Definitions of “rape” and “sexual intercourse” aside, this section details the steps to be followed in case of rape.

**Q. What do you do if you have been raped?**

The following steps can be followed by a victim:

1. Go to the police station nearest to the scene of the crime. Or better still, dial 100 and give them accurate details of the crime - place of occurrence, time etc.

2. If you are going to a police station, it is best to have a male relative or friend accompany you. If necessary, have a lawyer accompany you for they should be better able to negotiate the law.

3. Rape is a cognizable offence. It is your right to have a first information report (FIR) registered. The FIR must be registered ideally by the station house officer (SHO) or any official above the rank of constable. You have the right to demand that a copy of the FIR be made available to you free of cost.

4. Go to a registered medical practitioner and submit yourself to a detailed medical examination. It is not necessary to go to a government hospital doctor.

5. Do not wash yourself or change the clothes you were wearing at the time when the crime was committed until completion of the medical examination. Carry a change of clothes to the police station and if required, submit the clothes as evidence.

6. Submit also whatever articles were obtained from the accused.

7. Preserve the condition of the place where the offence was committed. It might contain clues or other evidence that may strengthen the prosecution.

**Q. The police officer refused to register an FIR. What are my options now?**

In case the police officer refuses to register the FIR, you have the following options:

1. Remind the officer that refusal to register a complaint is an offence under the law. It is punishable departmentally and also by imprisonment of up to 2 years with a fine or both.

2. Send a copy of the complaint by registered post to the deputy superintendent of police (DSP) of the district with a covering letter.

3. File a complaint with the local magistrate.

4. Send a copy of the complaint to the chairman of the national human rights commission (NHRC).

5. You can also send the written complaint to the state home secretary or the director general of police.

**Q. What is the effect of delay in filing an FIR?**

Though some hesitation on part of the woman in approaching law enforcement authorities about the commission of rape or other sexual assault can be understood, delay in reporting the crime can only be detrimental to the prosecution.

Promptness in reporting the crime would go a long way in erasing any doubts about the veracity of the victim’s claims. It would help authorities preserve any medical evidence.

**Q. What is my right to self-defence in the event of an assault with an intention to commit rape?**

A woman, when assaulted by a person with the intention of committing rape, can ***kill*** the assailant. This right is given in section 100(iii) of the IPC and the intended victim will have to explain during the trial that she had no option but to exercise this right.

**Q. What must the prosecution prove in a rape case?**

The prosecution must prove the following:

- There was sexual intercourse

- The accused was the rapist

- Consent obtained was not valid

- The girl was below 16 years of age

**Q. What is the possible defence in rape cases?**

The defence will most likely argue that:

- The woman’s consent was valid

- The woman has “loose morals” and is habituated to sex. This is mentioned in Section 155(4) of the Indian Evidence Act and may be used to discredit the prosecution.

- No resistance was offered by the woman implying consent

- The rape complaint has been filed to frame the accused

**Q. Can an impotent man be guilty of rape?**

No. An impotent man cannot be found guilty of rape. However, he may be charged under Section 354 which deals with assault intending to outrage the modesty of a woman.

**Q. What sort of an offence is rape?**

Rape is a cognizable offence. This means a police officer ***must*** register an FIR and can also arrest suspects without a warrant.

**Q. What court can try a rape offence?**The Sessions Court tries a rape offence.

**Q. Are rape trials conducted in the open court? Are the proceedings open to all?**

No. Amendments to the Code of Criminal Procedure stipulate that offences of rape and certain cases of sexual intercourse not amounting to rape (read on to know more about these special cases) will be tried in-camera only. This means that the general public is not allowed to sit in on the court proceedings. This is done keeping in mind the sensitivities involved and the fact that the victim may be more forthcoming with details of the crime if she does not have a lot of people staring at her.

However, the judge may, if he thinks fit, or if any of the parties request, allow a person to have access to or remain in the room or building used by the court. Further, proceedings of the court can be printed or published only with the court’s prior permission. Publishing proceedings without the court’s prior permission can result in fine or imprisonment of upto two years or both.

**Q. What sexual assault offences are tried in-camera?**

The following cases of rape are tried in-camera:

- Rape committed by a common person

- Intercourse by a man with his wife without her consent while they were separated

- Intercourse by a public servant with a woman under her custody even when such intercourse does not amount to rape

- Intercourse by management or staff of jail, or superintendent of jail, remand home etc. with a woman or child under their care even when such intercourse does not amount to rape.

**Q. Can the name of the rape victim be published?**

No. Printing or publishing any matter, which may reveal the identity of a victim of a crime committed under sections 376 (rape), 376A (rape of a wife without her consent when man and wife are separated), 376B (intercourse by public servant with woman in her custody; such intercourse not amounting to rape), 376C (intercourse by superintendent of jail, remand home with a woman under his custody; such intercourse not amounting to rape) or 376D (intercourse by management or staff of a hospital with a woman under his custody; such intercourse not amounting to rape), is punishable with imprisonment of two years or fine or both.

Such precautions are taken by the court to prevent causing the victim embarrasment.

**Q. Can the victim’s identity be revealed at all? Under what conditions can the victim’s identity be revealed?**

Yes. The victim’s identity can be revealed under the following circumstances:

- The identity is revealed by or under the orders of the investigating officer in good faith for furthering the investigation.

- The identity is revealed by the victim herself after written authorization

- In case the victim is dead, the identity is revealed by the next of kin.

--Ends