

CUSTODIAL RAPE :

The Baljeet Nagar Story

PEOPLE'S UNION FOR DEMOCRATIC RIGHTS

DELHI

MAY 1990

On 9th May a young migrant woman of Baljeet Nagar was raped by a police constable attached to the Patel Nagar Police Station. According to press reports, this was followed by a second attempt on 14th May but the attempt was foiled and the constable arrested. PUDR sent a three-member fact-finding team to investigate these incidents.

Baljeet Nagar, misleadingly called a jhuggi settlement, is a large, densely populated settlement of unauthorised residential structures (kutchra, pucca and semi-pucca) built in an unplanned manner wherever appropriate empty spaces could be found.

The young 25 year old victim lives in a kutchra jhuggi with her husband and two small children (aged 2 and 4 years). Her jhuggi is set a little away from the neighbouring houses and there is no smooth path to it. It is not easily accessible since it is located on a natural step of land bounded on two sides by a 10-15 feet cliff, and overlooks a drop of several feet.

The woman and her husband migrated from Nepal seven years ago, and have been residents of Baljeet Nagar since then. In these years they have visited their homeland only once and have no relatives in Delhi. The husband ekes out a living as a raj-mistri ( mason ) and has studied up to class VI. The wife, however, has never been out to work and is illiterate.

The land on which Baljeet Nagar colony has spread itself has been illegally occupied by the residents. While initially they had constructed jhuggis, over the years many have managed to build pucca and semi-pucca houses. The

residents allege that everytime someone puts up a structure the local policemen come and collect Rs.100-200 as their fee from the house-dwellers. This migrant couple had also paid a "statutory fee" of Rs.100/- to a police constable when they constructed their own jhuggi about a year ago.

About a month prior to the incident they were visited by the thanedaar and two constables (Patel Nagar P.S.), one of whom was Sunder Singh. Apparently the policeman had come to survey residents who had illegally occupied land. They checked the family's ration-card and left. But matters did not end there.

### The Incident

On the night of 9th May, around 11.30 p.m., Sunder Singh came to the jhuggi and rudely woke up the sleeping couple. He was accompanied by another policeman. Neither were in uniform. They threatened the couple and the second constable coerced the husband into going away with him for about half an hour. During this period, Sunder Singh entered the jhuggi, threatened to kill the woman, her children and husband, raped her and left. The shattered woman was too frightened to register a complaint, but she confided in her husband and neighbours who decided to keep a watch and not allow a repeat of the incident.

On the night of 14th May, Sunder Singh and his accomplice came again to the jhuggi. But this time the couple were able to raise an alarm. One of them managed to escape, but Sunder Singh was caught and arrested. An FIR (180/90) was lodged the same night.

Police

Sunder Singh has a service record of 8-9 years. He was posted to the Patel Nagar police-station around January '90, prior to which he was at Janakpuri police-station. Baljeet Nagar was earlier part of his beat but since a month prior to the incident he had been on a different beat. The accomplice has no direct dealings with the residents and he is supposed to help in the delivery of court summons.

The residents of Baljeet Nagar allege that Sunder Singh is a very arrogant man and often swaggered around saying that he could do anything and get away with it ("main bahut kamina admi hun, main kuch bhi kar sakta hun").

Our interview with the SHO, Mr. V. P. Singh, was very revealing. He informed us that Sunder Singh has been granted bail on the grounds of the five days delay in lodging the complaint of the rape on 9th May. He claimed that she could have easily raised an alarm the first time since Baljeet Nagar is such a densely populated area. Her assertion that the constable had threatened to kill her he dismissed outright saying "nobody is afraid of the police in Delhi, especially not in a politically sensitive area like Baljeet Nagar." He stated that Sunder Singh is a married man and no such complaint has been made about him in his nine years of service.

Mr. V. P. Singh also asserted that this was not a case of custodial rape, since the woman had not been taken into custody. This raises the whole question as to what constitutes 'custody'. Both the Home Ministry and the courts interpret rape by a policeman as custodial rape,

whether or not the policeman is on duty.

In fact, Mr. V. P. Singh seemed quite convinced that Sunder Singh had been framed, the only doubt being the motive. He suggested two possible motives; one that the woman was having an affair with Sunder Singh and had accused him of rape when 'her liason' came to light; the other, that her husband had some enmity with Sunder Singh and this was a form of revenge. Such attribution of motives is by no means surprising. For allegations of an illicit love affair and the revenge theme are hardy perennials in rape cases, used both by the police and by defense lawyers.

#### Legal

Sunder Singh was charged under sections 376 (rape), 354 (sexual molestation), and 506 (criminal intimidation) of the Indian Penal Code (IPC). The accomplice was charged under S.506 (IPC). Both were arrested and suspended.

The matter of the accomplice is of interest. For there is controversy regarding his identity. While the residents allege that it was a policeman named Anil, the policeman actually arrested is one Suresh. Perhaps this is why the couple were unable to identify the accomplice at Tihar Jail. Incidentally, Suresh was named by none other than the main accused Sunder Singh who claims that Suresh did not come to the jhuggi itself that night.

Sunder Singh meanwhile has been given bail (18th May). This on the grounds that there was a delay of five days in reporting the rape. In all the custodial rape cases PUDR

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has investigated, this is the speediest instance of grant of bail - in just four days. PUDR fears that this precipitate court order could well lead to a sorry miscarriage of justice. Specially since Sunder Singh so obviously has the complete support of the local police, including the SHO. Attempts to intimidate the victim and the people who came to her help are likely consequences of this speedy bail.

### Public

Unlike in many rape cases, the role of the neighbours and other residents of Baljeet Nagar has been very supportive. This is apparent from their prompt and collective action on the night of 14th May, when Sunder Singh and his accomplice came a second time.

That night, due to electricity failure, the victim had been standing outdoors to catch some fresh air while her husband and children slept inside. At around 9.30 p.m. Sunder Singh and his accomplice came and tried to grab her, and tore her blouse in the ensuing struggle. The woman managed to run into the house and shut the door. Even as Sunder Singh broke open the flimsy wooden door, her husband woke and raised an alarm. The accomplice managed to get away, but Sunder Singh was caught by the irate neighbours after a brief chase and beaten up. The police were informed (by the accomplice, the neighbours allege) and two policemen arrived on the scene. They proceeded to lathi-charge the crowd and also insisted that the woman give her statement to them right then and there. But the people refused to be taken in. About 150-200 people accompanied the woman and her husband to the Patel Nagar police station and sat outside shouting slogans till the FIR was lodged.

The local pradhan even confiscated Sunder Singh's identity card, and released it on the request of the SHO and the DSP only after getting a photocopy made. Our interview with the neighbours revealed their sense of outrage and determination to see that justice was done. This is closely related to their sense of vulnerability to police lawlessness. As one woman said, they all had young daughters and bahus. If they did not collectively intervene, such young women could be the next victims of sexual assault or rape by the police.

### Conclusion

PUDR has investigated 5 cases of custodial rape out of the officially reported 15 rapes perpetrated by the Delhi police in the past few years. In all 5 cases, it found that the victim was a migrant woman with a socially and economically vulnerable background. Further the attitude of the thana police, who are also the investigating officials is, with amazing regularity, prejudiced in favour of the accused policemen. This leads to dangerous distortions in registration of complaints and in framing charges, thus creating convenient loopholes for the accused to exploit at the judicial level.

CUSTODIAL RAPE IN DELHI		
1987	-	1
1988	-	5
1989	-	7
1990 (until mid-Jay)		3

Source: Delhi Police

## SINGALPUR VILLAGE

### ATTACK ON WORKERS

Singalpur village is a small urban village in Shalimar Bagh. On the night of 2 December 1989, about 50-60 persons, most of them house-owners of the village along with some anti-social elements from outside attacked the house of P.K. Shahi, the Gen. Secy. of the Delhi General Mazdoor Front (DGMF). This attack took place while a meeting of activists of the DGMF was taking place, and left three workers and P.K. Shahi's aged mother badly injured. The People's Union for Democratic Rights sent a two member team which visited Singalpur village on 5 December. The team found that this present incident is a sequel to a long tale of harassment and exploitation of the workers by the landlords of the village.

Over a thousand workers live in rented rooms in Singalpur village. The original house-owners have converted most of the spare rooms they had into single room tenements by putting up partitions. These rooms are given out on rent to the workers most of whom are migrants from Bihar or U.P. The rents charged are fairly high given the size of the room and the lack of any amenities whatsoever. Between Rs. 250 to Rs. 400 may be charged per month for a small 8ft by 8ft room. Apart from this most of the houseowners have started provision shops from which workers are forced to buy provisions at exorbitant rates on threat of eviction. Many of the 60 odd houseowner families live on these rents and shops alone, a few of them have family members working in government jobs and in the DTC.

Practically all the workers are employed in the steel barten factories in Wazirpur industrial area. The work is hazardous and poorly paid. The workers work with acid with only sacking to protect them, or at the steel cutting machines which have cost many their hands, fingers and sometimes even their lives. The wage received is commonly Rs. 600 for 12 hours labour per day. Machine operators get a little more while women and children get much less. Many of these workers have no option but to rent rooms in Singalpur village, 6 to 8 of them to a room being close by it saves on transport costs and time,

and the jhuggis in Wazirpur have got over crowded.

Tensions became strained in Singalpur when activists of the DGMF and other organisations started organising the workers. A youth organisation, Shaheed Bhagat Singh Naujawan, Sabha and a women organisation, Pragatisheel Mahila Manch were also formed. These activities emboldened the workers to ask for lower rents, buy purchases from outside etc. A few minor cases of tensions between houseowners and tenants were reported to the team including one case of **abusing** of a woman activist.

Matters came to a head on 1 December, when a argument broke out between tenant Gopal Singh, and his landlord Hukum Singh over some dried cow dung cakes on which Gopal Singh was accused of having thrown some water. Gopal Singh admitted that it might have been his fault but he was beaten up and his possessions thrown out into the road. In the process about Rs. 1500 cash belonging to Gopal Singh and his four room mates was stolen, allegedly by the landlords.

The next day, on 2 December night a meeting of activists of the DGMF was being held in P.K. Shahi's house when the landlord of Shahi entered the courtyard of his house at about 9.30 p.m. and ordered every one to get out. While he was pacified and led out, a whole barrage of stones started raining from surrounding roofs on all four sides of the open courtyard. The workers took shelter in one of the rooms. Then this room was broken into and some of the people gathered inside were pulled out and attacked. Among them was Shahi's mother who was hit on her head with lathis, Narain, Jagdish and Shiv Kumar were stabbed and also beaten with lathis. Narain and Jagdish were admitted to Hindu Rao Hospital for treatment.

Despite the nature of the attack the police have only registered a case of rioting. Only three persons have been arrested out of the comprehensive list provided by the workers. The team who talked to the SHO Lala Ram Gautam, came away with the distinct impression that the police were trying to shield the guilty. The culprits in the village still roam freely. The workers held a dharna at the P.S., but no action has yet been taken.