

An Unrecorded Crime

Rape in Police Custody at Malviya Nagar

**People's Union for Democratic Rights
Delhi
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Around the midnight of 18-19 June 1997, a 35 year old woman was raped by a policeman in her own house at Lal Gumbad Jhuggi Camp. This jhuggi camp is situated adjacent to Sadhna Enclave, a posh residential colony under the Malviya Nagar Police Station.

One month has passed since the incident. Despite attempts by the victim herself and other jhuggi dwellers, Malviya Nagar police has refused to record the crime and register a First Information Report (FIR). Police has also actively prevented a medical examination from being conducted. In early July, two weeks after the incident, the Commissioner of Police ordered an internal Vigilance Inquiry, which is currently underway.

The Context

Close to the road leading from Outer Ring Road to Malviya Nagar is situated a historical monument called Lal Gumbad. Sandwiched between the boundary of this monument and Sadhana Enclave is a cluster of nearly 400 jhuggis. The residents of this jhuggi camp mainly hail from Rajasthan and Eastern U.P. and settled here nearly 35 years ago. Migrant labour from Bihar and Bengal too have settled here.

Most of the men in the jhuggis work as casual labour while women work as domestic servants in the neighbouring colonies. Over the last few months the residents of Sadhana Enclave have been putting up gates on colony roads to restrict free passage. One such gate was put up on a back lane of a row of houses on 15 June. This lane also served as the approach road to the jhuggi settlement. The jhuggi dwellers disagreed with the closure of the road since it caused them severe inconvenience. The installation of the gate did not have the approval of the Municipal Corporation, which owns the land. On the night of 18 June the jhuggi dwellers decided to uproot this gate and collected near it for this purpose.

The Incident

Soon after the jhuggi residents started digging near the gate, two policemen came to the spot. They were followed by the Station House Officer (SHO) of Malviya Nagar Police Station and 6 more policemen. They assaulted the people collected at the gate with lathis. The residents resisted by throwing stones. Soon a much larger police contingent numbering upto 60 or so, including the Assistant Commissioner of Police (ACP) of the area, arrived and started an indiscriminate and brutal lathicharge. The police barged into the jhuggis, pulled out and beat up men, women, children and old people. Many people suffered serious injuries which have not healed even a month later and have resulted in loss of livelihood for many. No women police were present during the lathicharge.

During this attack three policemen entered a jhuggi situated close to the disputed gate, at the edge of the camp. The couple who live here eke out their livelihood by running a small provision store in the house and the woman works as domestic help. The man and his 11 year old son were beaten, dragged out and arrested. The policemen then returned to the jhuggi. Two of them held the woman, while the third raped her. She was beaten and gagged when she tried to resist them. Hearing her shouts 55 year old Dharmo who lives nearby came to try and save her. The policemen attacked her with a lathi, fracturing her arm.

In all, 16 people, including the victim's husband and child, were arrested on charges of rioting and destruction of public property.

The Aftermath

The next morning, the victim went to court along with others from the jhuggis to try and secure the release of her husband and son. A bail amount of Rs. 10,000 was set for each person arrested. She somehow managed to procure the unreasonably large amount required for her son. But her husband was sent to Tihar in the absence of a surety. He remained in jail till 2 July.

On the 19th, after returning from court, a large number of jhuggi dwellers went with the victim to Malviya Nagar P.S to register an FIR. They were met with point-blank refusal. The police jeered openly at them. She recognised one of the policemen present, dressed in civilian clothes, as one who had been an accomplice in her rape. Rebuffed by the Malviya Nagar police they went to a local leader and with his assistance went to the district police headquarters, at Hauz Khas. Here they were told to first go to AIIMS for a medical examination. On reaching the hospital they found

the doctor sitting with 3 police personnel, one of whom they recognised as a policewoman who had been present at Hauz Khas a short while ago. The results of this blatant use of influence were soon apparent. After conferring with the police the doctor refused to hear the victim's complaint and did not conduct the internal examination which is so crucial in the substantiation of a rape charge. Such examination loses relevance unless done within 24 hours of the rape. Only a cursory external examination of the victim (and Dharmo) was conducted and a Medico-legal Certificate (MLC) recorded. Two days later, on 21 June, the jhuggi residents demonstrated outside the DCP's office at Hauz Khas and urged him to register and FIR.

Eventually one of the local leaders belonging to the Bhartiya Janata Party brought the matter to the attention of a Delhi government minister who informed the Lieutenant Governor (LG). The LG's letter to the Police Commissioner resulted in the ordering of a vigilance inquiry. As part of the vigilance inquiry the police went to the victim's house and collected a bedsheet which had bootmarks on it, as well as her petticoat, as evidence. This was done 20 days after the rape and it would not be surprising if nothing conclusive can be deduced as a result of such delayed collection of evidence.

The victim was also taken to the Malviya Nagar P.S. for an identification parade in which she was shown 25 policemen. Of these some were from Malviya Nagar P.S. and some from others. This seems patently absurd. For, the police attack on the jhuggi camp was conducted by about 60 policemen and Malviya Nagar P.S. itself has a strength of more than 25. On what grounds then were only 25 personnel shown to the victim? It is not surprising that the woman could not identify anybody though she is confident that she can recognise all the three policemen involved. Such a process merely serves to confuse the victim and make her less confident of her memory. Owing to the attack on her and the aftermath, the victim has lost her job and is today desperately looking for livelihood to support her family and return the loans taken to arrange the bail.

The Police Version

While the attitude of the police is rendered transparent by the sequence of events mentioned above, their official position on the matter is a total denial of the incident. They also deny that anybody came to register an FIR, and try to discredit the victim's story by identifying her husband as a 'bad character'. According to the SHO, the victim's failure to identify any policemen produced before her is ample proof that her accusation is false. Today, the policemen from Malviya Nagar P.S. repeatedly visit the

jhuggi cluster evoking fear of further arrests and beating.

Despite repeated attempts on our part the Police Commissioner has not been available to answer a simple query: if there was sufficient indication of custodial rape to institute a vigilance inquiry, why, in a crime so serious, was the registration of an FIR not ordered immediately. How can any inquiry be expected to proceed fairly if it is to be carried out under the eyes of those accused of the crime in the first place?

The law however is categorical in this respect. Once information of a cognizable offence is received, orally or in writing, by a police officer it should be recorded in a register kept for the purpose at the police station and a copy of it provided to the informant. In case the officer at the police station refuses to register the complaint, the same information can be given to the Superintendent of Police (the District Commissioner of Police in case of Delhi). It should be recorded and investigation done by the DCP or any officer empowered by him. (S.154 Cr.P.C.).

Both these methods were tried by the victim within three days but Delhi Police refused to do their duty. Instead, a Vigilance Enquiry is ordered to investigate whether or not the Malviya Nagar police failed in their duty and whether an FIR needs to be recorded. Such an enquiry has no place in law. For, investigation starts only after the registration of the occurrence of a crime. In the circumstances, a Vigilance Enquiry furthers the delay in registration of crime thus weakening the case when it comes up in court. It implies that the police sits in judgment over its own actions. It only serves as a ploy to destroy evidence and dishearten the victim and shield the guilty. The existing delay of over a month is testimony that the police has been considerably successful in its purpose.

In the above circumstances PUDR demands:

1. That an FIR be immediately registered for the charge of rape.
2. That the victim be paid adequate compensation.
3. That investigation in the case be handed over to the CBI.
4. That the SHO Malviya Nagar P.S. be immediately suspended and policemen of the PS transferred till the investigation is completed.
5. That an enquiry by a Judge be conducted into the lathicharge and action be taken against erring police officers.

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