

AT THE NATIONAL HUMAN RIGHTS COMMISSION (NHRC)

CASE NO. _____ **of 2022**

Petitioners:

1. All India Trinamool Congress

With their office at
61 South Avenue,
New Delhi 110011

versus

Respondents:

1. State of Uttar Pradesh

Through its Chief Secretary
1st Floor, Room no. 110,
Lalbahadur Shastri Bhawan,
Uttar Pradesh Secretariat,
Lucknow 226001

2. Director General of Police,
State of Uttar Pradesh,
Police HQ, 9th Floor, Tower 2,
Gomtinagar Ext., Shahid Path,
Lucknow 226010

3. Senior Superintendent of Police,
Prayagraj District,
9A/23, Bank Road,
Old Katra, Katra,
Prayagraj 211002

IN THE MATTER OF FIR NO. 0080/2022 REGISTERED AT P.S. THARWAI, PRAYAGRAJ

**TO,
THE HON'BLE CHAIRPERSON,
NATIONAL HUMAN RIGHTS COMMISSION**

THE PETITIONERS IN THE MATTER MOST RESPECTFULLY SHOWETH:

1. The aforementioned matter pertains to the case of mass murder in Khevrajpur Village, Prayagraj District, Uttar Pradesh on 17.04.2022. In this case, 5 members of a family were brutally murdered and their house set on fire. The victims include 2 senior citizens, 2 women, and a 2-year-old female child
2. In this matter, based on an oral complaint given by the family member Sunil Yadav, FIR No. 0080/2022 of murder was registered at Tharwai Police Station in Prayagraj on 23.04.2022 u/s 302 of the Indian Penal Code, 1860
3. On 24.04.2022, a fact finding delegation of the All India Trinamool Congress visited the spot of the incident and met the surviving family along with Sunil Yadav to ascertain the facts of the case
4. During this meeting by our delegation, the complainant Sunil Yadav told us in the presence of several villagers and Superintendent of Police, Gangapar, Prayagraj that the bodies of two of the victims, i.e. his wife and his 22-year-old handicapped sister were found after the murder without their clothes on and in a naked state. He also stated that the clothes had been torn off and that there was vaginal bleeding noticed on both bodies
5. Despite this fact being disclosed to the Prayagraj Police during the filing of the aforementioned FIR, the police did not add the charge of rape u/s 376 of the Indian Penal Code, 1860.
6. The complainant Sunil Yadav also named a possible suspect who he believes might have committed the crime since the suspect had threatened to kill the family last year. Despite

this fact also being disclosed to the police on the morning of 24.04.2022, the police have neither arrested the suspect nor even questioned him

7. Subsequently, the delegation also spoke to Sh. Abhishek Agrawal, Superintendent of Police, Gangapar, Prayagraj, who was present at the spot, regarding the allegations made by the complainant. The delegation questioned the SP as to why a charge of rape was not included in the FIR filed at Tharwai Police Station and why the suspect named by the complainant had neither been arrested nor investigated or charged
8. The SP told the delegation that “the complainant had not mentioned the allegations of rape in his written complaint” and that “the suspect was named by the complainant on 24.04.2022 and that he will be detained and investigated immediately.”
9. The delegation then informed the SP that under the Lalita Kumari Guidelines issued by the Hon’ble Supreme Court of India, an FIR with the mentioned charges must be registered within 24 hours of the disclosure of a cognizable offense to the police whether orally or in writing. As mentioned above, the complainant Sunil Yadav clearly alleged that his wife and sister were raped during the meeting with our delegation on 24.02.2022 in the presence of the SP, Gangapar, Prayagraj.

Furthermore, the delegation also sent a letter vide email in this regard to SSP, Prayagraj and SP, Gangapar on 27.04.2022 which was received and read.

However, as of today i.e. 29.04.2022, the charge of rape u/s 376 IPC and related sections has not been included in the aforementioned FIR which is in clear violation of not only the Criminal Procedure Code, 1973 and the Lalita Kumari Guidelines issued by the Hon’ble Supreme Court of India.

Moreover, the suspect named by the complainant has neither been arrested nor investigated as of date despite the SP, Gangapar’s assurance on 24.02.2022

10. SP Gangapar told the delegation that vaginal swabs of the victims had been sent to the Forensic Science Laboratory (FSL) and that the results were awaited. This was the reason given by the SP for not having added the charge of rape to the FIR. However, this goes contrary to established police procedure and the law of the land. The police have no powers to investigate an offense without first filing a First Information Report (FIR). The

charge of rape has to be first applied in the FIR on the basis of which the vaginal swabs can be sent to the FSL for investigation.

This “reverse procedure” of sending samples to the FSL without first registering an FIR of rape is completely illegal. Basically, the police are claiming to investigate the charge of rape without even first applying it in the FIR.

11. Furthermore, during our visit to the family, the complainant Sunil Yadav unequivocally stated that the family had lost faith in the way the investigation was being carried out by the UP Police and re-iterated the family’s demand that this case be handed over to the Central Bureau of Investigation (CBI) for investigation
12. The videos of statements made by the surviving family member and complainant Sunil Yadav as well as the aforementioned conversation of the delegation with Superintendent of Police, Gangapar, Prayagraj are annexed herewith this petition on the **USB pen drive attached to be treated as ANNEXURE P-1**

Prayer:

1. To issue notices to the respondents i.e. Chief Secretary, State of Uttar Pradesh, Director General of Police, State of Uttar Pradesh, and the Senior Superintendent of Police, Prayagraj District, Uttar Pradesh asking for an action taken report on the progress of the investigation in the matter of FIR No. 0080/2022 registered at Tharwai Police Station, Prayagraj, along with the relevant case diary of the investigation officer to be filed with the NHRC within 15 days from the filing of this case.
2. To issue directions to Respondent No. 1 i.e. Chief Secretary, State of Uttar Pradesh to hand over the case registered as FIR No. 0080/2022 at Tharwai Police Station Prayagraj to the Central Bureau of Investigation (CBI) for further probe
3. To issue directions to Respondent no. 3 i.e. Senior Superintendent of Police to add the charges of rape under relevant sections of the IPC to the FIR No. 0080/2022 registered at Tharwai Police Station, Prayagraj

4. To issue directions for providing adequate security to the surviving family members including the complainant in the aforementioned case
5. To send a fact finding team of the National Human Rights Commission to Khevraipur Village, Prayagraj to collect all relevant facts of the case from the complainant and to monitor the progress of investigation in the aforementioned case

On behalf of All India Trinamool Congress:



Dola Sen
Petitioner



Lalitesh Pati Tripathi
Petitioner



Saket S Gokhale
Petitioner

Date: 29.04.2022

Place: New Delhi

Contact details for correspondence:

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ATTACHED WITH PETITION: 1 USB PEN DRIVE AS ANNEXURE P-1