

Delhi, 2001

Deaths *in* Police Custody

**Peoples Union for Democratic Rights (PUDR)
Delhi
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People's Union for Democratic Rights (PUDR) has been consistently conducting independent fact-findings into each reported death in custody of Delhi police for over twenty years now. In the year 2001 three deaths in the custody of Delhi police were reported in the newspapers. These were – death of Zakir in custody of the Pushp Vihar Police Post, of Lalit Mohan in Kalkaji Police Station (P.S.) and that of another Zakir in custody of Bhajan Pura police station. PUDR investigated these deaths as and when they occurred. A follow up was done recently mainly regarding the ADM inquiries in these cases. This report includes our findings about these three deaths and the follow-up.

Death at Pushp Vihar Police Post, P.S. Malviya Nagar

The first reported case of death in the custody of the Delhi Police in the year 2001 occurred on 12 May. The initial news was a police handout which appeared in all newspapers in Delhi. The same is the crux of the police story which was repeated to the PUDR team by the DCP and the Additional DCP, South District.

The Police Story

According to the police, the Malviya Nagar police station area had been witnessing a high rate of automobile thefts. 120 of the 722 reported motor vehicle thefts that occurred in the south district in the year 2001 till the begin-

A police patrol party found five youths suspiciously moving around the bus stop at Pushp Vihar early in the morning of 12 May 2001. When the police party approached them the five persons started to flee. While four of them managed to run away, one of them, 25 year old Zakir fell into police hands. There was a scuffle at the time of the arrest and Zakir was then taken to the police post at Pushp Vihar. During interrogation at the police post, Zakir confessed to his involvement in motor vehicle thefts as part of an inter-state gang called the Nanhe gang. He also provided to the police the names of his accomplices who had managed to escape in the morning.

Around 3.00 p.m. Zakir complained of uneasiness and was taken for medical help to the All India Institute of Medical Sciences (AIIMS). He was declared brought dead at the hospital. The DCP reported that he had seen the dead body of Zakir on which he could see one black mark on the thigh which could suggest haemorrhaging. He opined that the death could not be caused by torture since Zakir was in police custody for a very small span of time.

The truth as it revealed itself was a far cry from the pleasant account presented by the police.

The Facts

The post-mortem examination was conducted at AIIMS by a panel of 3 doctors on 13 May and was concluded at 3.00 p.m. They recorded the time of death as 28 hours prior to the post mortem i.e., 11.00 a.m. on 12 May. This is four hours before Zakir was brought to the hospital.

The post mortem also found multiple injury marks on the back, elbows, hands, buttocks, backs of the thighs caused by a blunt object which resulted in rupture of muscles. In particular, the injury on the thigh resulted in internal bleeding which continued for at least 2 hours leading to a loss of around 2 litres of blood before death occurred. All this while it seems most probable that the police personnel at the Pushp Vihar police post continued their thrashing. According to the doctors during this period Zakir should have been in immense pain. The post-mortem concluded that the thigh injury by itself is sufficient to cause death in normal circumstances.

After the post mortem examination, the SHO and four constables of the Pushp Vihar police post were transferred to the police lines and placed under suspension. An enquiry was ordered which was to be conducted by the District Crime Branch, Nehru Place. It took another two days before a criminal charge was registered under S. 304, IPC (culpable homicide not amounting to murder). But investigations were yet to start when the PUDR conducted its fact finding in the third week of May, since the police had not yet decided the Investigating Officer for the case.

Little is known of Zakir except that he belongs to village Bishambara of Mathura district in UP. His father, Suraj Mal came to Delhi on 13 May, took the

dead body of his son, denied the allegations that his son had anything to do with an auto-lifter gang, and left. The police remained the sole authority on the details of Zakir's life. Even though the police account is little more than a bunch of flimsy allegations.

Yet the fact that the killers are no common citizens, like Zakir, stares in the face of anybody who cares to look. A killing occurs on 12 May and the killers along with their weapons of assault and the dead body were present before senior police officers at the place of the crime. The crime is cognizable. But they were not immediately arrested or even charged. The filing of the FIR two days later was only a face saving device. The PUDR during the course of its investigation felt that in all probability the material evidence of the crime had not been collected: the sticks and batons with finger prints at one end and blood stains of the victim on the other. The charge made against the killers was 'culpable homicide not amounting to murder' when it was apparently clear that the injuries sustained were sufficient to cause death in the normal circumstances. Additionally, when the victim was pleading for mercy, for the two hours when blood was draining into his muscles, the police continued to hold Zakir in their custody, and prevented him from reaching medical help. The facts of the case make it amply clear that the crime is nothing short of murder.

The attitude of senior most police officers of the district was appalling. They doled out the story that the victim complained of 'uneasiness' and was rushed to hospital and that the torture could not lead to death in so short a time. In the initial stage they even stalled the criminal proceedings against the accused. After some time it was reported in the press that the accused SI of the Pushp Nihar Police Post took away the daily diary from the police post two days after the incident and then disappeared. In this connection a case u/s 406 IPC (criminal breach of trust) was filed against him. It is strange that he was charged with causing disappearance of evidence u/s 201 IPC. It is also strange that a suspended accused could so easily run away with such crucial evidence and also no action was taken against the policemen posted at the Post for having let this happen. It was only in July that the police finally arrested two accused constables and the absconded S.I. was arrested in August 2001.

The attitude of the police top brass generates little faith that the guilty will face punishment. It is difficult to expect a fair investigation, when the officials are almost determined to protect the guilty. An inquiry was initiated after the incident under Section 176 CrPC by the magistrate, the ADM (Kalkaji). But till January 2002 i.e., eight months after the incident the ADM's report, is not yet submitted as he is awaiting the CFSL Report. In this way the sole independent inquiry taking place in this case of clear murder at the hand of the police has not yielded nothing till date.

'Suicide' of Lalit Mohan in Kalkaji police custody

Lalit Mohan, a 42 year old manager of a gas agency, SNB enterprises died in custody of the Kalkaji Police on June 16, 2001. He had been arrested by the police along with 2 others, Chintamani and Sudama Ram from Kherawal Nagar, Shahdara on 15 June on charges of embezzlement. The Kalkaji police who picked him up was acting on a complaint lodged by Indu Anand, proprietor of the agency located in Alaknanda, accusing him of siphoning off a sum of about Rs. 17.5 lakhs in connivance with a bank manager of the Punjab National Bank. Signatures of workers had apparently been forged and Lalit had withdrawn all the money in the agency's account.

The Police Story

According to the police he was picked up late on the night of Friday, 15 June, and brought to Kalkaji P.S. for questioning. At about 1.30- 2.00 a.m. he started vomiting and was rushed to the All India Institute of Medical Sciences. He was given some treatment (stomach wash etc.) but he died within 45 minutes of being taken to hospital. According to the police the doctors had stated that he had probably consumed Sulphas tablets (used as pesticides) prior to arrest. These tablets according to the doctors, could take upto about 5 hours to act. The police claim that he had done so out of shame at what he had done once he knew that he would get caught.

A four-page suicide note stating that no one was to be blamed for his death was found on his person. The note was addressed to his wife and children. Lalit Mohan's family lives in Pauri Garhwal. Two cases of cheating and attempt to suicide were registered against him. When we investigated the case the bank manager who allegedly abetted Lalit Mohan was absconding.

The Aftermath

The DCP (South) P. Kamaraj suspended the S.I. in-charge of his case, Ravinder Gill, who had taken Lalit Mohan into his custody upon arrest. The CFSL report is still awaited 6 months later. The ADM Kalkaji had started a magisterial inquiry, which is not yet complete, because the CFSL report has not arrived.

But Lalit Mohan's death is almost certainly being counted as a suicide in official circles. Newspapers, at the time carried eloquent details with a range of personal references to his children found in the suicide note found on Lalit Mohan's person. The police too showed our team the note, which is being taken as the main piece of evidence that he had committed suicide. And somewhere in the middle of jumping enthusiastically to the easy conclusion of 'suicide' some crucial points are being forgotten.

For instance, it is curious that even though Lalit Mohan was arrested he was not searched, and was able to conceal a suicide note on his person. Nor

was a medical examination conducted as soon as he was picked up. A case, at the very least of negligence, against the officials concerned should have been registered and investigation undertaken. How can the police story of suicide be accepted to be the true story without a through investigation? The suicide note also needs to be investigated. If poisoning was the cause of death, then when and how was the poison consumed, when the accused was in police custody for at least 3 hours prior to his death? In most cases of custodial death, the victim is also accused of some crime. There is always an attempt to cover up custodial violence by drawing attention to the 'crime' of the victim. The same seemed to occur in this case. But this in no way explains the lawlessness of the police, and their repeated failure to follow norms and procedures (and deliberate flouting of these) in the course of performing their 'duties'.

Death of Zakir in custody of Bhajanpura Police

On 13 September 2001, 18 year old Zakir died in the premises of the Karkardooma Courts at about 1.00 p.m. He had just been remanded to 14 days in judicial custody by the concerned magistrate and was being taken to the lock-up in the Court. He was in the custody of the Bhajanpura police at the time. Zakir's death thus became the third reported death in custody of the Delhi police in the year. A resident of Khureji village in East Delhi, Zakir was Bangladeshi, and was a petty thief. He had been caught stealing in K block Bhajanpura, a lower middle class locality in north eastern Delhi. He was beaten by the public and then handed over to the area police. The local residents stated that thefts in the area had indeed gone down since Zakir's arrest and death. They learnt later, when they had gone to depose before the magistrate inquiring into Zakir's death, that he was a Bangladeshi. Since then they have been driving out Bangladeshi rag-pickers from the area. And they have put up 10 feet high iron gates at the ends of their lanes for their security.

The Neighbourhood

There had been some thefts and burglaries in the Bhajanpura area since the summer of 2001, particularly around the locality known as West Ghonda. At about 2.30 a.m. on 13 September the owner of a house in K Block, Bhajanpura caught one of the burglars who had entered his house, while the others ran away. The burglar's name, they later learnt was Zakir. In a short while the residents of another house in the neighbourhood, where a burglary had occurred that night and many other residents of the area, numbering according to eyewitnesses about 300, gathered in the vicinity of the K block house and collectively beat the youth up from about 3 a.m. At about 5 a.m the police from the Bhajanpura P.S. were summoned and Zakir handed over to them. Later at about 8.30 a.m. Zakir was brought back by the police for verifica-

tion to the lane where he had been caught. The police made him walk from the end of the lane till the house. The people in the neighbourhood observed that he could hardly walk. After about 45 minutes he was taken away by the police on a rickshaw.

The Police Story

As per the police version, police at the Bhajanpura P.S. received a call about a thief being apprehended by the K block residents and reached the spot at about 5.00 a.m. on 13 September. After picking the youth up they took him to GTB hospital for a medical examination, since he had been quite badly beaten up. First aid was administered to him and he was discharged from the hospital at about 8.00 a.m. He was then taken back to the area. He was brought back to the police station at about 11.00 a.m. and lodged in the lock-up. He was then taken to the DCP's office and photographs etc. taken and report lodged. He was presented before the magistrate in the Karkardooma Courts and remanded to judicial custody for 14 days. As he was being taken to the lock-up at the Courts, he collapsed and was taken to the GTB hospital. He died at the hospital. Injuries caused by beating are the cause of death. The police claim that though Zakir had been beaten up badly by the residents he was walking around, entered and left the police station walking without support. According to them if the doctors had discharged him in the morning, he must have been all right. Even so the police have suspended S.I. Ram Bahadur who was the Investigating Officer in the case of theft against Zakir. The theme of the menace of Bangladeshis was also repeated in the police station to our team.

Two youths, Sanjay and Praveen Chaudhry also lodged in the Bhajanpura P.S. lockup on the night of 12 September, made a statement to the area magistrate that they had seen Zakir being beaten up on the morning of 13 September. The police dismissed their statement saying that the youths had done this as they had a grudge against the police. They later retracted the statement, and though our team was unable to meet them, their family members told us that they had indeed retracted their statement.

The overall official impression is that since Zakir was constantly in public view, the police could hardly have beaten him up in that situation and he must have died due to the injuries sustained due to the beating by public. The question that arises is - why did the police take Zakir around on foot when he could barely walk? Why also did the hospital discharge him if his condition was so serious? If he was not in a serious condition at 1p.m. when discharged from the hospital how could he die within the next two-two and a half hours? Even if one were to accept the police story, at the very least a charge of criminal negligence and delay and denial of medical aid can be made against the police, as Zakir was in their custody and was not free to seek medical help. He was not

in a position to refuse to walk around even when he was quite unwell. Moreover, if, as the police state, it was public beating that resulted in Zakir's death why has no FIR been lodged against and investigation taken place into the incident against the persons beat him up? Moreover how did the magistrate at Karkardooma remand a visibly injured Zakir without getting a medical examination and treatment to judicial custody?

A magisterial inquiry by the ADM (East District) was initiated into the incident under Section 176 CrPC. The ADM's inquiry report in this case has not yet been submitted i.e. even four months after the incident. The police, the magistrate and the public who beat him up are all guilty of causing Zakir's death. Yet the fact that he was a petty criminal and a Bangladeshi charged with offences is being used to blame the dead victim and give legitimacy to those who did kill him, and also cover up their crime.

Conclusion

Since 1980 there has not been a single year that did not witness even one death in the custody of Delhi police. It is a record of its own kind! There is relatively more awareness about custodial deaths amidst the public and the media now, but this has not increased the sensitivity against police brutality and highhandedness either amongst the public or the authorities.

Last year there were three deaths in police custody, but in the year 2000 the police was responsible for nine deaths in its custody. The number of these deaths varies from year to year and no explicable pattern has been observed so far. But with the police being armed with the draconian legislations like POTA and MCOCA, there are very strong chances that the police brutality will increase and so will the instances of torture and deaths in police custody. Under these laws, collection of evidence merely means securing a confession before the police, which would stand as evidence in court, unlike ordinary law. Thorough investigation would not be necessary. And in this charged atmosphere, with images of 'terrorism' looming large all around, there is a danger of the crime committed by the police becoming even more acceptable. It therefore becomes all the more urgent to force the authorities to play their role more seriously to check this menace and to take action against the police when a crime is committed.

If we see this years cases, the response of the authorities has not been up to the mark. In all cases of custody deaths, an enquiry by the magistrate is mandatory under section 176 Cr.P.C. This statutory requirement provides for an independent inquiry into the crimes committed by the police. In Delhi these inquiries till recently been conducted by the Sub Divisional Magistrate (SDM). Since last year the Additional Divisional Magistrates (ADMs) and not the SDMs have been conducting inquiries in cases of custodial deaths - this order by the

inquiries till recently been conducted by the Sub Divisional Magistrate (SDM). Since last year the Additional Divisional Magistrates (ADMs) and not the SDMs have been conducting inquiries in cases of custodial deaths - this order by the DC (Deputy Commissioner) was issued ostensibly in order to take custodial death cases more seriously and have them investigated by a senior officer. However this has certainly not resulted in speedy inquiries, in fact quite the reverse. Inquiries have dragged on and the senior officials appear to be equally if not more busy in other matters, and custodial death investigations do not really appear to have got the priority they deserve. ADM inquiries have been initiated in all three cases of the year 2001. In none of these have the reports of the magisterial inquiries been submitted, quite blatantly in violation of the NHRC directive that magisterial inquiries in cases of custodial deaths should be completed within 2 months.

Although, the NHRC is in the know of all of these cases and is supposedly monitoring them, but it has not taken this delay seriously. No cases of even criminal negligence were filed in the deaths of Lalit Mohan and Zakir (Bhajan Pura), and the NHRC has not asked the police to do so. In effect therefore the police has been left to sit on judgment over its own deeds. There has even been no move to date to pay compensation to the families of the any of these three victims.

In the light of the above, with regard to the deaths in Delhi Police custody in the year 2001,

PUDR demands

1. FIR should be filed against the policemen responsible in the case of death of Lalit Mohan and Zakir (Bhajan Pura) and investigation and prosecution should be initiated immediately.
2. Investigation in case of Zakir (Police Post Saket) should be handed over to CBI.
3. The magisterial inquiry reports in all three cases should be submitted immediately and these reports should be made public.
4. Compensation should be paid to the families of these three victims of deaths in police custody.

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