

Maze of Inquiries

*Custodial Rape at
Deshbandhu Gupta Road P.S.*

People's Union for Democratic Rights
Delhi
April 1996

Raman, a young Nepali boy residing in Jahangirpuri, worked as domestic servant in the house of Rajendra Kumar, owner of Raj Lottery Agencies at Ajmal Khan Park. On the night of 20 February 1996, Raman was returning at 11:30 p.m. from dinner at a friend's house in Jahangirpuri, with his 25-year-old sister, 18-year-old niece and her husband Ramu who works as an attendant at a petrol pump. Near CD Block Park a blue Maruti van with Rajendra Kumar and a driver, accompanied by three policemen, stopped them. Raman and the two young women, both pregnant, were bundled in. Ramu was threatened against following them or raising a hue and cry. The boy and the two women were taken to Deshbandhu Gupta Road Police Station and illegally detained. The two women were allowed to go only at 10:00 p.m. the next day, 21 February 1996. Raman was kept for one more day and allowed to go on 22 February.

Ramu, the niece's husband, contacted other Nepalis living in Jahangirpuri immediately after the abduction. On the morning of 21 February, about twenty friends and neighbours went to the Jahangirpuri Police Station to lodge a complaint of abduction. The Jahangirpuri PS refused to lodge an FIR. On being pressurized though, they grudgingly acknowledged receipt of a written application for lodging an FIR. There has been no further action on the application.

The victims charge that they were beaten and threatened in the van against raising a hue and cry. At the police station, the women were separated from Raman. They were assaulted, stripped and raped by three policemen, one Sub-Inspector and two constables Raman was also beaten badly and tortured. A petrol-soaked rag was pushed up his anus repeatedly. At 10:00 p.m. the next day the women were taken to the outskirts of Jahangirpuri and left there. They were traumatized and did not tell their husbands immediately that they had been raped. The full picture emerged only later.

After Raman was released, the three victims went to Jahangirpuri PS on 23 February to lodge a complaint of assault and rape. An FIR was not lodged, but the Jahangirpuri police took all three of them for medical examination at Hindu Rao Hospital on the same day. The mandatory gynaecological examination was not conducted on the women. This is a serious enough lapse in even routine medical examinations of women. But where there are charges of rape, the omission is absolutely crucial, and points to bias on the part of doctors at Hindu Rao Hospital. When there was protest against these omissions, on 26 February the Medical Superintendent finally ordered ultrasonography tests on the two women to check the condition of the foetuses. These tests however were not conducted as part of the medico-legal case (MLC). They are therefore of uncertain legal value as evidence. And any examination for rape nearly six days after the incident is virtually worthless, as the traces are almost certain to have disappeared. The report on Raman indicates external injuries due to

beating. On Raman as well, the mandatory anal examination was not conducted.

Since the Jahangirpuri police had refused to lodge an FIR earlier, the National Commission for Women was approached about the charges of custodial rape. They directed the complaint to the Commissioner of Police. Delhi Police then ordered an inquiry into the matter, which is being conducted by the DCP, Central District. Under this inquiry the two women were summoned to Deshbandhu Gupta Road PS for identification parades. They identified SI Attar Singh and Constable Sudhir Kumar. Despite repeated demands, no FIR has been lodged in the case.

When the police refuse to file an FIR in any case, citizens have the right to file a private complaint in the court. The victims therefore filed a complaint in the Court of the Metropolitan Magistrate at Tis Hazari. The Magistrate has asked the police to conduct an inquiry and submit its findings to him. Delhi Police is thus conducting a second inquiry, this time through its Vigilance Branch. Under this inquiry, the victims have been subjected to lie-detector tests, not the accused. This goes against the letter and spirit of the law relating to custodial rape. When an FIR is lodged under S.376(2) of the IPC for custodial rape, the law provides that once sexual intercourse is proved by the prosecution, and the woman states in court that she did not consent, then the court is to presume that rape took place unless the accused policemen are able to prove their innocence (S.114A, Indian Evidence Act). This is a legal safeguard, given the heightened vulnerability of custodial rape victims to intimidation by policemen. In this case, while the police and doctors are responsible for the destruction of medical evidence crucial for proving sexual intercourse, the statement by the victims is being subjected to lie detector tests.

According to police officials, the owner Rajendra Kumar suspected Raman of stealing Rs.70,000/- from him, and had lodged a verbal complaint at the D.B Gupta Road PS on the night of 20 February. Our investigation revealed that Rajendra Kumar had earlier taken Raman to Jaipur, kept him there for at least a fortnight, and tortured him brutally. Failing to extract a confession, he then went to the police. It was on the basis of this verbal complaint that Raman had been picked up. The police could not explain however why the women had been picked up.

Even the police account clearly reveals a number of violations in the entire incident. Policemen investigating charges of theft against Raman came to Jahangirpuri in the middle of the night on 20 February, and picked up not only the suspect but two young women related to him as well. They were in a civilian vehicle. The local police station at Jahangirpuri was not informed at any stage, although strictly speaking there are instructions to this effect. There was no written complaint against Raman. No Daily Diary entry of their

detention was made at Desh Bandhu Gupta Road PS. There were no charges against the women. In clear violation of rules, women were picked up after dark and detained overnight at the PS, and that too, in the absence of any woman constable. No magistrate was present at the Identification Parade, making its legal value extremely dubious.

What all the inquiries mean for the victims is this. Already traumatized by the incident, the maze of inquiries now summons them to different corners of the city on different days, in connection with different inquiries. To Punjabi Bagh where the Vigilance inquiry is being conducted, to Daryaganj for the internal police inquiry, to Deshbandhu Gupta Road for identification parades, and to the CBI office at Lodi Road, where the lie-detector machines are. Delhi Police point to the multitude of inquiries that they are conducting, as proof that they are taking action. But in the absence of an FIR all of this still does not guarantee the prosecution of the accused. And not filing an FIR actually denies the victims of custodial rape the protection they are entitled to by law. While the surfeit of inquiries has not even resulted in the suspension of the accused policemen.

In the aftermath of custodial rape the victims face obstacles not only from the police, but also from the family. Because dominant patriarchal attitudes regard rape as the loss of chastity, stigma attaches to the victims as well. In this case the husbands of the victims initially threatened to desert them, and did not want to lodge complaints against the police either. It was under the pressure of progressive voices from within the Nepali community that the husbands have accepted their wives back. And it is the support of democratic sections both within the community and outside, which has enabled the victims to carry on the fight even up to this stage. Anonymous struggles such as these go a long way in ensuring that justice is done to the victims, both in law and within society.

PUDR demands:

- Immediate filing of an FIR.
- Suspension and arrest of the accused policemen.
- Action against the Jahangirpuri PS for refusing to file an FIR.
- Action against the doctors at Hindu Rao Hospital for conducting faulty medical examinations in a medico-legal case
- Compensation to the victims.

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