

**Committee for Protection of Democratic Rights (CPDR), Bharat Bachao Andolan (BBA)
and Jagrut Kamgar Manch (JKM) present**

FACT FINDING REPORT

on

The Murder of Yakub Abdul Hassan Shaikh –

A conspiracy of silence between Toyota Shinrai management and the police department

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The gruesome daylight murder of a 56-year old man in a Toyota showroom in the heart of Mumbai ought to have made front page news. Further that Yakub Abdul Hassan Shaikh, a father of 3, was murdered by his co-workers, a day after the Dadri lynching, on 29th September, 2015 ought to have made the city police swing into action mode.

At least the gruesome nature of the crime ought to have made headlines and made the police investigate the complicity of the Toyota company in allowing such a heinous and inhuman act on one of its employees. Yakub Shaikh's innards were blown to bits, due to the insertion into his anus of an air pump with the air released at a pressure of 140! His preliminary post mortem report says that his large and small intestines, thoracic and abdominal cavities and scrotal sac had burst due to "pulmonary air embolism" and that he died due to respiratory failure.

What happened was just the opposite. The city newspapers which reported faithfully about lynching in other parts of the country completely blacked out the news of Yakub Shaikh's murder. And the police too stonewalled any enquiry into the incident by creating a story that the murdered man and the single accused (murderer) Shri Santosh Eknath Arekar were playing pranks with each other and the murder was committed because of an 'experiment' gone wrong.

Only after the horrific crime started getting written about in the city's Urdu papers, particularly *Urdu Times* a week after the incident, and a detailed story was published more than two weeks later, i.e. on 14th October 2015 by the website *twocircles.net* did the story hit the public mind. A

group of concerned citizens belonging to Committee for the Protection of Democratic Rights (CPDR), Bharat Bachao Andolan (BBA) and Jagrut Kamgar Manch (JKM) then formed a fact-finding team to investigate Yakub Shaikh's ghastly murder and to get to the bottom of "pact of silence" woven by the management of Toyota Shinrai as well as the local police.

Suresh Rajeshwar, Susan Abraham, Advocates, (CPDR), Feroze Mithiborewala (BBA), Anthony Samy, Mary Anthony (JKM), Sushmita Verma, Salim Saboowala and Bodhayan Roy (CPDR), visited Shiv Nagar where the family of Yakub Shaikh stay, met police officials at Kalachowky police station, managers and staff of Toyota Shinrai showroom at Cotton Green as well as doctors at K.E.M hospital where the victim's body was taken and post mortem conducted. The Enquiry was conducted from 18th to 20th October, 2015.

Yakub Shaikh's family

Yakub Shaikh lived with his family in a one-room house in Shiv Nagar chawl near the National Market, Wadala. The fact finding team visited their house on Sunday, October 19th. Yakub Shaikh is survived by his wife Shehnaz Beghum, 45 yrs, sons Shahnawaz, 26 years, Shahbaaz , 24 years and daughter Shafia aged 22. Shahnawaz who is a graduate is working in a call centre, Shahbaaz is studying for engineering at Gulbarga and the brightest of the siblings Shafia is doing MSc in botany from Mithibhai college at Vile Parle.

Yakub Shaikh's family has stayed in Mumbai for over 28 years, in the house owned by his wife Shehnaz's father, 73-year old Khursheed Ahmed. They originally belong to Gulbarga in Karnataka.

Yakub Shaikh had started working with the Toyota showroom in November 2014 and had been posted at the Shinrai workshop at Cotton Green just a few months back.

Yakub Shaikh had been working as a "denter" in the Gulf for about three decades. He returned permanently in 2011 and was working with Hyundai for two years. At Toyota Mumbai he was given a job as a cleaner for a low income of Rs. 7000 per month. The company promised to make him permanent after six months but this did not happen and he continued to work as a monthly contract worker till his murder. Initially he worked in the Worli office of Toyota and had been shifted to the Cotton Green office just a few months before. According to all the

persons interviewed from Shiv Nagar Chawl, Yakub Shaikh was a calm and quiet person who kept to himself and would only concern himself with completing his work without interfering in others employees' or neighbours' matters. Very much a family man, Yakub Shaikh was killed on his daughter Shafia's 22nd birthday. Shafia told the team with a brave and smiling face suppressing her tears and emotions, that her father had bought *jilebis* on 28th night after returning from work and fed her one with his own hands promising that the whole family would celebrate her birthday after he returned from work the next day.

Tragically, he never returned.

The Incident

The family told the team that Yakub was on leave from 25th to 27th September for celebrating Bakri-Id. He resumed on Monday the 28th of September, and left for work as usual. He did not tell the family that anything was amiss.

However, the team later learnt that Yakub Shaikh had been confiding to his elder brother A. Samad Abdul Hasan Shaikh that he was facing harassment and mental torture at the workplace from the management and that he felt like leaving the job. He had been complaining for two months prior to his murder and after he was posted at the Shinrai showroom. He was also upset that despite his experience, he was not made permanent despite having completed 6 months at work with Toyota. He also told his brother that because his economic condition was weak he had no choice but to continue with the work. On Bakri-Id, Yakub Shaikh finally told his brother that he would work only till the end of the month (September). He was killed just one day prior to that. The statement of A. Samad Shaikh has been given in writing (in chaste Marathi) on October 1st itself, not only to the police officials but right up to the Chief Minister's office.

On 29th September, Yakub Shaikh left home for work as usual. During the lunch break at 2.00 p.m., Yakub's co-workers started teasing him again. After lunch, he went back to his work station. Since he had a problem with one leg, he was bent on that leg and working. Around 2.30 p.m., he was attacked from behind with an air pipe which was inserted into his rectum. Apparently this was done by Santosh Eknath Arekar. Another worker went and switched on the pressure to 140 PSI (pounds per square inch) Yakub Shaikh, a strong built man would not have willingly allowed such a ferocious attack. He had to be pinned down by at least 4-5 employees,

which is why there were no external injuries and his clothes were found to be intact. His jeans and underwear were lowered and the pipe inserted into his rectum. The air pressure was so ferocious that it caused instant blasting of his internal organs and his body bloated completely with air like a balloon. The air rapidly went into the intestines, stomach, scrotum (as per photos at the KEM Forensic Laboratory), which then went right into the facial region. The body was found with the eyes too enlarged and popping out. The extreme force also threw up the faeces, undigested food and blood into the upper region and then out of the mouth. The body was blown up and bloated like a balloon. Such a gruesome murder would have caused a commotion at the workstation with the managers all reaching the spot. The company then transported Yakub Shaikh's bloated and lifeless body to K.E.M Hospital.

After 2:30 pm, his family received a call from an employee named Girish asking them to come to the KEM hospital immediately. His wife Shehnaz and son Shahbaz reached the emergency ward at K.E.M.. Shehnaz was asked to wait outside and she was told that an injection has been given to him to revive him. A doctor took Shahbaz aside and informed him that his father's heart had stopped. The suggestion given by the company staff present was that it could be a case of food poisoning or that he had a history of some sort of disease or ailment.

By the time Yakub's elder brother Abdul Samad Shaikh, his son Shahnawaz and other relatives reached the hospital, they were informed that his body was kept in the mortuary. The available doctor also informed them that Yakub was dead at the time he was brought to the hospital. The doctor was clearly agitated and did not want to say anything more as the family tried to get further details about the cause of his death. Till 4:30 pm the family members were kept in the dark and not shown the body while they were contemplating about what to do with the body. At about 7.30 p.m., the manager of the showroom, Mr Cyril Dias and a large group of personnel reached the K.E.M. hospital. It was from this group that they heard the theory for the first time that Yakub's death was a result of a prank with another worker. They also came to know the fact that this co-worker Santosh Eknath Arekar had stuck an air pump pipe into the rectum of Yakub Shaikh and air at the pressure of 140 PSI had been released into his body which explained the unnatural swelling of the body when they saw it. It was then that the family came to the conclusion that Yakub's death was due to cold blooded murder.

The company officials offered to drop the body to their house as they had a vehicle waiting. This was clearly an effort to coerce the family from getting a post mortem done. However, the family wisely decided to insist on a post mortem and it was only after this that the post mortem was conducted at 7:30 pm and an FIR registered as well.

After Yakub Shaikh's body was sent for post mortem, the managers and other employees informed the family that they had caught the culprit, got an FIR registered. However, the family of the deceased expressed strong reservations that despite their presence in the hospital FIR was registered without the family's knowledge.

Some valid and relevant questions raised by the family: (1) why was the manager of the company, Mr Cyril Dias not made the complainant in the FIR as it was the management's duty to take care of the safety of its employees? (2) why was an 18-year old temporary employee Abdul Qadir made the Complainant? (3) why did it take so long for the police to register an FIR? (4) Why were they told first that the FIR was registered by 7.30 p.m. when the FIR copy given to them shows the time as 9.30 p.m.? Why was the statement of the family members taken after almost 20 days on 14th of October?

The family members pointed out other contradictions about the responses that came from the management on date of the incident. When the call came from the company the first time informing the family that Yakub Shaikh had been taken to KEM hospital, they were told that Yakub had fainted suddenly and fallen down. When they reached the hospital, they were questioned whether he had eaten from outside or whether he was on medication thereby giving the impression that it was a case of food poisoning or chemical poisoning. By evening, the company officials told them that the death occurred due to '*mazak masti*'. This shows that from the time of the murder, the company employees were hand-in-glove with the management to cook up one story after another.

Police Investigation or Cover-up?

On October 1st, elder brother of the deceased, A. Samad Abdul Hasan Shaikh lodged a statement to the authorities, putting on record that his brother had complained about harassment and mental torture from the employer company.

Despite this, the police did not once call any of the family members to take their statements. The police kept telling them that it was a case of a prank and only one person was involved. By 13th October, the MIM intervened and Waris Pathan, the local MLA led the family members and residents of the locality to Toyota Shinrai showroom premises. Senior police officers also arrived at the company premises. This was the first meeting that the family members had with the police officials and management of the company on the 13th.

At this meeting which lasted for one and a half hours, it was conveyed categorically by the family's delegation that they refused to swallow the 'prank' story and that it was crystal clear to them that at least 5 to 6 people were involved in pinning Yakub Shaikh's body down and the entire workforce present would have witnessed the gruesome act. ACP Madhukar Sankhe and senior Deepak Ugale were present on that day.

After inspecting the spot at the workshop, Yakub's family members asked why the crime spot was not sealed off and why the one particular CCTV camera over the area out of the 8 in the show rooms, the weapon used for the murder and its hard disk were not seized? According to them, the police kept repeating that they did everything but, they point out, there *is* no record of anything!

The family members were called the next day for recording their statements. Thus the police recorded the statements of the family members on 14th October, a full 15 days after the murder had taken place. And till the team met the family members on the 18th, they were not called to sign on their statements nor were copies given to them.

There were two more insensitive and deliberately provocative statements made by the doctor who conducted the post mortem, Dr Harish Pathak and the police during their interactions which the family members of Yakub Shaikh wished to highlight to the team.

After seeing the clothes of the Yakub Shaikh, they questioned how it was possible that his clothes, the pant was stretched but not the underwear. To this, Dr Pathak said that "the underwear was of good quality, JOCKEY, and that was the reason it was not torn".

In another bizarre and extremely provocative statement, DCP Sankhe had the audacity to question the just widowed and stricken Shehnaz Beghum, whether they were really married,

since police think that Yakub was a homosexual who used to indulge in anal sex which is why he allowed Santosh Eknath Arekar to insert the air pipe into his anus. What better example of an insensitive and arrogant police officer rubbing salt into the wounds of a grieving wife.

Finally, when the Team asked the family members as to what was the reason for Yakub Shaikh to have been so brutally murdered, they revealed that on 29th that fateful day, when all the relatives were gathered at K.E.M. hospital, Yakub's elder brother Abdul Samar overheard the employees talking among themselves that the 'joke' started with one of the employee telling Yakub saying that, "*Aa tu bahut gosht kha kar aya hai, tera gosht nikalte hain*".

Inconsistencies of the 'prank' story spun by Toyota Shinrai

The team reached the showroom of Toyota Shinrai at Cotton Green on 19th October at 11 a.m.

The General Manager Cyril Dias was nervous and was in a hurry to give the management version and to quickly see us off. However due to the persistent questioning of the Team, we were able to engage him for an hour. Interestingly, a plain-clothes policeman was sent to listen to our conversation and other unidentified management personnel were hovering around menacingly to keep a track of what Mr Dias was telling the Team. During our interview Cyril Dias kept receiving calls after which he would clam up and again try to give the management version. It was crystal clear that Mr Dias was not at all convinced about the story he gave us of "a prank having gone wrong".

Mr Dias escorted us to the show room where the murder took place. It is an open area with 13-15 employees working at a given time. And with a supervisor seated at the entrance. Clearly if such a violent attack took place, other workers would not silently stand by. So either they were all complicit in the crime or a dominant group of workers attacked Yakub Shaikh and threatened the other workers not to intervene.

The Team viewed the air- pipe. When the pressure is turned on, the impact is so powerful and noisy, that it is impossible for a person to be taken by surprise or to stay stationary. We ourselves were forced to move back when the pressure was released due to both the force and the noise.

It is clearly impossible that a healthy and able-bodied person like Yakub Shaikh who had worked 30 years in the automobile industry can be taken by surprise by a single person wielding an air pipe with pressure switched on. It was clearly the handiwork of a minimum of 4-5 employees or more.

The other improbability is concerning the mystery of the missing CCTV cameras. According to Mr Dias, and completely accepted by the police, the CCTV camera exactly above the spot where the murder took place was non-functional. And a second CCTV camera in a corner which would have captured the images, had been captured by pigeons is what was told to us!

All the remaining CCTV cameras are in perfect working condition according to Mr Dias.

The Team also met 18 year-old Abdul Qadir, the temporary contract worker who has been named as the Complainant in the FIR registered by the police. He was very nervous whilst narrating the official version and we could make out that he did not believe the same. When we began to ask more questions, the manager Cyril Dias shoed him away.

The post-mortem and the doctor's version

The post mortem report clearly states the cause of death as “Respiratory failure due to pulmonary air embolism with pressured air in (Unnatural)”.

When the Team members met Dr Harish Pathak, Head of Forensic Division, KEM Hospital who has signed the Post Mortem Report, he said that when Yakub Shaikh's lifeless body was brought to the hospital, the doctors who attended to him immediately raised an alarm about seeing something they have never seen before. The body was completely bloated and there was a foul smell and the eyes were popping out. The extreme force of the air in his body had thrown up the faeces, undigested food and blood into the upper region and then out of the mouth.

The role of the police in suppressing the truth behind the murder

The biggest question mark is over the role of the police. Instead of investigating the crime impartially and with an open mind, there has been a complete cover-up and acceptance of the Company's version of events. On the angle presented by the family members of the deceased, the police response was that they are following the "community".

After visit to the family and neighbours of the deceased, the Team went to Kalachowky police station. We reached by 8 p.m. and were met by Inspector Sakpal who met us with a satisfied and smiling demeanor that the police had completed the investigation properly and come to the conclusion that both the accused Santosh Arekar and the deceased Yakub Shaikh were playing pranks with each other and the death occurred due to that. Only one person was involved and he was arrested and booked under no less a section than section 302 I.P.C.! On further probing by the Team members, his demeanor changed to a worried expression and told us that we should talk to Officer supervising the investigation into the case the next day morning.

At 10 a.m. on Monday, 19th October, Team members reassembled at Kalachowky police station. We met the police officer in charge of investigation Mr Deepak Ugale. Initially, he too stuck to the 'prank' theory and that the accused had confessed to the crime and hence it was an open-and-shut case where section 302 I.P.C. (murder) had been applied and he was in custody. The team then asked how within 4 days the accused was granted judicial custody and why the police did not oppose the same. Mr Ugale only denied the suggestion but had no explanation when we confronted him with what the lawyers who were present in Mazgaon court on behalf of the aggrieved family said that the public prosecutor did not even ask for police custody.

In order to buttress the police action of registering the F.I.R. with only one employee as accused, Mr Ugale immediately phoned Dr Pathak of K.E.M and fixed an appointment for us to meet him. He relied heavily on Dr Pathak that even the doctor accepted that one person could have done it and that Dr Pathak had personally visited the murder site and inspected the pipes.

In how many murder cases has anyone heard of a doctor in charge of post-mortem visiting a murder site to verify for himself about the incident?

CONCLUSION

The gruesome murder of Yakub Shaikh on Tuesday 29th September 2015 and the police investigation that followed raises several questions.

* When Yakub collapsed following the deadly attack that killed him instantly, why was the statement of an 18-year old temporary worker made into the complaint thereby making him the Complainant instead of Mr Cyril Dias the General Manager who was present in the premises?

* Why have the accomplices to the crime not been named and identified and added as accused?

* Why has the management of the company not been booked for its culpability in not ensuring the safety of an employee within its premises?

* Does not a single arrest to such a gruesome murder point to a conspiracy and a deliberate attempt by the police to shield the Toyota Company and the other accomplices to the murder?

* Even accepting Toyota Service station management's theory of a 'prank', does not the liability and culpability of the company increase that its officers and supervisors did nothing to prevent such a hazardous act as attacking an employee with an air pipe at the pressure of 140 PSI?

* Why has the police not investigated whether coming as it did, just a few days after Eid and a day after Dadri lynching, that it could have been a planned murder or a hate crime?

* Why has the police completely hushed up the talk among employees about "kurbani" and "gosht" directed at Yakub Shaikh as a probable motive behind the murder?

DEMANDS

The Fact Finding Team demands the following:-

1. A fresh and impartial investigation into the murder of Yakub Shaikh and the immediate arrest of all the accomplices to the crime, including the managers of Toyota Shinrai Company;

2. A judicial probe into the conspiracy behind the killing of Yakub Shaikh, the true sequence of events leading to the murder as well as motive behind shielding of the actual culprits;
3. Compensation to the family of Yakub Shaikh as per the provisions of Workmen's Compensation Act, 1923.

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Date: 21st October 2015
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