



MISLEADING INVESTIGATION LED TO FOUR ACCUSED DEATHS IN DISHA RAPE CASE

By Mainam Harshini

From Christ Academy Institute of Law

Introduction

The 10 police officers involved in the killing should be tried for the offences under Section 302 of Indian Penal Code, 1860 because "the different acts committed by each of them were done in furtherance of a common intention to kill the deceased suspects". According to the Commission of Inquiry that the Supreme Court appointed to investigate the encounter killing of the four suspects arrested, after the rape and murder of a veterinary doctor in Telangana in 2019, were killed in the name that "the accused were trying to run away from their custody".

Background

At first, the suspects were charged with rape. The victim, Dr. Priyanka Reddy, a veterinarian resident of Shamshabad in Hyderabad, under Chatanpalli bridge in Shadnagar, was discovered dead and partially burned. Four males who are alleged to be from Narayanpet raped, suffocated, and then burned her.

The Cyberabad police detained four people: Mohammad Areef (driver), Jollu Naveen (cleaner), Chennakeshavulu (cleaner), and Jollu Shiva (driver). According to the police, the suspects noticed Priyanka parking her scooter at the Shamshabad toll plaza and decided to rape her. And one of them punctured the doctor's scooter's back wheel

when it was parked. Around 9.18 p.m., the doctor went back to get her scooter but discovered one of the tires was punctured. Then, under the guise of getting the scooter fixed, the main defendant Areef approached. Another accused Jollu Shiva took her scooter on the pretense of having it fixed, but when she returned later, she was informed that all the repair facilities were closed. According to the police, the girl died as a result of the accused's rape, who also claimed that the accused covered her mouth and nose while perpetrating the crime. The accused then grabbed the deceased body, wrapped it in a blanket, and burned it in Shadnagar.

The police took the suspects to the crime scene to recreate the crime they committed. The police stated that "the suspects thrown stones on police and picked one of the guns from police and tried to injure the police and tried to run away from custody. The police fired at them and killed them while they were running away". The National Human Rights Commission of India questioned the police about violating the rules and encountered the suspects without knowing either they are convicts or acquaints.

Arguments

Petitioner submissions:

The investigating officer looking into the purported encounter deaths, J Surender Reddy, said that he had spoken to Disha's sister to confirm that the allegedly found items belonged to Disha. The Commission discovered he had neglected to record Disha's sister's remarks in this respect. Surender Reddy reportedly stated in the panel report that neither the suspects' fingerprints nor those of Disha's purported personal items were discovered on the latter. At a news



conference conducted on December 6 at the location of the encounter, then-Commissioner of Police for Cyberabad VC Sajjanar said that Disha's belongings had been found hidden among the bushes. But when the Commission questioned him later about it, he claimed that it was "flawed."

The commission report concluded that "there did not emerge any occasion for exercising the right of private defense, and they didn't find any bullets from the encounter site which are used by the accuses nor any police suffered any injuries at the site" in reference to the police's defense in the case.

Respondent submissions:

The four suspects, cousins Jollu Shiva and Jollu Naveen, C Chennakeshavulu, and Mohammed Arif, were charged with assaulting the escorting police officers and attempting to seize their firearms and open fire. The officers' claim that they fired in self-defense at the deceased suspects has been refuted, hence they are not eligible for protection under Section 76 IPC or Exception 3 to Section 300 IPC. It was found that good faith, a requirement of Section 76 IPC and Exception 3 to Section 300 IPC, was plainly missing. Section 76 IPC deals with a situation where an act is committed by a person due to a mistake of fact and not due to a mistake of law, believing in good faith that he is bound by law to do it. Exception 3 to Section 300 IPC says that culpable homicide will not amount to murder if it is done with the intention of causing bodily injury, which is sufficient in the ordinary course of nature to cause death.

Laws applied

Section 201 of Indian Penal Code, 1860:

Causing disappearance of evidence of offence, or giving false information to screen offender. —Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false,

if a capital offence. —shall, if the offence which he knows or believes to have been committed is punishable with death be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

if punishable with imprisonment for life. — and if the offence is punishable with 1 [imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

if punishable with less than ten years' imprisonment. —and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

Section 302 of Indian Penal Code, 1860:

Punishment for murder. —Whoever commits murder shall be punished with death or 1



[imprisonment for life], and shall also be liable to fine.

Section 34 of Indian Penal Code, 1860¹:

Acts done by several persons in furtherance of common intention. —When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

Analysis

The Sirpukar Commission was appointed by Supreme Court to check the actions of the Police. The Supreme Court suspended the ongoing litigation in the matter before the Telangana High Court and the National Human Rights Commission when it appointed the panel. But Telangana police's Special Investigation Team was given permission to investigate the matter and produce a report. "Until further orders, no other authority shall enquire into the case currently before the commission." Later, The Commission suggested that 10 police officers and employees be prosecuted under IPC sections 201 (causing the disappearance of evidence, supplying false information) read with 302 (murder) and 34 (common intent), respectively. The ten are: D Srikanth, V Surender, K Narasimha Reddy, Shaik Lal Madhar, Mohammed Sirajuddin, Kocherla Ravi, K Venkateswarlu, S Arvind Goud and 2 others. The commission report was made final decision stating that encounter of four accused persons was fake and the 10 police officers were liable for murder.

Conclusion

"1000 culprits can escape, but, one innocent person should not be punished." (B. Pugalendhi, 2020) In society, in the name of women's protection and under the pretext of taking rigorous action in cases of crimes against women, the police had merely exacerbated lawlessness and disgraced the rule of law and justice. The police have exercised arbitrary power beyond their limits.

REFERENCES:

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3. SC to hear report on Disha case encounter today, *Abhinay Deshpandey, The Hindu*, Hyderabad, May 20, 2022
4. SC panel says book 10 cops for killing 4 accused in Hyderabad rape & murder, *Sreenivas Janyala, Ananthakrishnan G, The Indian Express*, Hyderabad, July 20, 2022.

¹ Subs. by Act 27 of 1870, s. 1, for section 34.