



CIRCUMSTANCES THAT MUST BE PROVEN IN THE INVESTIGATION OF SEXUAL ASSAULT CRIMES

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Abstract: This article focuses on the aspects that investigators, inquiry officers, prosecutors, and courts should pay attention to when investigating rape crimes, particularly the investigator's role in examining this type of crime during the evidence-gathering process. The author engages in discussions with scholars on controversial issues encountered in the investigation of rape-related crimes and attempts to provide his own conclusions on each issue. Additionally, the article addresses the significance of ordering human DNA forensic biological examinations for the analyzed crimes and highlights how these examinations contribute positively to the effective investigation of rape cases.

Keywords: rape, criminal case, circumstances to be proven, investigator, evidence, human DNA forensic examination, criminal investigation, investigative actions.

In recent years, extensive efforts have been undertaken in our country to fully realize the noble idea of "For Human Dignity," implement international human rights and freedom standards into national legislation, and systematically and gradually integrate them into the activities of state bodies. Strengthening the guarantees of human rights and freedoms, ensuring the rule of law, and implementing these principles in the life of society and every citizen have become central to both domestic and foreign policy in New Uzbekistan. The consistent implementation of tasks outlined in the National Strategy for Human Rights, aimed at effectively fulfilling the international obligations undertaken by the Republic of Uzbekistan in the field of human rights, contributes to further strengthening its reputation in the international arena and fostering a culture of respect for human rights and freedoms in our country.

According to Kh.B.Zhamoldinov and A.S.Mirzaev, the integration of the provisions of Article 82 of the Criminal Procedure Code with the specific norms of the special part of this Code and the laws regulating the commission of this category of acts constitutes a specific subject of proof for a specific group of crimes. Providing a list of circumstances to be clarified for the relevant category of cases not only serves as a specific organizational and tactical instruction for the investigator, but also, along with avoiding gaps and ambiguities in the investigation process, acquires forensic content.

It should be noted that in the investigation of rape crimes, along with such tasks as the criminalistic characterization of these crimes and the analysis of typical investigative situations, the issue of studying the circumstances that need to be proven, collecting, verifying, and evaluating evidence on them is also of great importance.

Rapid, comprehensive, complete, and objective verification of all circumstances subject to proof ensures high efficiency and quality of the preliminary investigation. Since the circumstances that need to be proven are one of the important parts of the methodology for

investigating crimes, many scholars have addressed this issue. According to B.B.Murodov, the threshold of proof should be understood as the activity that determines the volume of evidence, their sources, as well as investigative versions, the scope of verification of the circumstances to be proven in order to confirm the validity of the conclusions drawn in the case .

In this regard, R.S. Belkin and other forensic scientists, in their scientific works, indicate the need for constant improvement of private forensic methods for investigating certain types (groups) of crimes and propose to include a new element in the structure of private forensic methods - circumstances that need to be proven .

G.A. Abdumajidov, R.A. Alimova, T.E. Aripov and other scientists propose to consider the circumstances that need to be proven as one of the elements of the criminalistic characteristics of crimes⁶. O.D. Allanazarov emphasizes that the circumstances to be proven are an integral part of the private methodology for investigating crimes, since the circumstances to be proven include not only the forensic aspects of the act, but also the identification and verification of all signs and characteristics of criminal law and criminal procedure significance .

When investigating crimes related to rape, it is first necessary to determine the subject of proof of the crime and its limits. This allows the investigator to purposefully conduct the investigation, see its final result, and solve tasks in criminal legislation, criminalistics, and criminal procedure.

Scientists also have different views on determining the subject and limits of proof of a crime, and the relationship between the criminalistic description of a crime and the subject of proof is one of the complex issues. In particular, R.R. Shakurov and others emphasize that the elements of the criminalistic description of a specific type of crime constitute the subject of proof of this crime .

According to O.D. Allanazarov, the content of the above-mentioned norm is mainly aimed at identifying the socially dangerous act committed and its characteristics significant for bringing the person who committed it to responsibility. However, for a comprehensive, complete, and objective resolution of the case, it is not enough to prove elements of the corpus delicti, but it is also necessary to identify circumstances that exclude the criminality of the act (such as necessary defense, extreme necessity, and causing harm during the detention of a person who has committed a socially dangerous act), mitigate and aggravate punishment, and serve as grounds for exemption from criminal liability and punishment.

His views were also supported by B.E.Yesimbetova . Because, according to criminal law norms, it is established that a socially dangerous act committed by a specific person in a state of extreme necessity or necessary defense that excludes the criminality of the act, the person must be released from criminal liability.

If the investigator does not prove these circumstances through investigative actions within the framework of the criminal case, it can lead to a serious violation of the law on ensuring the rights and freedoms of the individual, which in the future may lead to an assessment of the investigator's actions. According to Sh.T.Jumanov, in crimes related to rape, the following must be proven:

1) clarify whether the fact of rape exists or does not exist (if forced sexual intercourse took place, is this natural or staged);

2) what method the perpetrator used to rape the victim. The law recognizes only three ways of recognizing sexual intercourse as violence: physical violence, threats, exploitation of vulnerability; who is raped (adult woman, minor), is he physically or mentally ill;

3) who is the person who committed the crime, has he previously committed a similar crime, is he a particularly dangerous recidivist or not (if the rape was committed by a group of persons, then what is the role and degree of guilt of each of them);

4) what were the consequences of rape, were it serious consequences (death of the victim, unwanted pregnancy, serious bodily harm, mental illness, sexually transmitted diseases, etc.);

5) what is the damage (material and moral) caused to the victim as a result of rape;

6) determination of the presence or absence of intent to rape (for example, rape can be both an assassination attempt and hooliganism);

7) the conditions that contributed to the commission of the crime (lack of moral education, poor street lighting, etc.) .

Having analyzed the theoretical sources and practical experience of detecting and investigating crimes related to rape, provided for in Article 118 of the Criminal Code, we came to the conclusion that the circumstances that need to be established and proven in this category of criminal cases include:

1) whether there was sexual violence or voluntary sexual intercourse; whether there was a sexual threat or not; in what form the characteristics of the violence were expressed at the time of the sexual threat; whether the victim's helplessness was used or not; whether there were or were no injuries on the body of the victim of the crime, and if there were, the time, amount, sequence, severity of the injury and other specific features of the mechanism of its infliction; whether the victim resisted or did not resist, and in what form it was used; the victim's age, his behavior, the negative factors that led to the commission of the crime; whether the characteristics of the sexual threat, by its content, also encompass other crimes; whether the victim of the crime has a claim against the person who committed the crime; to whom the victim reported the incident;

2) when (at night, during the day), where (at home, at work, in the field, in an unfinished building, etc.) the crime was committed; how (by striking, compressing the airways, holding hands and feet, tearing clothes, or using alcohol, narcotic drugs, their analogues, or psychotropic substances); the presence of scratches, abrasions, or other injuries on the body of the person who committed the crime; the completion of sexual intercourse, the presence of biological discharge from individuals; whether the injuries on the victim's body are characteristic of rape; the consistency of the expert opinions with other evidence collected in the case; the connection of the traces found at the scene of the incident to the crime of rape;

3) by whom (a previously convicted person, information characterizing the personal characteristics and personality of the accused) the crime was committed; the relationship between the person who committed the crime and the victim, the degree of kinship, whether there was previously sexual intimacy between them; whether the suspect is capable of sexual intercourse; whether the accused has previously committed crimes against sexual freedom; whether the crime was committed by the accused with the threat of murder; whether it was committed against a person known to the guilty party to have a disability; whether it was committed by a person performing the duties of raising, educating and (or) caring for the

victim, as well as by an employee of an educational, upbringing, medical or other institution, on whom the duties of caring for the victim are legally imposed; the number of persons who committed the crime, if there are two or more, their role in committing the crime, whether they were the perpetrator or not, what actions each of them performed; the nature of the violent actions of the person who committed the crime;

4) whether the crime was committed with direct or indirect intent; the occurrence of grave consequences as a result of committing rape; the form of guilt of the person who committed the crime, the motive, purpose, and method of sexual threat, the presence of a causal link between the act of the person who committed the sexual assault and the resulting consequences; the presence or absence of preparation for the crime; the presence of the causes of the crime and the conditions that contributed to its commission.

