

1. **MARINE DRIVE RAPE CASE**

INTRODUCTION

On 21st April 2005, "rape most foul", was perpetrated at a police Chowki located adjacent to the marine Lines Railway station in south Mumbai by an on duty police Constable named Sunil Atmaram More. The abhorrent incident, committed by a policeman, who was reportedly in an inebriated condition and raped the victim aged about 17 years in the chowki, created a public ire against the police and markedly eroded the Image of Mumbai, being the only Indian Metro where women could move around safely all 24 hours in a day.

The act being out rightly condemnable, the incident impelled the National Commission for Women, to take immediate cognizance of the incident. A committee was constituted under the National Commission for Women Act 1990, to investigate into the incident and make recommendations on the incident. The Committee comprised of the following:-

1. Ms Nafisa Hussain, Member, National Commission for Women
2. Ms Sangeeta Dhingra Sehgal, Secretary, Delhi Legal services Authority
3. Ms Aparna Bhatt, Director Human Rights Law Network
4. Shri Yogesh Mehta, Law Officer, National Commission for Women

BRIEF FACTS OF THE CASE

On 21st April 2005, the victim, a student aged about 17 years, from a middle class family residing at Chembur, Mumbai, along with her friend , reached the Marine Drive ,at about 1430 hours. As the victim along with her friend, moved along the sea front parapet, a watch man had approached the victim and her friend and informed them that they had been summoned by the police at the Marine Drive Chowki. On reaching the chowki a constable name Sunil Atamaram More was present there, who under the pretext of questioning the victim alone, directed her companion to leave the chowki and thereafter consumed liquor, assaulted and raped the victim. Her screams were heard by one Shiv Kumar Tiwari, a pundit and Qayyum Sheikh, a congress activist who were passing by, who soon thereafter alerted the police.

On 3rd of May 2005 the committee, interacted with the following

1. the victim and her parents
2. the IO Shri Uday Paul , ACP
3. Shri Mahabole , Sr Inspector crime branch
4. Shri AN Roy ,Commissioner of Police Mumbai and
5. Shri Raghuvanshi , Spl IG

The members of the Committee met the victim and her mother on 3rd of May 2005 at a discreet location arranged by the Mumbai Police. Member Ms Nafisa Hussain interacted with the victim, who narrated the incident in Gujrati the victim's account was similar to that mentioned by her in the FIR. She appeared to be deeply traumatized and informed the member that the police constable Sunil More , directed her friend to leave the chowki, under pretext

of questioning the victim alone. When she started protesting the advances made by the accused who had already started consuming liquor at that time and tried to leave, he assaulted the victim and raped her. The act of rape was committed thrice by the accused. Apparently some one, who was passing by heard the screams and alerted the police.

The mother of the victim was telephonically intimated at about 2030 hours, to reach the police station and on reaching the police station she was made aware of the incident of rape. She further informed that her daughter's physical as well as mental state is grave and a cause of concern for the family. She also expressed her concern on her daughter's career, her future prospects as well the fear of social ostracism

After hearing the victim , her parents and also having taken an update from the IO , the committee , met Shri A N Roy , Commissioner of Police, Mumbai , in his office at about 1730 hours on 3rd May 2005.

Ms Nafisa Hussain , Member , expressed her deep anguish over the incident , informing that the National Commission for Women , had taken a serious note over the incident , particularly in the case where the "protectors of law , the men in uniform ,conduct themselves in such a horrid manner"

The commissioner of police, Shri A N Roy, while agreeing that the incident was out rightly atrocious, which tarnished the image of the Mumbai Police, assured that his office as well as the Mumbai Police , had taken serious note of the incident and initiated a spate of measures , which are briefly enumerated as under

1. That soon after the incident, the Accused, a police Constable was Suspended and subsequently DISMISSED FROM SERVICE, under the provisions of Art 311 (2) of the Constitution, a provision used in rare cases.

2. That the Mumbai Police had already initiated a proposal for the appointment of special prosecutor, preferably a lady prosecutor in the case.
3. That the case was already registered and assured that the investigation would be expeditiously completed
4. That the police had already taken up with the state Government for setting up of special Court
5. In the realm of relief and rehabilitation, the police was providing the victim and her family with emotional and moral support and would endeavor for her rehabilitation and integration in the society and at the same time ensuring the victims protection from media

On 16th May 2005, the Chairperson, National Commission for Women, met the victim's family, who expressed their deep concern on the future of their child and informed the chairperson that their daughter was still under trauma and desired that the accused /rapist should be severely punished .

Recommendations:

Specific recommendations pertaining to the case

1. Victim should be provided with proper legal representation. State Government shall expeditiously engage or aid in engaging preferably a woman lawyer, well acquainted with criminal justice system. The woman advocate would help the victim to understand the nature of proceedings, prepare her for the case and assist her in police station and in court.

2. In case the victim has already engaged a lawyer, the police must assist the victim as well as her lawyer.
3. Since the victim has stated that the accused performed the act on her three times, three cases of rape have to be registered as against one case.
4. Questioning of victim should be reduced to the minimum & such questions should be done at the place of her residence in presence of her parents or family members and the lawyer.
5. State government shall make efforts for appointment of special lady prosecutor in the case
6. On the lines of the principles laid down by the Hon'ble Supreme Court in Delhi Domestic Working Women's Forum Vs UOI & Ors CWP 362 of 1993. The Chairman Railway Board & Ors Vs Chandrima Das (AIR 2000 SC 988), the Commission feels that in view of fact that the rape took place/committed at the chowki belonging to the Mumbai Police and was perpetrated by one its employees a Constable on duty, the State Govt. would be vicariously liable for the tort committed by its employees and therefore **on humanitarian Grounds** recommend that the state government should at least pay an "**interim compensation**" of at least **Rs.1 lakh** to the victim immediately
7. The Police shall endeavor for timely conduct of investigation.
8. All efforts need to be initiated to restore the mental health by providing counseling and other health care services
9. The state government must work out proper rehabilitation scheme for the victim

10. The state may establish a Special Court for Speedy trial of rape cases.

General recommendations

1. There is an urgent need to set up /strengthen the monitoring bodies in every district such as the Mahila Suraksha Samiti and the like , consisting of police, legal aid authorities ,NGO's counseling experts , etc
2. State government should set up special Courts for trying rape cases
3. State government shall afford adequate protection to the victim and her family
4. There should be Women desks at each Thanas
5. There is a need to integrate women into the mainstream of police
6. Efforts should be made to employ more women in the police forces and should be given specific tasks related to women and children
7. The police rank and file , particularly the Constables and sub officers should be gender sensitized and attuned to handling the cases relating to atrocities against women and children , besides the regular in service course for all police personnel including the senior officers
8. A copy of the FIR should be provided expeditiously and whenever the police require to take the victim for medical examination or for any purpose connected with the investigation, her lawyer if any or any representative of any NGO dealing with such cases should invariably accompany the victim.

Concluded