
(1992) 07 AHC CK 0056

In the Allahabad High Court

Case No : Habeas Corpus Writ Petition No. 18529 of 1989

Miss M.S. Annaporani

APPELLANT

Vs

State of Uttar Pradesh

RESPONDENT

Date of Decision : 21-07-1992

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313
Penal Code, 1860 (IPC) — Section 294, 342, 354, 498, 504

Citation : (1993) CriLJ 487

Hon'ble Judges : Palok Basu, J;G.S.N. Tripathi, J

Bench : Division Bench

Advocate : Party in Person, for the Appellant;

Final Decision : Dismissed

Judgement

Palok Basu, J.—This matter was received in this Court through a letter of the Registrar of the Hon"ble Supreme Court. The said letter indicated that an Advocate, namely, Miss M. S. Annaporani had complained to the Hon"ble Supreme Court that a news item published in "Hitavada" dated 30-7-89, told the story of man-handling and torture perpetrated upon one Smt. Santaraji at the behest of one Paras Nath Yadav and some of his associates which was reprehensible and the said Advocate felt highly aggrieved and demanded suitable action against the perpetrators of the crime.

2. Acting on the said letter, an investigation was directed to be conducted. Time was , also granted to the learned Government Advocate to file a counter affidavit and inform this Court about the developments in the investigation all this has taken some time.

3. At this stage it may be relevant to refer to the relevant portion of the news item:-

"One version, colours the terrible outrage in communal hue. Santaraji Devi, the 30 year old social worker of the village Sourana was gang-raped and paraded

naked because she had the audacity to marry a Muslim. So at least say some of the Muslims in this remote settlement 30 Km from Gorakhpur in North-Eastern Uttar Pradesh and they might not be entirely wrong. But Shantaraji's beastly torture early last month had perhaps more to do with the frustrations of a rebuffed local political don, one Paras Nath Yadav. Yadav had courted Santaraji's favour but without success. The attractive and reasonably well educated lady, widowed six years ago, had instead married a Muslim, four years her junior, flying in the face of public opinion.

It was defiance far beyond Yadav's sufferance. And he had almost the whole village with him, shocked as they were by Santaraji's marriage across the religious line. Using his considerable influence, he had her husband AH Raza arrested on trumped-up charges. With him behind bars, Santaraji was gang-raped, then stripped in public, paraded on an ass for four hours and then expelled from her village. The rest was silence. Indeed, until a local school teacher, Devi Lal Singh, leaked the story to a Gorakhpur daily ten days later, even the district police headquarters was unaware of the atrocity. Said Singh : "This could easily be the worst crime against women this decade. It was a perverted nautanki (show), shocking."

The victim of the nautanki, Santaraji Devi, debased, shattered has left village Souraha for good; no one knows her whereabouts. AH Raza has been released from jail but avoids meeting anyone. This reporter, despite many attempts, could not manage to see him. Their marriage is over, torn as under by barbarity that would shame the policemen of Baghpat who defiled Maya Tyagi nine years ago.

Santaraji had met AH Raza early last year after she got employment in the government's Angan Bari scheme, a women's programme that runs rural creches and pre-school informal education centres in every village. The job had virtually saved her from destitution; after her first husband had died six years ago. She had only a government pension of Rs. 68 to bring up her six children. The Angan Bari salary of Rs. 250 allowed her a fair degree of independence for the first time.

Ali Raza was employed in the Adult Education Programme, and they began to live together in Rampur from mid-May this year. They were married in the registry office, and initially at least, the wedding did not raise too many eyebrows. But soon the couple became the talk of the village, stoked by Paras Nath Yadav, Rampur's Gram Pradhan. Stung and rebuffed, the village headman swore he would teach them a lesson.

In the afternoon of June. Yadav barged into their house. In the fracas that ensued, Raza was beaten up by the headman's Hindu supporters. The police arrived and removed the three protagonists to the Camporganj police station about 15 Kms. away. Raza was remanded to custody but Santaraji and Parasnath were released, contravening standard procedure which requires all persons immediately connected with a case to be taken in for questioning, worse, the

woman was handed over to the villagers, to be used as they saw fit.

And then began the abominable outrage. Santaraji was taken to the house of one Badri Kiwat, one of the dadas (toughs) of Rampur. At nightfall they entered her room. She was repeatedly raped till the early hours. Everyone seemed to be waiting to have his fill. At dawn, after satiating half a dozen men, she made desperate bid to escape. But she could then hardly walk and was predictably recaptured and punished for her temerity.

A grand carnival of sexual insult was arranged. One Bijlee Singh, assistant pradhan and Parasnath's right hand man, and Phool Singh, another heavy-weight, were placed in charge of special effects. They cropped her hair, garlanded her with a neck-lace of shoes, Painted half her face with black ink and half with lime, stripped her, smeared her body with red paint, sat her on an ass and paraded her for four hours through every lane in the locality. The bizzare procession featured amateur music-makers heralding the principal exhibit with drums and trumpets. The Pradhan's Bullet motorcycle, symbol of power in the outback, brought up the rear. At any given time, at least a hundred people were involved in the proceedings. Santaraji was stoned and beaten with lathis all along the 50 km route. She often fell off the ass, only to suffer the indignity of being hauled back by the breasts. Finally, she was thrown out of the village and warned never to return." I don't think anything like this has ever happened anywhere in the world", said Jagdish Prasad Gupta, village headman of Gangi Bazar, an adjacent hamlet."

4. The Advocate was fully justified in feeling highly aggrieved which she has rightly described as her anger and was thus entitled to move the highest court of the land for directing suitable action against these who may have committed crime against Smt. Santraji.

5. A counter affidavit of Babban Yadav, Sub-Inspector P. S. Paniyara, district Maharajganj has been filed today. Normally, a copy of this affidavit should have been directed to be sent to the Advocate concerned for objection/reply, if any. But since justice does not require any such order, no such notice is being sent for the facts hereinafter stated.

6. Along with the counter affidavit, two copies of the First Information Report dated 7-6-89 regarding the above incident have been filed. It has been averred that the matters were duly investigated and a charge sheet was filed against Paras Nath Yadav, Phool Singh, Jethu, Ramsevak and Rasul u/s 294, 342, 354, 498, 504, 508, 509, IPC. This charge sheet became the subject matter of case No. 2216 of 90 in the court of the IVth Addl. C.J.M., Gorakhpur. During these proceedings the aforesaid alleged victim Smt. Santraji did not support the prosecution case and was declared hostile.

7. Not only that, she specifically stated on oath that nobody had done any insult to her nor had any offence been committed vis-a-vis her person nor was she maltreated. No prosecution witness came forward to support the prosecution case.

In their statements u/s 313, Cr. P.C. all the accused had denied the prosecution case and had pleaded false implication. They attributed the launching of the case on account of rivalry and enmity.

8. Moreover, an application was moved by the alleged victim Santraji seeking permission to compound the entire matter and the permission was granted accordingly and no offence was found to survive.

9. Under the circumstances, by a detailed judgment dated 27-9-1991, the said trial court Magistrate acquitted Paras Nath Yadav, Phool Singh, Jethu, Ramsevak and Rasul of all the charges framed against them.

10. Sri Wasim Alam, learned Advocate appearing as amicus curiae in this case has been served a copy of this counter affidavit and as such he had no prior knowledge of the trial having ended in a manner noted above. However, he contended that it appears that the victim has been won over by the threats and fear from the said Pradhan and his muscle-men. Sri Arvind Tripathi, learned Addl. Government Advocate has, however, objected to the said argument and stated that after the judicial verdict the apprehension of Mr. Alam is without any basis.

11. It cannot be helped observing that from the judgment of the Magistrate it is apparent that the helpless woman has helplessly surrendered to the might of her adversaries. That alone may be the reason why no evidence was forthcoming in such an outrageous case. However, the type of evidence expected to come in such matters may never be forthcoming if normal mode of the role of evidence is followed. What alternative method of investigation or of recording of evidence in order to bring the guilty to book shall have to be taken requires immediate and serious deliberation by those who are responsible for making and enforcing laws and maintaining order in the society.

12. The office will send a copy of this judgment to the Chief Secretary, Government of U.P., Lucknow, who is required to acquaint all concerned with the problem posed to hopefully bring about some effective remedy so that the cries of such Santrajis in future do not go in wilderness.

13. Painfully and with a heavy heart, this petition is dismissed but with not too remote an optimism that necessity being the mother of invention, an appropriate law-net will be thrown to catch such rotten fish. After all, there is a silver lining to the blackest of the clouds.