

# **Custodial Death at Preet Vihar**

## **A DEAD END**

**People's Union for Democratic Rights**

**Delhi**

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On 30th September, a small item reporting a demonstration outside the Preet Vihar Police Station, appeared in newspapers. But for this demonstration, the ninth death in the custody of Delhi Police in the year 1991, might have gone unnoticed. The demonstration had been sparked off by the death of 27 year old Bijeshwar Paswan, a rickshaw driver, at the hands of the Preet Vihar police.

The following is a report of the PUDR team's fact-finding into this death.

The official version is that on 28th September, at around 7.00 p.m., an anonymous caller contacted the central control room to report that a man was lying unconscious near Radhu Palace chowk. (D.D. No. 15/28-9-91/7.11 p.m.). A PCR van was sent to the spot immediately and the local thana, Preet Vihar P.S., was directed to look into the matter. S.I Arvind Kumar undertook the investigation. Bijeshwar was allegedly picked up from Radhu Palace, in a semi-conscious condition and admitted promptly to Swami Dayanand Hospital at around 8.30 pm. The Medico-legal Case (MLC No 3570) states that an unidentified person with a few superficial injuries had been brought to the hospital in an unconscious state. The cause of illness was registered to be 'some unknown poison'. By 1.30 a.m. Paswan was dead.

The Preet Vihar police station received information of his death about four hours later. (D.D No 25A/29.9.91/6.20 a.m.) The body was then collected from the hospital and brought to the police station for identification. Constables were sent to the nearby slum colonies and eventually located Dinesh who identified the dead man as his brother, Bijeshwar.

By the evening about 100 persons, predominantly rickshaw-pullers, had gathered outside the thana to voice their protest. The road was blockaded with rickshaws. The protest later turned violent. There was some stone throwing and some buses were damaged. A lathicharge was ordered and tear gas deployed to quell the mob. Around 29 protesters, all rickshaw pullers have been arrested under sections 147, 148, 149 and 353 IPC (cases of rioting, and breach of peace) and have been remanded to judicial custody. An SDM inquiry has been ordered and the body was taken to Maulana Azad Medical College for the post-mortem.

The whole episode is lamented by the DCP B.S. Brar as an outcome of the cynical instigation of innocent people, by local

politicians who had spread false rumours. It was the intervention of such elements with vested interests that had incited the demonstration against the police, who according to him had merely been discharging a routine duty in taking a unidentified unconscious man to the hospital. The SDM K.K. Shiam said it was only because the corpse of Paswan was brought to the thana from the hospital that an impression of a custodial death was created.

In any case the police are disputing any allegations of torture or beating that could have caused Paswan's death. Medical records also corroborate the police story. Proving police culpability is virtually impossible, in this case more crucially because a key witness Dinesh, Paswan's brother has disappeared. The only evidence against the police is his written statement to the SDM. According to him there had been an altercation between some policemen and Bijeshwar Paswan on 28 September. Paswan was beaten and then taken away by the police despite Dinesh's pleas. Dinesh also testified that Paswan's hands and feet were tied. It is difficult to believe the police claim that an unconscious person needed to be tied up to prevent violent limb movements.

Strangely, the SDM chose to believe the police version which claims that Paswan's death was due to some unknown poison to the PUDR team even before receiving the postmortem report. According to him Dinesh's story did not hold water. The professed reason for his scepticism about Dinesh's story was the fact that Dinesh, a young migrant boy who had witnessed his brother being beaten by uniformed policemen and had possibly been threatened himself, allowed the police to cart off his brother without once trying to find out what happened to him. This attitude of the SDM is alarming, given the fact that most of the local people are in a terrorised state after the arrest of 29 so called rioters, and dare not come forward to challenge the police story. The use of the local Preet Vihar police to summon the witnesses in the course of magisterial enquiry has also acted as a deterrent. Such summon procedures, in any case reduce the possibility of such an inquiry being truly independent.

The more disturbing aspect of this death is not simply the general collusion between police, medical persons and the administration in preventing any prosecution of the culpable policemen but the ominously familiar ring in the version that they are all presenting.

The death of Om Prakash Kaushik (12.7.91) is strikingly similar. He had been found lying unconscious on a vacant plot, and

been picked up by the police in response to a phonecall to the Timarpur Police Station. His death was allegedly due to an accident. Similarly, Shankar Lal an auto driver had been found lying unconscious by the Connaught Place police after midnight on 15th July. The cause of death, initially given as alcohol poisoning, was later found to be a result of head injury. Among the uncanny similarities are aspects like obvious signs of the person having been bound and tied up. Paswan is the third 'unidentified' person picked up this year, in a state of unconsciousness, by the police in a 'routine discharge of duty' who ended up in the mortuary. None of these three had been apprehended for any crime or offence and yet became victims not only to police brutality but also to the formidable processes of cover-up. An entire edifice of legally sacrosanct documents and records is being brought into play. Here the collusion between police and medical personnel, evident most starkly in these three cases, has been crucial to building a watertight case.

It is not surprising then that in none of these three cases has any action been taken against the culpable policemen.

Any case for prosecution of policemen has to be built around evidence that remains essentially in the hands of the police. Such evidence can hardly be deemed adequate in cases of torture and death in police custody. Recognising this, the Law Commission in 1985 recommended that Section 114 of the Evidence Act be amended to shift the burden of proof in custodial death cases onto the police. Such an amendment has already been made in the case of custodial rape. However nothing has been done by the Parliament to effect this change in the case of custodial death. In the meanwhile the number of custody deaths has reached alarming proportions and people like Paswan continue to be killed with impunity.

His death reinforces the urgent need to implement the recommendation of the Law Commission and more important to make the necessary legal provisions to ensure that investigations of custodial deaths are undertaken by completely independent authorities.

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