictitious claims because of numerous family or social issues because of the current shaky social cohesion and lack of values.<sup>li</sup> A man who has been falsely accused of a crime must contend with numerous stigmas in society, just as women who have been the victims of rape do. These items now propagate at the speed of light thanks to social media.<sup>lii</sup> Before the court's decision, he is thought to be a criminal. Many as a result experience job loss, social isolation, and loss of social benefits.<sup>liii</sup> Even though Article 33 of the Constitution of Bangladesh expressly protects an accused person's right to approach a lawyer of their choice and safeguards their right to a defense, it might be challenging to find legal representation in cases where media trials take place.<sup>liv</sup> The primary cause of this is likely social guilt and stigma associated with defending those who are accused of crimes. The information for the table<sup>lv</sup> above originated from Prothom Alo, Ittefaq, Samakal, Daily Star, Dhaka Tribune (Including Their E-Papers), as well as a few internet news portals.<sup>lvi</sup> The data provides insight into the number of recorded

rape events and incidents in which the victims unfortunately passed away or committed suicide. It is very important to bear in mind that the table<sup>lvii</sup> mostly relies on news reports without any accompanying documentation for the verification or research of these claims. Considering the inadequate understanding and educational capacity of many individuals in our society, it is possible that a substantial percentage of the population will embrace the provided facts at face value without researching the context and history of the reported incidents. Lack of knowledge and weak analytical abilities may prevent people from evaluating the data critically and understanding its wider implications, which may help to explain why people tend to rely solely on the information provided without doing more research.<sup>lviii</sup> Additionally, there is a significant issue when examining false accusations that have been proven in court due to the lack of data or documentation on such instances.<sup>lix</sup>

## CONCLUSION

A simple strategy of liars is to keep the story common and less details. Since false accusers are liars, false complainants will probably adopt the same technique and construct a concise general event.<sup>lx</sup> False complainants do not know how rapes commonly occur, so they cannot include authentic details in their fabricated story. Experts of Criminal Justice usually determine that a charge is false when the victim's confession of the rape is not totally reliable, emphasizing that at least a portion of her statements is fraudulent due to her telling the truth or committing an error.<sup>lxi</sup> The legal system of Bangladesh ought to treat accusations of false rape with the same gravity and attention as accusations of true rape. It is crucial to provide the accused with enough support and protection during the duration of the investigation and trial to prevent any injustice.

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