

Narela Police Station

A Rape in Custody

आगामी अतीत

*sexual history and
criminal justice*

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On 26 November 1994, a woman in her early 30s was raped by two police constables, Mahabir Singh Dahiya and Mahavir Singh Chauhan, at Daryapur police post under Narela Police Station in North-west Delhi. She and her husband Dharam Singh were on their way to Badvasni village in Sonapat district (Haryana), when they stopped near the police post at about 4:00 p.m. to drink water. One of the constables recognized Dharam Singh and asked him in to share a drink with them. They forced a reluctant Dharam Singh to drink, and forced his wife to cook. He was then assaulted and driven away, and she was raped.

Dharam Singh contacted Chand Ram, the MLA for the area, who telephoned the police station at Ashok Vihar for help. The Additional DCP (North-west) along with other police officials and Dharam Singh went to Narela at around 10:00 p.m. the same evening. The two constables were arrested on the spot. They have been dismissed from service under Article 311(ii)b of the Constitution, and a case has been registered against them on charges of assault, illegal confinement and rape. The victim was sent for medical examination to Hindu Rao Hospital the same night.

Senior police officials have acknowledged that this is a case of rape in police custody, and have taken action promptly. Our experience with cases of custodial rape in the last five years in Delhi indicates, however, that it is the aftermath of the rape which really decides whether the guilty policemen will ultimately be punished and whether the victim will get justice. We have found that victims of custodial rape are exceedingly difficult to trace. They either disappear or else retract their statement. In both instances, the prosecution against the rapists collapses. In this case, when we went to Bakoli village in Alipur where the victim and her husband resided, we found that she had disappeared, and we could only get her husband Dharam Singh's account.

Bakoli village is situated along the G.T. Karnal Road near Alipur. A *pucca* road from the highway leads to the dalit *tola* of the village. Nobody in the *tola* owns any land. So they either work on land owned by the upper castes or find employment as casual labour. Dharam Singh, who earlier worked as the village chowkidar, lives here with his three children and grandchildren. After the death of his wife, he

married the victim two years ago. She herself was earlier married to Subhash Mewati of Shakurpur, and had three children from that marriage. Dharam Singh and his second wife were living in Bakoli with his children. They also went every now and then to his nephew's house in Badvasni village, Sonapat district, where Dharam Singh would seek employment as a daily labourer.

The rape on 26 November interrupted this routine existence. It changed the course of the victim's life. She faces social isolation as a rape victim, as well as the possibility of intimidation by the accused policemen or their associates. All these pressures combine to decide even where she will live after the rape. We have found that most victims of custodial rape shift residence after the rape, irrespective of the legal procedure.

In this case the process goes one step further. The aftermath of the rape decided for the victim not just where she will live but also who she will live with. And it is Dharam Singh's stake in this decision that impels him to pursue the rape case.

According to him, on the evening of 7-8 December when he and his wife were at Sonapat, she was abducted by four or five men from their house. Among the kidnappers were her previous husband Subhash, and one Kamal Singh of Garhi village in Alipur, who is related to one of the guilty policemen, Mahabir Singh Dahiya. The victim has not returned to Bakoli since then. Dharam Singh stated that the Sonapat police refused to lodge his complaint about the abduction. He also suspects that money may have changed hands to persuade Subhash to resume living with the victim, on the understanding that her second marriage is void. The entire transaction works to make the victim disappear. In the process Dharam Singh is also deprived of his wife. Hence his anxiety that the case should be pursued so that the victim can be traced, and returned to him.

Senior police officials rightly hold that the marital status of the woman is irrelevant as far as the action against the accused is concerned. But they appear oblivious of this entire sequence of events in the aftermath. Further, they do not recognize that she has disappeared.

Her personal circumstances may be irrelevant as far as the rape itself was concerned, but they become crucial subsequently. A second marriage while her first husband is still alive is accepted as legitimate within their tola, but makes her morally suspect in the larger social body. She is thus taken to have tacitly invited rape by the two policemen, since she has already left her husband for another man. Worse, she has deserted her children. And this perception is also shared by the thana policemen in Narela and Alipur, who volunteered their opinion of the case unofficially. Relatives of one of the guilty policemen move to "restore" her to her "rightful" husband. Social perceptions of the woman's character then not only mitigate the guilt of the rapists, but also sanction the subsequent extra-legal action of their relatives. This makes it extremely unlikely that she will be allowed to testify against her rapists in court. Her past thus becomes a possible means for negating the course of justice.

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