

Death of a rickshaw puller

Custodial Death by R.P.F, Old Delhi Railway Station

People's Union for Democratic Rights

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Nandu, a rickshaw-puller who lived and worked at and around the Old Delhi Railway Station died on 11 May 2004. Like much of his life, his death too occurred in the station, brought on by the beating meted out to him by at least 2 personnel of the Railway Protection Force. The cause of the beating was the fact that he could not pay the Re.1 fee needed to use the toilet on the platform or the Rs. 3 required for the platform ticket. Perhaps if he had had Rs. 4 that day, Nandu would have lived.

Nandu was about 35 years old at the time of his death. He had come to Delhi from his village, Jalalpur, tehsil Akbarpur in Faizabad district of Uttar Pradesh about 15 years ago. Like thousands of other such migrants, despite pulling rickshaws for different owners, he had not been able to earn enough to rent a room in the city. He used to sleep on his rickshaw outside the station, use the toilet in the station, and eat what he could. He had begun drinking heavily some time ago. He had no family in the city. Other rickshaw-pullers hailing from the same area as Nandu, spoke of his having had a wife and children in his village, whom he visited rarely. There was also an old half-crazed woman who regarded Nandu as her son who used to visit him occasionally. Fellow rickshaw-pullers were his only real community here- they pooled together money to cremate Nandu, not wanting one of their own to meet their end as an unclaimed body in the morgue. PUDR conducted a fact-finding investigation into the above incident of custodial death. Following is a report of the same.

At around 9.30 a.m. on 11 May 2004, Nandu was caught by 2 RPF men when he was trying to use the toilet attached to the waiting hall on platform 17 of the Old Delhi Railway Station. He was mercilessly beaten till 10 a.m. The 2 RPF men were later identified in the course of the police investigation as ASI B.K Singh and Head Constable Satbir who were on duty in that part of the Railway Station that morning. Nandu's friends, fellow rickshaw-pullers whom the PUDR team met'said that some of them met him on platform later at around 1.30 p.m. found him looking weak and almost swaying. He told at least 3 persons whom he met about how he had been beaten brutally by the RPF men. They could see the blood still oozing out of his nose and ears. Another account given to our team by the RPF when we began our investigation was that apparently between the beating and Nandu's death in the late afternoon/early evening, he had also at some point had his hair cut, though the police investigating the case do not have any evidence that confirms this. According to some observers who say they saw Nandu on the platform around mid day, he might have gone to get a hair cut from a roving barber, but by around 3 p.m. they found him literally staggering on his feet. They thought initially that he had been drinking. Even as they watched him, he fell down on the road. They could then see that he had been badly injured. They managed to carry him onto the platform and take him to the stairs near the waiting hall so that he could rest there. They felt that he had died at some point between about 3 p.m. and 5.40 p.m. when the police were informed.

Fellow rickshaw-pullers, who ply in the area, have no doubt that he died as a result of the beating he sustained at the hands of the RPF men in the morning. Those who had been told by him about the beating and had seen him injured as well as others confirmed that beating by the RPF men was routine- if they tried to use the toilet particularly, and did not have money to pay for it, or were found loitering on the platform. They often extorted whatever money rickshaw-pullers had, upto Rs. 50, if they were caught without a platform ticket or using the toilet without paying. Nandu's death occurred in this context. It was therefore the consequence of only a somewhat excessive use of force, otherwise routinely exercised by the RPF in the name of protecting the railway property, against the poor and the marginal- vagrants, or migrant rickshaw-pullers like Nandu who tried to make a living in the city. Fear of the RPF is palpable among those who live on the platform and around the station. Some who had seen and talked to Nandu, spoke to our team but few of them would come out openly or on record against the RPF however because of fear of consequences, because they had to face the RPF on a daily basis. Authorised railway shopkeepers, running a bookstall or a juice-stall, very close to the site of the beating were eyewitnesses to the incident but refused to formally give their statements to the police as they felt that speaking against the RPF would make it difficult for them to carry on in the Railway Station. While speaking to the PUDR team they all appeared by uncanny coincidence to have been away or out of town that day, or claimed to have arrived much after the incident.

POLICE

The police were informed by an anonymous telephone call that a man was lying unconscious near the retiring room of the West Passenger Hall. They reached there to find a man about in his mid thirties, 5 ft 4 inches tall, lying totally naked- his trousers were pulled down and gathered at his feet. There was blood around his nose and ears, right elbow, buttocks and groin etc. They took him to Aruna Asaf Ali Hospital where he was declared 'brought dead'.

The police began the investigation. The body was identified and the post mortem was conducted on 14 May in the Sabzi Mandi Civil Hospital mortuary. The body of Nandu was handed over 9 days after his death to the other rickshaw pullers who cremated him.

The police were unable to locate and inform his family - there are 6 villages called Jalalpur in Faizabad district, and they thought they would not be able to find the right one. Nandu's family therefore may still not know of his death.

On the basis of eyewitness statements, the FIR (no. 158/2004, Old Delhi Rly. Stn. P.S) was lodged charging the 2 accused under Section 304/34 IPC (Culpable homicide not amounting to murder). The police were able to get 3 clear eyewitness statements, and identified the accused, who were arrested on 18 May. As mentioned above several eyewitnesses refused to record their testimonies because of fear of retribution from the RPF.

According to the police (based on the eyewitness testimonies), Nandu was pulled out of the waiting hall by the RPF men. ASI BK Singh had a stick in his hand, which he used to repeatedly strike Nandu while the Head Constable struck him with hands and kicked him. According to the post mortem examination report death occurred due to 'cardio-respiratory failure' resulting from 'cerebral compression' and 'traumatic extradural hematoma'- essentially internal injury to the head 'as a result of being struck by a hard flat broad surface/object'. It records 4 severe and several minor blunt force injuries including injuries to head, buttocks, groin, and arms etc., which are noted to have occurred before death. These are however considered 'non-fatal' by themselves. It is clear however that the combined effect of all these injuries that made Nandu stagger and fall and hit the floor, which caused his death.

The police investigation is nearly over. The report on the blood and viscera samples sent to the CFSL laboratory is awaited. The 2 accused policemen have been in jail since 19 June, and there appears to be little doubt about their guilt. Their bail applications were withdrawn altogether 4 times from the Sessions Court.

RPF

When contacted shortly after the incident, before the arrest of both accused, the RPF authorities at Old Delhi Railway Station refuted that Nandu's death had any connection with the beating. They cited the long time lag between the time of occurrence of Nandu's beating and his death and discovery of his body. They tried to point out that Nandu was a drunkard and unwell, and that he's apparently had a haircut from a barber between his beating and his death, the implication being that he could not have been that badly affected by the beating. They also indicated how the Delhi Police was being vengeful because of their competing jurisdiction in the railway station. As the police informed us, the accused in their bail applications had also indicated that they were being framed by the Delhi Police—the reason cited apparently is that after 1 July 2004 the powers given to the RPF were expected to expand to include all offences under the Railway Act (which is not presently the case) and the Delhi Police would be left with relatively curtailed jurisdiction over offences under IPC alone. The Delhi police, they argued in the bail applications were being vindictive on this account.

A couple of weeks later, however, the RPF were more circumspect when speaking to the PUDR team, and RPF official Deepak Chaturvedi in charge at the RPF post merely stated blandly that the 2 accused had been suspended and the Delhi Police were investigating the incident.

From the above, it is clear that Nandu's death occurred as a direct consequence of the beating by the 2 RPF men, making it a case of culpable homicide. That they failed to at least take him to hospital and give medical aid, leaving him for dead, points additionally to criminal negligence of the highest order. It is equally blatantly clear however that this is a case of custodial death, and it is shocking that it has not been regarded as such. No magisterial inquiry, mandatory in cases of custodial death under S. 176 CrPC has been initiated. Custodial death has been legally defined as "Death occurring during the period when some limitation is placed upon the liberty of the deceased and that limitation must be imposed, either directly or indirectly, by the police" (Criminal Law Journal, 635 (637) 1970). The Supreme Court also upheld this position (SC 513, AIR 1990) in the case of the death of a nine-year-old schoolboy, Naresh. In this incident of 26 November 1987, Naresh died after the police, in a landlord-tenant dispute, beat him with bricks and rods in his own house when he tried to protect his mother from rough treatment. The Court held that the issue in defining custody in this instance was not so much the place of death, as the power of the police over the victim that was the cause of death. Given the above, Nandu's death on 11 May 2004 is clearly a custodial death. Yet seventeen years after the SC ruling, this understanding does not appear to have percolated down to the police stations.

In the light of all of the above PUDR demands that

- Nandu's death be regarded officially and legally a custodial death and a magisterial inquiry under S. 176 Cr.PC be immediately initiated by the area SDM/ADM.
- Appropriate compensation be given to the family members of the victim, and adequate efforts be made immediately to trace them.
- Witnesses to Nandu's beating be given protection by the Delhi Police.