

HATHRAS GANGRAPE AND MURDER: HOW IT ALL HAPPENED?

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On 14 September 2020, a 19-year-old Dalit woman was gang-raped in Hathras district, Uttar Pradesh, India, allegedly by four upper caste men. After fighting for her life for two weeks, she died in a Delhi hospital. Initially, it was reported that one accused had tried to kill her, though later in her statement to the magistrate, the victim named four accused as having raped her. The victim's brother claimed that no arrests were made in the first 10 days after the incident took place. After her death, the victim was forcibly cremated by the police without the consent of her family, a claim denied by the police.

The case and its subsequent handling has received widespread media attention and condemnation from across the country and was the subject of protest against the Yogi Aditya Nath Government by activists and opposition.

Accused in this case are Sandeep, Rama, Lavkus, and Ravi

CHARGES LEVIED ON THE ACCUSED

1. Murder
2. Gang Rape
3. Violation of The Schedules Caste And Schedule Tribe (Prevention Of Atrocities) Act

TIMELINE OF THE EVENT

- Allahabad High Court reprimanded UP Government on Hathras issue.
- High Court expresses concern over victim's funeral without consent.
- Next hearing was scheduled for Nov 2, 2020. Family and Government officials were asked to appear again.

- DGP, Additional Chief Secretary including all officers did not give satisfactory reply in the Court on Monday.
- After the famous Hathras case of Uttar Pradesh, the Lucknow Bench of the Allahabad High Court questions all the issue of the UP Government officials including the victim's family. Taking cognizance of the case, the Court summoned the DGP of UP, Additional Chief Secretary and Hathras District.
- Administration officials along with all the five people of the victim's family had also been summoned. During the hearing, the Court strongly reprimanded the UP Government on all the issues including the funeral of the victim without family's consent.
- During the hearing, the victim's family made three demands in front of the High Court. The victim's family asked the Court to order the transfer of the case to a state outside UP. Apart from this, the family requested that all the facts of the CBI investigation be kept completely confidential till the investigation is completed, as well as to ensure the safety of the family during the period of investigation.
- The affidavit submitted by the Uttar Pradesh Government to the Supreme Court in the matter of the Hathras Rape and Murder case has from factual inaccuracies and distortion, legal falsehood and the lack of logic.
- Demanding a CBI Inquiry is surely the Government's right, but it attempted to sell a narrative to the Supreme Court based on legal infirmities and preposterous claims is a crude attempt to cover up a sequence of event so horrific that the Allahabad High Court felt compelled to take *Suo Moto* cognizance of the case.
- Affidavit was filed prior to the listing of the matter before this Hon'ble Court and in anticipation and mentioned matter.
- SIT was constituted by the Government of UP just to divert the attention of this Hon'ble Court. In the present matter the petitioners had requested to constitute a SIT consisting of the serving or retired judge of the Supreme Court or High Court.
- A three, member special investigation team or SIT was setup by the UP Government in great rush and it has received immense criticism over its handling of the case.

As they have a very vast knowledge of the criminal jurisprudence he has submitted that the affidavit filed by the UP Government is complete of contradiction and the state only desires to

shift its burden and cover-up the incident. It is alleged that the police has registered the FIR under **section 307 of IPC** for attempt to murder, whereas the case is that of a brutal gang rape.

“This unpardonable crime by the state police and other Government instrumentally, which denied the family of the victim even the basic right to perform last right on the body of the victim is nothing but depravity of the soul”.

“...the incident at Hathras is most shocking because the very people constitutionally assigned with the obligation of maintaining the rule of law are involved in covering UP this heinous crime committed against a woman of lower caste, who lost her life after succumbing to grave injuries from the incident.”

RULE OF LAW IS VOILATED IN THIS CASE AND ALSO SC, ST (PREVENTION OF ATROCITIES ACT 1989)

Rule of law is the supremacy of the law, does not mean that the protection of the law must be available only to a fortunate few or that the law should be allowed to be prostituted by the vested interests for protection and upholding the status quo under the guise of enforcement of their civil and political right. The poor too have civil and political right and rule of law is meant for them, also though today it exist only on paper and not in reality.

There are legislation in India namely scheduled caste and scheduled tribes (prevention of Atrocities) rules, 1995.

Access to justice is one of the most basic Human Right and without its realization many other human right may become difficult, justice is the foundation of all democratic Government and the survival of every democracy and the rule of law depend on the effective access to justice, which was the will known principal all over the world.

“Equality before law and equal protection of the law, Art.14”

Rule of law embodied in the basic structure of the Indian Constitution, The equal Protection of law guaranteed under Art.14 does not mean that all laws must be general in character. It does not mean, that every law must have universal application for all persons, are not by Nature

attainment circumstance in the same position from the very nature of the society there should be different law in different place, The varying needs of different classes of person often require, separate treatment (Chiranjit Lal vs. State of UP, 1951 SC) in fact identical treatment in unequal circumstances would amount to inequality (Abdul Rahman v. Pinto AIR 195Q. HYD)

CONCLUSION

Dr. B.R. Ambedkar was a multi dimensional personality who has belief in the *Rule of law* and those who have a concern for social, justice those who cherish democracy and those who value liberty those who believe in equality, economic, social and political. But as we know in this Hathras case there are totally violated Rule of law.

Therefore, the petitioner has prayed for directions for taking strict action against the erring officials as well as politicians "*no matter how influential*" and for registration of offences under Sections 166-A, 193, 201, 202, 203, 212, 217, 153-A and 339 of the Indian Penal Code as well as offences under Section 3 (2) and 4 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

- Sec 166 (A) of IPC: *public servant disobeying direction under law*. (Knowingly disobeys any direction of the law which prohibits him from requesting the attendance at any place of any person for the purpose of investigation into an offence or any other matter.
- Sec 193 of IPC : punishment for false evidence
- Sec 201 of IPC: causing disappearance of evidence of offence, or giving false information to screen offender.
- Sec 202 of IPC: Intentional omission to give information of offence by person bound to inform.
- Sec 203 of IPC: Giving false information respecting an offence committed.
- Sec 212 of IPC: Harboursing offender.
- Sec 217 of IPC: public servant disobeying direction of law with intent to save person from punishment or property from forfeiture.

- Sec 153(A) of IPC: promoting enmity between different group on ground of religion, race, place of birth, residence, language, etc. And doing acts prejudicial to maintained of harmony.
- Sec 339 of IPC: Wrongful restraint.

