



SEXTORTION, A NEW REALITY IN INDIA

Neenu Gupta

Ph.D. Research Scholar, Desh Bhagat University, Gobindgarh, Punjab

Abstract-- Sextortion', a cyber-crime which has been observed in the West, has officially arrived in India. Sextortion is a form of sexual exploitation that employs non-physical forms of coercion to extort sexual favors from the victim. Sextortion refers to the broad category of sexual exploitation in which abuse of power is the means of coercion, as well as to the category of sexual exploitation in which threatened release of sexual images or information is the means of coercion.¹As used to describe an abuse of power, sextortion is a form of corruption in which people entrusted with power – such as government officials, judges, educators, law enforcement personnel, and employers – seek to extort sexual favors in exchange for something within their authority to grant or withhold. Examples of such abuses of power include: government officials who request sexual favors to obtain licenses or permits, teachers who trade good grades for sex with students and employers who make providing sexual favors a condition of obtaining a job.

I. INTRODUCTION

Sextortion also refers to a form of blackmail in which sexual information or images are used to extort sexual favors from the victim.² Social media and text messages are often the source of the sexual material and the threatened means of sharing it with others. An example of this type of sextortion is where people are extorted with a nude image of themselves they shared on the Internet through sexting. They are later coerced into performing sexual acts with the person doing the extorting or are coerced into posing or performing sexually on camera, thus producing hardcore pornography. A video highlighting the dangers of sextortion has been released by the National Crime Agency in the UK to educate people, especially given the fact that blackmail of a sexual nature may cause humiliation to a sufficient extent to cause the victim to take their own life,³ in addition to other efforts to educate the public on the risks of sextortion

II. HISTORY

An early use of the term appears in print in 1950 in California.³ Since early 2009, The Institute for Responsible Online and Cell-Phone Communication (iroc2.org) began warning the public about the trend of "Sextortion" via live events and websites including www.sextortion.org. This is a trend that grew based on the birth and growth of the trend known as "sexting" whereby compromising images and videos were being shared by individuals without a real understanding of the short and long term consequences of sharing "private" content on digital tools designed for sharing.

In 2009, the International Association of Women Judges (IAWJ), in partnership with the Association of Women Judges in Bosnia and Herzegovina, the Philippine Women Judges Association, and the Tanzania Women Judges Association, and with funding from the Government of the Netherlands, launched a three-year program on "Stopping the Abuse of Power through Sexual Exploitation: Naming, Shaming, and Ending Sextortion."⁴ Presentations on sextortion were made to judges attending the 2010⁵ and 2012

¹ www.thehindus.com 8 October 2018

² www.cyberl.com consultancy services

³ "Sextortion Charges To Come Up Next Week". Los Angeles Times. April 5, 1950. Retrieved 2018.

⁴ "Stopping the Abuse of Power through Sexual Exploitation: Naming, Shaming and Ending Sextortion – Toolkit" (PDF). International Association of Women Judges. 2012. p. 5. Retrieved 2018

⁵ "10th Biennial International Conference: 'Judicial Challenges in a Changing World'". International Association of Women Judges. Retrieved 2018



Biennial World Conferences of the IAWJ⁶⁷ and to NGOs attending the 2011⁸ and 2012 meetings of the UN Commission on the Status of Women. There are also scientific studies describing the prevalence of sextortion in Europe, etc. in the Czech Republic (2017)⁹

III. PROFILING OF THE VICTIM

In a recent study undertaken by Brookings Institution, it was found that all the accused were male and 90 per cent of victims were female. For the sake of this article, let us assume the victims are women. The perpetrators could be anyone from her workplace colleague, a computer hacker, an online romantic partner, or a partner from a failed relationship — basically, everyone with a primary intent to demand sex or money, or both; in rare cases, even pleasure from the torture that comes out of blackmailing.

As per data released by the National Crime Records Bureau in 2016, the number of cyber-crime cases pertaining to sexual exploitation and outraging the modesty of a woman was 686 and 569, respectively. Though 829 people were arrested for transmission of sexually explicit content, charge sheets were filed only against 484.¹⁰

IV. EFFECTS ON VICTIMS

The nature of the offence makes it easy for society to shame the victim: 'It is the victim, after all, who took the pictures and videos and sent them'. This attitude is unsurprising, especially since higher courts in India too seem to hold the same view. However, the fact that the victim sent the pictures of her own volition or consented to getting her pictures clicked does not deny her right to justice.

In an infamous case of sextortion and rape of a university student, the Punjab and Haryana High Court granted bail to three convicts, saying the victim's statement revealed a story of "misadventure (of the victim) from a promiscuous attitude and a voyeuristic mind". This order is clearly the reflection of an irrefutable patriarchy that exists in our society.

The Cyber police in Mumbai have received at least five complaints over the last two months where citizens, after visiting pornographic websites, found themselves being extorted with records of their online activities as leverage.

Cyber police officers said that sextortion is done using various methods. One modus operandi consists of chatting with an unsuspecting victim posing as a girl and getting them to send compromising pictures of themselves, which are then used for blackmail. Another involves placing links on pornographic websites which, if clicked on, record the victim's activities. A particularly serious form of sextortion also includes extorting sexual favours from the victim instead of money, officials said.

According to Mumbai Cyber police officials, two women and three men have approached them over the last two months with similar complaints. "The victims, in their complaints, have stated that they visited certain pornographic websites, after which they received emails within a day or two. The emails had their

⁶ Gibb, Frances (May 31, 2012). "Attacks and threats: why judges need support". The Times. London. Retrieved 2012-10-05. Judges discussed 'sextortion' a mix of sex and corruption where people in authority demand sexual favours for anything, Hale says, from immigration to prosecution decisions

⁷ "International forum encourages judges to 'mind the gap'". The Supreme Court of the United Kingdom. May 31, 2012. Retrieved 2018

⁸ "Ending the Abuse of Power through Sexual Exploitation: Naming, Shaming, and Ending Sextortion. IAWJ Panel @UN CSW". Inter Press Service. February 23, 2011. Archived from the original on April 15, 2013. Retrieved 2018.

⁹ Kopecký, Kamil (February 2017). "Online blackmail of Czech children focused on so-called "sextortion" (analysis of culprit and victim behaviors)

¹⁰ www.thehindu.com/news/national/many-cybercrime-cases-not-investigated/article21235628.ece/amp/



full names and all the logs of the content that they had watched, along with a message demanding money in the form of bit coins. The emails went on to say that the entire victim's social media account details had been obtained, and that the entire record of their pornographic activities would be exposed on all these platforms," a Cyber Crime officer said.

The officer added that in all the five cases, the victims sought the police's help to trace the perpetrators and make the extortion stop. However, all of them declined when asked to file an official complaint, fearing that they would be disgraced once their experiences became part of public record.

"Although only five people have approached us, we suspect there are more such victims in Mumbai and other cities. One of them even tried sending money via bit coin but could not do so. It is possible that those who are well versed in the bit coin system have already paid the extortionists. The problem is once someone bows down to such elements, the demands only keep increasing," another officer said. Given the sensitivity of the issue, women have little hope of being treated fairly if they file an official complaint or decide to pursue the issue legally. Therefore, a victim chooses to stay silent rather than lose the case and cause a scandal.¹¹

V. LAWS AND MORE

Offenders in such crimes usually thrive on the victim's silence and lack of clarity in the law. Hence, everyone needs to be aware of the codes and sections that will help them in such cases.

Section 108(1)(i)(a) of the Criminal Procedure Code empowers the victim to call the magistrate of her locality and inform him/her about the person whom she believes could circulate any obscene matter. The magistrate has the power to detain such person(s) and can order him to sign a bond to stop him from circulating the material. This might deter the accused. This is a quick remedial section because the victim can lodge the complaint with the magistrate without any direct evidence against the accused.

Section 292 of the Indian Penal Code (IPC) incriminates any person who distributes or threatens to disperse any intimate and compromising images of someone through any electronic means, including apps and other social media.

If a picture of woman is clicked in an obscene manner without her knowledge and is distributed, a voyeurism case under Section 354C of the IPC can also be filed along with the aid of other relevant sections from the Information Technology Act.

VI. MORE STEPS

1. *There is a need for the law to be tightened further:* Make a specific provision criminalizing sextortion. To tackle a problem, it has to be defined. The Indian laws don't define sextortion per se and are, hence, inadequate in combating a serious crime such as this. A specific and clear definition of sextortion has to be included in the Indian Penal Code. Until the law evolves to specifically define and sufficiently punish sextortion, it will remain unacknowledged, with the legal recourse path blurry. California, just by adding a few words to the extortion statute, now protects its citizens from sextortion by providing a clear path to report this abuse to law enforcement and get compensation from the offender.
2. *A safe reporting system for the victim:* To ensure that women can report this crime safely and with dignity, there must be a formal and confidential system to receive and register complaints, which ensures the incident is investigated with guaranteed confidentiality.

¹¹www.thehindus.com.



Going further, legal, institutional (sexual harassment committees in universities and schools), and community protection mechanisms (like NGOs) for these victims must be created, along with legal and psychological support to encourage victims to speak up and hold the perpetrators accountable.

3. *Spread the word:* Society has to be aware and accepting, and not ostracize the victims. Women facing this issue must make bold to come forward and speak up. They should be aware their rights and not give the exploiter a chance to thrive on their silence. Sextortion has its roots as much in the patriarchal and misogynistic attitude of society as in individual aberration. It's not your fault.

The Cyber police are still investigating how the perpetrators managed to record the activities of their victims, and suspect that they may have installed back door programs on the websites for this purpose. In the absence of official complaints, the scope of the investigation gets limited.

VII. JAMMU KASHMIR FIRST STATE IN THE COUNTRY TO HAVE SEXTORTION LAW

Jammu and Kashmir has become the first state in the country to have a law banning sexual exploitation of women by those in positions of authority, having a fiduciary relationship or a public servant.

The State Administrative Council (SAC) under the chairmanship of Governor Satya Pal Malik on Friday approved the 'Prevention of Corruption (Amendment) Bill, 2018' and the 'Jammu and Kashmir Criminal Laws (Amendment) Bill, 2018', an official spokesman said.

The Jammu and Kashmir Criminal Laws (Amendment) Bill, 2018 seeks to amend the Ranbir Penal Code, whereby specific offence under section 354 E is being inserted to provide for the offence of 'Sextortion',¹². Amendments are being made in section 154, 161 and Schedule of Criminal Procedure Code and section 53 A of the Evidence Act so as to bring sextortion at par with similar offences prescribed under Ranbir Penal Code, and amendment is being made in the Prevention of Corruption Act to amend the definition of misconduct and provide that demand for sexual favours would also constitute misconduct within the meaning of section 5.

VIII. CONCLUSION

The war against sextortion cannot be fought by single person or organization it need community effort with the overwhelming support from the government through its ministry and agencies. Victims must make sure they gather evidence during the process of procure them, they need to be given assistance from government officers to make sure they get documentary or electronic evidence as now we are in high technology development.” Because many of these cases are slipping through cracks in the law and not being brought out at all, giving them a name will make it easier to shine a light on the problem and take steps to redress the wrong. It is hard to conceive of much less discuss - matters for which we have no vocabulary. Naming the phenomenon - sextortion - will facilitate study, discussion, documentation, prosecution, and ultimately, elimination of the abuse of power to obtain sex

¹² The indian express 5 january 2019