

In the Hathras gangrape and murder of a young Dalit woman in September, 2020, the local police investigation was led by Circle Officer of Sadabad, Ram Shabd, in FIR No. 136 of 2020, P.S. Chandapa. The said officer did not register the case as a crime of gang rape, nor were the names of all four accused persons recorded for days after the heinous crime was committed. While the young Dalit gang rape victim was still struggling for her life in hospital she had stated to the police the names of the 4 men who had gang-raped and strangled her, and had also informed the same to her mother. The victim's father, brother and mother also told the police the names of all the 4 upper caste men, who had committed the offence. The victim family had alleged that the local police tried to protect the accused persons by not recording the names of accused persons, and also by refusing to invoke penal provisions of rape and gangrape in a timely manner, thereby destroying forensic medical evidence. The victim family had further alleged that the Investigating Officer Ram Shabd deliberately concealed from the case records the names of accused persons mentioned in the statement of the victim and also in the statement of the victim's father recorded two days after the incident.

The glaring signs of police complicity in such a heinous crime compelled the State govt to transfer the investigation to the CBI. Police Officer Ram Shabd was then suspended.

The CBI filed a chargesheet against 4 accused persons Sandeep, Ramu, Ravi and Love Kush and charges were framed on 25.02.2021 against the accused persons under Sections 302, 376, 376A, 376D and 34 IPC, read with Section 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The trial is pending before the Special SC/ST Court in Hathras, where on 05.03.2021, during the deposition of the brother of the deceased victim and the First Informant, Shri Satender, the trial was disrupted and the witness and his counsel threatened. A report in that regard has been sought by the Lucknow bench of the Allahabad High Court from the District Judge, where the issue of transfer of trial outside Hathras district is pending consideration.

Departmental Enquiry against Police Officer Ram Shabd (formerly Circle Officer Sadabad, UP)

On 28.06.2021, the deceased gang-rape victim's parents and brother were summoned by the IG (Meerut Zone) to record their statements in the departmental enquiry against suspended Circle Officer Ram Shabd. In a representation dated 03.07.2021, the victim's family has complained against the farcical and illegal manner in which the proceedings were conducted without any adherence to principles of natural justice, rendering the proceedings a complete sham. The representation has states that the IG (Meerut Zone) was not present on 28.06.2021 when their statements were recorded by the suspended officer Ram Shabd, who manipulated and distorted their statements to protect himself, as well as create a false record that will help the accused persons and sabotage the criminal trial.

The representation further calls upon the Director General of Police to conduct the enquiry proceedings afresh in accordance with law, and seeks criminal prosecution of the police officer(s) guilty of recording false evidence and fabricating evidence under Sections 166A, 192, 201 and 218 IPC as well as Section 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The representation has also been copied to the Addl. Chief Secretary to the Chief Minister of Uttar Pradesh, and carries signed statements of the victim's family members.

The representation has been sent by the counsel of Hathras victim's family Adv. Vrinda Grover, assisted by Adv. Seema Khushwaha and Adv. Soutik Banerjee, and despite passage of seven days, no reply has yet been received from the authorities.

Adv. Soutik Banerjee: 8527075320

To,

Mukul Goel
Director General of Police
Uttar Pradesh Police
Police Headquarters, Tower 2,
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Lucknow – 226010

Date: 03.07.2021

Sir,

SUB: Illegal and sham Departmental Enquiry carried out on 28.06.2021 to manipulate the proceedings and shield suspended Circle Officer, Ram Shabd, facing enquiry for his role as Investigating Officer (IO) in FIR No. 136 of 2020, P.S. Chandpa, - Hathras gangrape and murder case

1. The present communication is being made on behalf of and under instructions from my clients - Shri Om Prakash, Smt. Rama Devi and Shri Satendra Kumar, the next of kin of the deceased victim in the Hathras gangrape and murder of September, 2020. This is to bring to your urgent attention the absolutely illegal, farcical and dishonest departmental enquiry proceedings carried out on 28.06.2021 against suspended Circle Officer Ram Shabd for his actions and omissions in his capacity as Investigating Officer (IO) in FIR No. 136 of 2020, P.S. Chandpa, Hathras. The investigation was later transferred to the Central Bureau of Investigation.
2. My Clients were served Notices dated 09.06.2021 to appear before the Enquiry Officer, Mr. Praveen Kumar, IG Meerut Zone, on 18.06.2021, to record their statements as witnesses in the Departmental Enquiry against suspended Circle Officer Ram Shabd. However, on account of unavailability of the Enquiry Officer, the proceedings were adjourned to 28.06.2021. Accordingly, on 28.06.2021, my Clients presented themselves at the office of the IG, Meerut Zone, at about 10.00am. Thereafter, what transpired masquerading as a departmental enquiry proceeding was nothing less than a sham exercise aimed at manipulating and fabricating evidence to shield the delinquent officer, as well as designed to also benefit the accused persons in the criminal trial u/Secs 302, 376, 376A, 376D r/w Section 34 IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 presently pending before the SC/ST Special Court, Hathras, against four accused persons namely Sandeep, Ravi, Ramu and Lovekush.
3. It is pertinent to note that Smt. Rama Devi is illiterate and Sh. Om Prakash can no longer read due to his poor eyesight while their son Satendra Kumar has not

studied beyond school. They all belong to the Valmiki caste which is a Scheduled Caste, and are people with limited means. They have no knowledge of law nor are they familiar with legal processes. They were subjected to proceedings that are completely alien to them without any offer to provide a support person or professional assistance. Their poverty, illiteracy and marginalized caste status was exploited to mislead them and wrong, distorted and false statements were recorded in their name in the aforesaid departmental proceedings on 28.06.2021.

4. The illegalities writ large over the proceedings of 28.06.2021, when three witnesses were examined, are listed below:
 - a. That the Enquiry Officer, IG, Shri Praveen Kumar, was not present at all throughout the proceedings which were carried out without any presiding officer or Enquiry Officer. There was thus complete impunity for the delinquent officer to control and conduct the proceedings and manipulate recording of evidence to secure false and fabricated statements in a manner best suited to his own interest.
 - b. The delinquent officer, Ram Shabd, himself got recorded my Clients Om Prakash and Rama Devi's statements, and also the answers given by them in cross examination. There was no superior officer or authority present at the time in the room, and my Clients Shri Om Prakash and Smt. Rama Devi were examined and cross examined by the delinquent officer Ram Shabd who was unchecked and unsupervised during the proceedings, with complete control over the recording of the evidence taken on record. The statements were recorded on Ram Shabd's dictation, and the record was distorted, manipulated and falsified at Ram Shabd's behest.
 - c. That my Client Satendra Kumar was also asked to depose in the absence of the Enquiry Officer by Addl. SP (Hathras), Shri Prakash Kumar. It was unclear to my Client Satendra Kumar as to why he was being cross examined by Shri Prakash Kumar instead of the delinquent officer Ram Shabd, and that too in the absence of any superior authority. It is pertinent to mention that at no point was Satendra Kumar informed that Addl. SP (Hathras) Shri Prakash Kumar was asking questions on behalf of the delinquent officer, and this deliberate ploy was used to confuse Satendra Kumar while answering questions which were worded in first person.
 - i. For example, Addl SP (Hathras) Shri Prakash Kumar asked Satendra Kumar, "*Did you make any complaint against me to the SIT?*", to which Satendra Kumar answered in the negative and stated that he had not made any such complaint against Shri Prakash Kumar. Satendra

Kumar gave this answer in the belief that Prakash Kumar was asking the question with regard to himself, and not Ram Shabd.

- ii. It was only later in the night when Satendra Kumar perused the record of evidence that he noticed that the record wrongly reflects that Satendra Kumar has stated that he did not make any complaint against Ram Shabd, whereas his answer pertained to Prakash Kumar and not Ram Shabd. Thus, with a cunning design, delinquent Ram Shabd in complicity with senior police officers has abused the Departmental Enquiry proceedings to exonerate himself by confusing my Client into making concessions that are factually wrong.
 - d. In the absence of a presiding officer or Enquiry Officer, there was no avenue for my Clients to record their objection to the manner in which the proceedings were being conducted, and this is an abject failure to follow the principles of natural justice.
 - e. Further, my Clients Om Prakash and Rama Devi were made to affix their thumb impression/signature on the record of proceedings without the same having been read out and explained to them, while Satendra was given no opportunity to read the record of his statement, and was forced to sign the same.
 - f. That my Clients were provided with copies of the evidence recorded at the end of the day on 28.06.2021, and Satendra Kumar was able to peruse them only late into the night after returning to Hathras from Meerut. To his utter shock and dismay, Satendra Kumar saw that the statements had not been recorded accurately. Instead, the record reflected falsehoods which were manufactured to support the delinquent officer Ram Shabd in his bid to escape punishment. Accordingly, Satendra Kumar informed his legal counsel about the illegality of the proceedings.
5. That the false record created on 28.06.2021 is aimed at not only protecting the delinquent officer, but also to negatively impact and sabotage the pending criminal trial for the murder and gangrape of my Clients' daughter / sister.
 6. That in light of the above, it is evident that the departmental enquiry proceedings conducted on 28.06.2021 were a complete sham and farce, and the proceedings stand vitiated with these illegalities. As such, the said record needs to be expunged and set aside, and the departmental enquiry ought to be initiated afresh by recording the evidence of my Clients in a fair and accurate manner, in accordance with law.

7. That as you are aware, my Clients are members of a Scheduled Caste, and as such, it is pertinent to mention that the deliberate acts of commission and omission in suppressing material facts, failing to record the names of accused perpetrators is tantamount to fabricating evidence and shielding the accused perpetrators which attracts the application of strict penal laws under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, as well as the Indian Penal Code, and invites punitive consequences. The delinquent officer Ram Shabd, in his capacity as Investigating Officer between 14.09.2020 till 20.09.2020, committed the following acts of commission and omission to derail and sabotage the investigation at its nascent stage and to shield the perpetrators of gang rape and murder, which is established by the CBI's Final Report (chargesheet):
- a. That critical and time sensitive medical and forensic evidence was lost as despite the victim having given a statement in the presence of the police on 14.09.2021 that she had been subjected to “*zabardasti*”, timely medical examination of the victim was not conducted. The victim was medically examined for the offence of rape only on 22.09.2021 after Ram Shabd had been replaced as Investigating Officer.
 - b. That the victim's father, Shri Om Prakash, had given a statement at Chandpa P.S. on 16.09.2021 naming accused Ravi and Ramu, but the police did not record their names and directed Shri Om Prakash to go to the office of the Circle Officer, Sadabad, i.e. Ram Shabd's office, to record the names. Shri Om Prakash had also stated that his wife Rama Devi and son Satendra Kumar know the name of all accused persons, but their statements were not recorded. At the office of Circle Officer, Sadabad, Shri Om Prakash had on 16.09.2021 itself provided the names of accused persons Ravi and Ramu, but the Investigating Officer did not take any steps to apprehend the accused or include them in his investigation as suspects.
 - c. That on 17.09.2021, the victim's brother Satendra Kumar submitted a letter to the Superintendent of Police (SP) Shri Vikrant Veer naming all four accused persons – Sandeep, Ravi, Ramu and Lovekush, stating that the victim had stated in hospital to her mother that the said four persons had gangraped her. Despite the submission of this letter, the IO did not record any statement of the victim's brother and mother, nor did he take any action to apprehend the accused who were at large.
 - d. The IO, Ram Shabd, proceeded with his investigation in a manner to ensure that the record is fabricated to save the accused persons. On 19.09.2021 the IO got recorded the victim's statement, wherein the names of accused Ravi and Ramu are not mentioned as per the statement recorded in writing. However, on minute analysis of the videography of the statement, the CBI in its chargesheet has concluded that the victim had named accused Ravi and Ramu in her statement but the same was

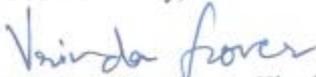
deliberately concealed by the police while writing the statement. Thus Ram Shabd knowingly disobeyed the direction and mandate of the law by not recording the names of other accused persons to save them from prosecution in accordance with law.

- e. The IO, Ram Shabd, had the opportunity to record the statements of Om Prakash and Rama Devi on 19.09.2020 at Aligarh Hospital where he met them, but he took no steps to record their statements, although he was wholly aware that on 16.09.2020 itself, Om Prakash had informed his office about the names of other accused and that it was legally incumbent upon him to record the statements of my Clients.
 - f. That it is only after the IO Ram Shabd was removed from the case and a new IO was appointed, that the statements of the victim's mother, father and brother Satendra Kumar were recorded and the offences of rape and gangrape were added to the case. The accused persons Ravi, Ramu and Lovekush were thereafter made accused in the case and apprehended. Prior to that, the IO Ram Shabd had diluted the heinous crime and framed it as a case of sexual harassment and attempt to murder, deliberately omitting serious provisions of rape and gangrape, thereby shielding accused persons.
8. That I will also take this opportunity to raise the issue with you that the above actions of suspended police officer Ram Shabd do not only constitute a flagrant violation of the applicable Service Rules, but also make out serious penal offences punishable u/Secs 166A, 192, 201 and 218 of the Indian Penal Code for recording of false evidence and fabricating false records to shield the accused, and for failing to conduct investigation in accordance with law into a heinous sexual offence. Further, by willfully neglecting his duties, the concerned police officer has rendered himself liable for prosecution also under Section 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. In view of the above, I call upon you to take appropriate action in accordance with law to prosecute the concerned officer for his criminal acts of commission and omission.
9. That in the present case, my Clients have been repeatedly subjected to illegality and high handedness by the police, and their basic human rights violated. The cover-up within the police ranks continues as is evident from the farce conducted in the name of the Departmental Enquiry. Despite judicial and governmental intervention, the impunity with which the police machinery continues to operate is alarming.
10. That my Clients have a right to equality before the law and a right against discrimination and arbitrariness in State action, which is constitutionally

guaranteed to them. Their right to observance of principles of natural justice in quasi-judicial proceedings, as well as their right to fair investigation, cannot be defeated by complicity of police officers, and attempts at sabotaging the investigation by police officers ought to be dealt with seriously.

11. That the true facts as stated by my Clients during the Departmental Enquiry proceedings on 28.06.2021, pertaining to the omissions and commissions by the delinquent officer Ram Shabd while he was the IO in the case, have been manipulated and knowingly not reflected in the record of proceedings. Thus, a true copy of their statements is annexed herein along with the present communication for your information and record.
12. That in light of the above, you are called upon to take immediate and necessary action to conduct the departmental enquiry afresh in conformity with the rule of law and observing the principles of natural justice. You are also called upon to take necessary action under penal laws against officer Ram Shabd in the interest of justice and to deter police officers in the future from deliberately sabotaging criminal investigations, especially one relating to gang rape and murder of a young Dalit woman.

Yours Sincerely,



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