

Dead on the Tracks

Custodial Death at Samaipur Badli P.S., October 1995

People's Union for Democratic Rights (PUDR)
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On 9 October 1995, a chowkidar, Jagannath Mishra filed a complaint at the Samaipur Badli thana of a theft of Rs.500/-. Living at that time in Badli village, Mishra named five suspects, including his neighbour Surat Lal Mandal, a rickshaw puller. Head Constable Hari Chand was the Investigating Officer (I.O.) for the theft complaint. The police picked up Surat Lal, aged 35, at around midnight on 11 October. He was detained at the thana throughout the night. The next day, 12 October, his body was found in the afternoon around 1:30 p.m., on the rail tracks that run adjacent to the thana. Reportedly Surat Lal had died after being hit by the Flying Mail, a Delhi-Amritsar express train. That day the train was 45 minutes behind schedule. The body was found about 200 metres from the thana.

Badli village is on the same side of the tracks as the thana and is easily visible from it. On this side, a kuccha 10-15 feet wide path is the normal thoroughfare for both vehicles and pedestrians. There are only two rail line tracks here. One major crossing with a gate (phatak) is next to the thana. It is used by heavy and light vehicles—trucks, buses, autos and by people doing their daily chores. Another phatak is near Badli village. Surat Lal was found dead near the thana phatak side. Head Constable Hari Chand was suspended under S.130 of the Indian Penal Code (IPC), for “voluntarily causing hurt to extort confession or to compel restoration of property...”

Immediately after the incident a PUDR fact-finding team visited the site where the body was found. We met local officials and the brother of Surat Lal. The then SHO, Ravi Shankar Kaushik, gave suicide as a possible cause of death. An initial inquest was conducted under S.174 of the Criminal Procedure Code (Cr.PC)—(“Police to enquire and report on suicide...”). This section requires the police to immediately report to the appropriate executive magistrate or to the SDM (Sub-Divisional Magistrate), any unnatural death. Further, the police is to immediately go to the spot and in the presence of respectable citizens make a preliminary report regarding the body, nature of injuries, etc. The report is then forwarded to the SDM who conducts the inquiry under S.176 Cr.PC.

Matters seemed to have ended here. But the next year, press reports on 1 June 1996 stated that a case of homicide (S.302 IPC) had been filed against the constable Hari Chand, who had been suspended till now. In view of the media reports, PUDR again investigated the death of Surat Lal. The second team met with medical authorities, SDM (Kingsway Camp), thana officials, and Crime Branch officers. However this team could not meet with the brother of the dead man. We were told that he had left the village after the initial police investigations. As to Mishra, the complainant of the theft charge, he is absconding, and is probably in his native place in Nepal.

According to the brother, Baiju Lal Mandal, two policemen came to their residence on the night of 11 October and rounded up five suspects, including both the brothers. At the thana, Surat Lal was taken in while the other four waited inside the compound. They heard loud cries. Then the cries stopped. Surat Lal had been in Badli village only for six months. He plied a rickshaw to cart goods from a factory. The four appear to have left in the morning to work at the factory. The factory malik came to the thana to get Surat Lal released. He left around noon. Surat Lal was still in the thana. The other four workers returned around 1:30 in the afternoon. They found a big crowd outside the thana for the body had been found on the tracks. Constable Hari Chand asked them the whereabouts of Surat Lal. But they had last seen him at the thana and he had not reported for work at the factory. On the same day, the factory malik filed an FIR around 5:30 p.m. All the four picked up on 11 October made their statements to the SDM. The brother had told the first team that he suspected foul play.

As the body had been found on the tracks, the case was assigned to the SDM (Crime and Railways). But it was immediately transferred to the SDM (Kingsway Camp), when it was learnt that the victim had been in police custody the previous night. Post-mortem was conducted on 13 October 1995 at the old Subzi Mandi mortuary. A second post-mortem was ordered which was done the next day on 14 October, by a board of 3 doctors. A new SDM took over for the Kingsway Camp area on 19 October 1995. The SDM report was submitted eight months later, in May 1996. The report categorically holds the thana police responsible for the death and recommends that the IO be charged under S.302 and that departmental action be taken against the then SHO on charge of negligence. During the past eight months, the former SHO has been promoted to the rank of ACP.

There are several contradictions in the accounts given by the thana police to the PUDR teams. The first team was told that Daily Diary entries for the detention and release of Surat Lal had been made. But the team was not shown the entries. The second team was told that Surat Lal had only been brought in for questioning and therefore no entries were made. From another source however, the team learnt that serious tampering with entries had been done. There are also indications of attempts to fabricate evidence to support the thana version of the events. Both the then SHO and the present Addl. SHO stated that Surat Lal was released in the early hours of 12 October. The reason given was that the IO had found no evidence whatsoever pointing to the involvement of Surat Lal in the theft case. Both officials also maintained that no beating of the deceased had taken place during his detention. It may be noted that the claim of "no beating" is at variance with the charges under S. 130 IPC made against

the IO in October 1995.

Notably, no explanation was forthcoming as to why Surat Lal was ordered to report back to the thana after his "release." For it is clear that there was no charge or suspicion of criminal offence against him. Local police accounts of his death rest on shifting theories of suicide/accident. As to the suicide version, it is somewhat strange that when "no beating" had taken place, the victim was so scared of having to go back to the thana that he resorted to taking his own life. The "accident" version has it that Surat Lal was indeed coming to the thana but on seeing a policeman, he tried to escape. He started running across the tracks, misjudged the speed of the train, and was run over. No comment is necessary.

The post-mortem reports are inconclusive. Both reports note several injuries caused by a person being hit by a train. The first report however notes a swelling on the ankle which cannot be attributed to the train.

It is possible that whatever injuries Surat Lal sustained during his detention for a crime he did not commit were obliterated by those caused by the train. Or, that he was taken to the tracks when he was possibly near collapse and then tricked into running across the tracks when an express train was coming. The truth is not likely to be disclosed to the public. What should be noted is that post-mortem reports are not conclusive in establishing whether a person has died due to beating in police custody. It is the totality of circumstances which is important. Further, in several custodial death cases, PUDR has found that the release of a person from police custody when he is near death is not uncommon. Surat Lal's death would have been successfully covered up as an accident/suicide but for the SDM report. This reinforces once again the importance of impartial independent investigation. Further, police investigation was not done "pending the SDM report." This is an inexcusable reason repeatedly given by authorities. The fact of the matter is that the two inquiries are absolutely independent. The police is not absolved of its duty on the grounds that an SDM inquiry is being conducted.

PUDR demands:

- ☐ The immediate arrest and prosecution of the IO, Hari Chand.
- ☐ Appropriate action against the former SHO, Ravi Shankar Kaushik.
- ☐ SDM report be made public.
- ☐ Prompt compensation to the family of the deceased, Surat Lal Mandal.

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