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PUCL Press Note

Tabrez Ansari Lynching Murder case: Jharkhand

Restore Murder charge u/ sec. 302 IPC in Charge Sheet!

Prosecute police officials & doctors for criminal negligence & screening true offenders.

PUCL strongly condemns the actions of the Jharkhand police in dropping murder charges u/s 302 IPC from the charge sheet of the case related to the brutal lynching murder of Tabrez Ansari and replacing it with a much more diluted charge u/s 304 IPC, (culpable homicide not amounting to murder).

PUCL also strongly deprecates the justification offered by the SP of the Saraikela – Kharsawan District, Jharkhand, that they decided to drop murder charges because Tabrez did not die on the spot, which according to him indicated that the intention of the mob was not to kill Tabrez, and because the post mortem report stated that Tabrez died 4 days after the incident due to ‘cardiac arrest and head injury’, as not just a motivated interpretation meant to screen cold blooded killing by right wing Hindutva fanatics, but also an attempt to tamper with the criminal case with the intention to let the accused escape conviction for what is a cold blooded lynching murder, fully video taped by the assailants. What makes the police action suspect and suspicious is the fact that Jharkhand will soon have state elections and it is not in the interest of the ruling BJP government if the criminal prosecution of Tabrez Ansari’s killers is pursued as a murder case.

To recall the facts, on 17th June 2019, in Dhatkidih village, Kharsawan block, Saraikela Kharsawan district, Jharkhand, Tabrez Ansari and two fourteen year old boys -Md Irfan and Numer Ali- were returning from Jamshedpur when they were surrounded by a mob in Dhaktidih village and beaten up brutally. While Irfan and Numer escaped, Tabrez was caught by residents of the village, tied to a pole, forced to chant “Jai Shri Ram” and “Jai Hanuman” and barbarically assaulted. The police were informed but failed to come to rescue him from the mob, who beat him continuously for over six hours.

Despite the brutality and injuries inflicted on him, the police that arrived on the spot, arrested Tabrez and took him to Saraikela police station where he was kept for days without any medical assistance. He finally died on 22 June, due to the injuries inflicted on him. The

religious motivations behind this crime are laid bare in the gruesome videos that was taken by the assailants which have been widely circulated on social media.

The family members of Tabrez who visited him while he was in the Saraikela police station found him severely injured and bleeding, but when they requested the police officials to take him to the hospital they were refused. The threats of violence were made by the officials and refusal to provide timely medical assistance indicated both their complicity in the murder and their intention to screen the real offenders to escape criminal liability for their murderous action. Tragically, Tabrez was finally taken to the Saraikela Sadar Hospital only after his condition worsened on 22 June, 5 days after the assault.

The young, 22-year old Tabrez Ansari's family lived in Kadamdiha village of Kharsawan block. Both his parents had passed away and he lived with his paternal uncles and their families. Tabrez worked as a welder in Pune, and would visit his home once in a while. He got married a month and a half before the incident on 17th June, 2019, and was scheduled to return to Pune the day after the incident took place, with his newly wedded wife.

There has clearly been gross and wilful culpable inaction on the part of the police officials of PS Seraikela that led to the death of Tabrez. Worse, there has been an attempt by the police to change the narrative by attributing the cause of death to heart attack or consumption of poison thereby diluting the case.

The post-mortem report filed with the preliminary charge sheet clearly shows that there was hemorrhage in his brain and internal bleeding. It states that the cause of injury that caused his death was a 'hard blunt object with force'.

However, on 12th September, [NDTV](#) reported, that a medico-legal document signed by five heads of department of a medical college in Jamshedpur stated that Tabrez died of cardiac arrest caused by the combined effect of the severe trauma that he received.

The news report stated that the document signed by five doctors said, "The fracture of bone is grievous injury caused by hard and blunt object. The combined effect of fracture of bone, pale organs and heart chambers full of blood resulting into cardiac arrest".

Despite this, the Jharkhand Police have removed murder charges against 11 people who attacked Tabrez simply because the post-mortem report said he died of a cardiac arrest. But the police did not give any reference to the reason - injuries from the beating - that led to the cardiac arrest.

The accused have now been charged under Section 304 of the Indian Penal Code for culpable homicide, rather than murder under Section 302 of the IPC. The punishment for culpable homicide is between 10 years to life, while that of murder is life imprisonment or death.

This goes against the opinion of an enquiry by senior officials of the Jharkhand government that Tabrez died due to the negligence of police officials and lapses on the part of doctors. Police officials arrived too late and the doctor who treated Tabrez Ansari, 24, "did not take the matter seriously", concluded the inquiry panel.

With regard to the medical opinion, several serious infirmities needs to be pointed out.

First, there was only one post mortem. The second report, signed by 5 so called 'experts', only issued the statement based on previous papers. They have not conducted an independent post mortem! And, therefore, it is not credible. The first report did not mention a] the amount of blood in the cranium and b] it does not mention Cardiac Arrest.

The first PM [the only PM] certificate that is in circulation does not contain the Signature and the designation of the doctor who conducted the post mortem. Even today in many taluk and district hospitals, PM is done by doctors who have no specialised qualification in Forensic Medicine. However, in sensitive cases, like custodial deaths etc, the body is always moved to a medical college where a qualified Forensic Dept is always available. It is a MCI norm and no medical college can exist without a Forensic Department with a Professor and couple of Asst Professors, Tutors etc. Tabrez Ansari's case can qualify to be a custodial death or at least a sensational case and it is not clear why his Post Mortem was not conducted by a qualified forensic professional in a Medical College is an important question.

The certificate from the MGM Medical College is even more curious. If one looks at those five doctors who have signed, it is obvious that none of them is a qualified Forensic specialist. The HODs of Ortho, Surgery, Pathology, Medicine and ENT signed the certificate; these subjects have nothing to do with Forensic Science. What is both intriguing and suspicious is about why the HOD or other faculty members of the Forensic Medicine Department of the MGM Medical College were not consulted or involved with this team.

It is important to point out that MGM Medical College has a full fledged Forensic Medicine Department with a Professor level – HOD, Dr. Lalan Choudhury, assisted by 2 Assistant Professors and 2 Tutors¹. It is therefore hard to avoid the impression that the HOD and other faculty members of the Forensic Medicine department were deliberately side-lined by the police. Second opinions, especially in such a vital case as this, is usually obtained from persons more qualified or more experienced than the person who issued the first certificate. That this simple principle is flouted in this case is a serious issue on the part of the Investigating Officer and higher police officials who form part of the 'Chain of Command', including the Superintendent of Police, Saraikela Kharsawan District.

Analysis of the medical details. An amount of 02 to 03 ml of subarachnoid blood is mentioned in the second report. It is not clear where they got this amount. It is not mentioned in the first report. Such a small amount is impossible to measure in the normal circumstances. In any case, forensic specialists confirm the amount of blood does not matter. If the brain is injured and caused bleeding that is enough to indicate the severity of damage. The size and dimension of the fronto - parietal fracture is not mentioned at all.

¹ <https://www.mgmmedicalcollege.org/index.php/academic/faculty-directory.html> @ 14.9.2019

The first report mentions "Discharge present in B/L nostrils". The discharge can only be bloody because watery discharge or mucous will not be present so many hours after that and they will not be important to be noted as a finding. It must have been clotted blood in the nostrils. Bilateral nasal bleeding is not necessarily one of the indication of serious brain injury. The first thing that any experienced doctor checks is to check if the patients is bleeding from ENT areas in case of injuries. If so, that is an indication of the need to have a CT scan of the head.

It should also be mentioned that the "Medical Certificate of Cause of Death" {Form 4 and 4A} which doctors fill up after death is uniform across the country. It clearly forbids mentioning of heart failure as the immediate cause of death. What is important is to note as to what circumstances and causes led to the heart failure.

The human skull bone is quite strong. To quote an article: "Human bone is incredibly sturdy; it is stronger than steel and concrete of the same mass". Quoting from a study, it has been pointed out that roughly 235 kg [520 pounds] or 2300 Newtons of force is required to crush the human skull, "almost twice as much force as human hands can possibly muster". [<https://www.sciencealert.com/game-of-thrones-exposed-the-science-of-skull-crushing>] The point is the skull bone is very strong and requires great force to break it. In the Tabrez Ansari lynching case, it is only because such great force was applied by the mob assaulting and beating him with iron rods and sticks, it is difficult to conclude that the mob did not intend for the man to be killed.

This intention by the mob is also corroborated by Ansari's uncle Mohammad Masroor Alam, who rushed to the spot on hearing about the assault, recorded this statement: He heard a member of the mob shout, "*Itnamaaroki mar jaye* (Beat him so much that he dies)."

It is quite possible for a person with brain injury to be walking and talking subsequent to serious brain injury and die later. This is called "Lucid Interval" or 'Talk and Die patients" So death after more than 4 days of head injury is not unusual.

Tabrez Ansari had been beaten by a mob for several hours. It is a callous neglect not to have examined him meticulously. Head injury patients can be confused and drowsy and one should not expect them to complain of headache in all cases. Or he would have complained and the doctors did not care to record it. A whole body CT scan is certainly mandatory in such patients not to miss any brain, thoracic, abdominal and pelvic injuries.

The most likely scenario is that the brain gradually swells due to repeated injuries and causes what is called Diffuse Cerebral Odema or Diffuse Axonal Injury. The brain cannot swell because it is within the rigid skull and hence pushes itself down ["Herniation"] and thus the vital centres like the Cardiac and Respiratory Centres are irreversibly damaged and the heart and lungs stop function. In other words, the so-called Cardiac Arrest is the consequence of brain injury and irreversible damage of Cardio-Respiratory Centres in the brain.

It will be useful to point out to he opinion of Retired Prof and Head of the Dept of Vascular Surgery, Madras Medical College, Dr Amalorpavanathan, who concludes that ' It

is very clear that this young person who was otherwise health and normal was beaten so severely that he cracked his skull and bled inside his brain and resulted in his death. In short, he was beaten to death'.

PUCL demands that:

1. The Jharkhand police restore and add again Sec. 302 IPC Charge to the charge sheet.
2. The police officials and concerned doctor(s) be immediately placed under suspension and prosecuted for tampering with evidence and attempt to cover up the crime by mis-using their position as public officials to help guilty accused to escape criminal liability for their actions of murder, hate crime and other offences.
3. Under the circumstances where senior officials in charge of ensuring fair, independent and unbiased investigation have been found to have compromised their authority and position, it is of great importance to instill confidence in the minds of victims families that the trial be transferred out of the district and to be under the direct supervision of a senior police official.
4. The victim's families should be allowed to have a say in the selection and appointment of Public Prosecutor with adequate seniority, standing and experience in handling criminal trials to handle the case of the prosecution in the trial court.



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