

INVESTIGATION REPORT INTO THE ALLEGED “RAPE” OF A SHIMLA GIRL IN CHANDIGARH ON AUGUST 14th, 2002

After reading newspaper reports on August 15, 2002 and onwards about an alleged incident of Rape of a young girl in Chandigarh,

the Lawyers For Human Rights International constituted an investigation team to investigate the whole incident and find out the truth and make suitable recommendations. The team comprised of

1. Ms.Veena Sharma,Lady Vice-President
2. Mr.Arunjeev Singh Walia, Press Secretary
3. Mr.O.P.Dabla, Office Secretary
4. Mr.Tejjinder Singh Sudan,President District President, LHRI, Chandigarh.
5. Mr.Manpreet Singh Chahal, Member.

The investigation started on August 17, 2002 and continued till 24th August, 2002.

PERSONS WHOM WE MET

1. Mr.Alamjit Mann, a social worker of Chandigarh
2. Ms. ABC wife of XYZ, resident of Some village in Shimla(identity concealed for legal reasons) who is the sister of the alleged victim.
3. Mr.PURA son of ETDS, resident of some village in Shimla(identity concealed for legal reasons) who is the uncle of the alleged victim.
4. Ms.”Q”, daughter of “R”, resident of some place in Chandigarh(identity concealed for legal reasons) who is the alleged rape victim.
5. Dr.Vinay Vyas, M.O. Female Medical Ward, General Hospital, Sector 16, Chandigarh.
6. C Jarnail Singh, No.2790 CP
7. Mr.Surinder Sharma, son of Late Mr.Som Nath Sharma, resident of H.No. 1340, Village Burail, U.T. Chandigarh.
8. Mr.Baldev Kumar, son of unknown, resident of Dadu Majra Colony, U.T. Chandigarh.
9. Official of IBP Petrol Pump, Sector 33, Chandigarh

PLACES VISITED DURING INVESTIGATION

1. RKM Marketing, SCO 487-488, Sector 35-C, Chandigarh.

2. General Hospital, Sector 16, Chandigarh.
3. CDAC, Sector 20-C, Chandigarh (Alleged place from where the alleged victim was taken away)
4. Place in Sector 33, Chandigarh where the alleged victim was allegedly found in unconscious state.
5. IBP Petrol Pump, Sector 33, Chandigarh.

PERSONS TO WHOM WE TALKED

1. DSP S.C. Sagar, Police Station South, Chandigarh on phone.
2. Mr. and Mrs.M.K.Jain,was tried to be contacted but was not available.
3. Officials, IBP Petrol Pump, Sector 33, Chandigarh.
4. Few Press Reporters.

FACTS

Our organization was approached by Mr.Alamjit Singh Mann, social worker of Chandigarh over phone on August 19, 2002, and was informed that the sister of the alleged rape victim has come to him and wants the help of the organization in meeting her and getting her custody. The team of our organization visited the office of Mr.Alamjit S.Mann in Sector 35-C, Chandigarh in the first part of our investigation. There we questioned Mr.Alamjit S.Mann, Ms.ABC, (identity concealed for legal reasons), who is the sister of the alleged rape victim, and her uncle. Ms.ABC told us that she was informed by the landlady of her sister living in H.No.166, Sector 44-A, Chandigarh over phone at Shimla that her sister is admitted in hospital and that she should come to Chandigarh immediately. One Billu informed her through phone at Shimla that on coming to Chandigarh she should contact Mr.Alamjit S.Mann who will help her to meet her sister. On reaching Chandigarh on August 19, 2002 at about 10 P.M. she rang Mr.Alamjit S.Mann and he helped her meet her sister. When Ms.ABC expressed her desire to meet her sister and get her custody with her, our team accompanied her to General Hospital, Sector 16, Chandigarh on August 20,2002 at about 4 P.M. and saw the alleged rape victim locked from inside in a room surrounded by atleast four lady constables and one male Constable. When asked by our team, they said they had not detained her and are following doctors order who have directed them to guard the girl. We asked Dr.Vinay Vyas, the Medical Officer of the ward if they had detained the girl and the reason for such action, but he said that they had not detained her and the police had been called to ensure her safety and convenience. The girl asked the doctor to discharge her to which he refused and she left the hospital and accompanied us alongwith her sister as per her wishes. She had told us that she is medically fit and she was not given any medicine by the doctors, except Vitamin capsule everyday.

After reaching in our office, our team questioned the alleged rape victim and recorded her statement. In her statement, while alleging that she had been raped, she told that she saw a sign board of CDCC in Sector 20-C, Chandigarh and with a view to learn computer course from the said Institute, she went to the CDCC on August 14, 2002 at about 4.30 P.M. – 4.45.P.M. and met Mr.M.K.Jain, its Proprietor for the first time. She also expressed her desire to do some part time job

while learning computer course. At this, Mr.M.K.Jain said that she should not search any other job and assured that he will give her job in his Panchkula office and asked her to accompany him to Panchkula to show the office. She agreed to this and both of them went towards Panchkula in the Lancer Car No.CH-03-E-0125 which was being driven by Mr.M.K.Jain.(Interestingly, she could not tell the colour of the car on being quizzed by the team.) After a run of about 5 minutes on the road going towards The Tribune, Sector 29, Chandigarh, Mr.Jain stopped the car and brought two Coca Cola glass bottles from some shop which was not a petrol pump, The said bottles were open and both of them drank while traveling. After about a run of 15 minutes, she completely drank the coke and after that she lost consciousness. When she gained consciousness, she was in the Emergency ward of General Hospital, Sector 16, Chandigarh on August 15, 2002. Her clothes were torn and she was raped. She made a written complaint to the police and the police recorded her statement and on that basis a formal F.I.R. was registered against Mr.M.K.Jain. She demanded strict action as per law against the alleged accused.

On August 21, 2002, Mr.Surinder Sharma, the alleged witness who allegedly informed the police about the girl on August 14, 2002 approached our organization and sought protection from maltreatment and harassment at the hands of Chandigarh Police. He was also questioned by our team in which he claimed that he is working as a private building material supplier and has been subjected to beating and mental harassment by the local police. He also alleged that on August 14, 2002 when he alongwith his friend, Mr.Baldev Kumar, was going to his house at about 10.30-10.45 P.M. after getting his vehicle No.CH-03-E-9375 filled with petrol from IBP Petrol Pump, Sector 33, Chandigarh he took a turn towards the road entering Sector 33, and as the head lights of his vehicle were thrown on that road, they saw a Lancer Car standing on its wrong side and its rear right door opened. They allegedly saw a girl being pushed out of the car and falling down on the foot path and the car speeding away within few seconds. His car was at a distance of about 150 yards at that time. He alleged that he immediately asked Mr.Baldev Kumar to take care of the girl and he himself chased the speeding car and reached near it at the small round about of Sector 33-34, Chandigarh and noted the number of the car as CH-03-F 0125. Then the speeding car fled towards Sector 20, Chandigarh and he came back and before going back, he went to the market of Sector 33, Chandigarh and made a phone call at no.100 to inform the local police about the incident. He allegedly made the phone call from an STD PCO as his mobile phone had no outgoing facility at that time. He alleged that he helped the police to pick up the girl in the ambulance from the spot and saw that there was a visiting card in one hand of the girl which was taken away by the local police. He then alleged that he gave his particulars to the police men present there but neither his nor of Mr.Baldev Kumar's statement was recorded by the police till date. He further alleged that he was joined into investigation on August 17, 2002 by the SHO and DSP South and they assisted the local police. He further alleged that inspite of this, he was summoned to the CIA Staff, Sector 11, Chandigarh on August 19, 2002 at about 8.30-8.45 P.M. and after questioning him about the incident, he was allegedly beaten, intimidated and harassed by Inspector Satbir, Incharge, CIA Staff and Inspector Jagbir, Incharge CBO Cell, Sector 26, Chandigarh. He alleged that he was being asked by them to disclose the name of his accomplices in the case as also to take the name of Mr.N.K.Jain, whom he did not know. He further alleged that he apprehend threat

to his life and liberty at the hands of Chandigarh Police who wants to implicate him in false case.

A similar statement was made by Mr.Baldev Kumar, who was accompanying Mr.Surinder Sharma.

The investigation team tried to talk to the alleged accused, Mr.M.K.Jain or his family member and rang his residential phone, but nobody came on the telephone to give their comments and all efforts of our organization to get their comments did not yield any result.

POLICE VERSION

The main version of the police has been incorporated in the First Information Report registered at P.S. Sector 34, Chandigarh on August 15, 2002 under Sections 328,376 IPC. According to the F.I.R. the copy of which is available with our organisation, the police received a message from control room over wireless that a girl has been found lying in an un-conscious state near the T-point of Sector 33, Chandigarh and she was taken to General Hospital, Sector 16, Chandigarh and after getting the opinion of the doctor regarding the fitness of the girl for making statement, her statement was recorded and offences under Section 328/376 have been found to be prima facie made out, so the F.I.R. is registered against Mr.M.K.Jain. ASI Shadi Lal, a probationer police officer was made its Investigation Officer. Later on the investigation was handed over to Mr.S.C.Sagar, DSP South on August 22,2002. On being asked, the authorized officer of the police said that they are investigating the case impartially and with the sole objective of finding the truth. He said that the police would ensure that no injustice is caused to anybody and everybody will be done justice. According to the police, they were investigating particularly on the statement mentioned in the F.I.R. and till August 23, 2002, no body could be interrogated. On being asked that whether the alleged victim was again joined into investigation after her return from the hospital, it was told that when she was contacted at her present address, she was not found there. Then a notice was issued to her attorney, Mr.Amar Singh Chahal, to either make the girl present at her given address or provide information about her whereabouts because she has to be taken to the spot for identification and other purposes. On August 21, 2002 she made her present in her present house, i.e. H.No.166, Sector 44-A, Chandigarh where she allegedly told the police that she will join investigation only in the evening of August 25, 2002. Thereafter, the local police has not asked her any question and they are not aware of her whereabouts. Assurance of a fair and impartial investigation was reiterated. According to the police sources, Surinder Sharma and Mr.Baldev Kumar were casually taken to the spot and they were required in a latest criminal case registered against Surinder Sharma in P.S.Sector 36, Chandigarh under Section 406/420 IPC in respect of an offence reportedly committed on July 19, 2002. According to the police, Surinder Sharma is on run and his whereabouts are not known.

IMPORTANT QUESTIONS ARISING OUT OF THE INVESTIGATION:

1. Whether the alleged incident of taking the girl from the office in Sector 20-C, Chandigarh and her throwing on the road of Sector 33, and the witnesses allegation regarding informing the police

about the incident actually took place ?

2. Whether there is any possibility of Rape as alleged by the alleged victim ?
3. What was the conduct of the victim ? Whether she is believable
4. What does the attending circumstances show ? Is there any involvement of some unknown persons ?
5. Whether the witnesses Surinder Sharma and Baldev Kumar should be believed ?
6. Role of other witnesses and persons ?
7. Role of Police as an investigation agency?
8. Role of doctors of General Hospital, Sec.16, Chandigarh ?

FINDINGS

After going through the statements of all the witnesses examined by the team and cross-checking it and examining the attending circumstances during a week long investigation, our team has reached at the following findings:-

1. It is doubtful to say that the alleged incident of the alleged victim going to the computer institute of Mr.M.K.Jain and travel with him in his car No.CH-03-E 0125 and finding of the girl in an unconscious state lying in Sector 33, Chandigarh, actually occurred.
2. There is a doubt on the possibility of any rape having been committed on the alleged victim.
3. The conduct of the alleged rape victim is not above board. Her statement is not believable.
4. Every person to whom our team talked during this investigation appears to be doubtful.
5. The witnesses Surinder Sharma and Baldev Kumar are also not believable.
6. Chandigarh Police as an investigating agency in this particular case has undoubtedly remained inefficient, negligent and mis-leading and have done a total faulty, shady and improper investigation. The investigation done by Chandigarh Police is not in conformity with the procedure established by the law and have made least efforts to collect true evidence.
7. The doctors in the female medical ward of General Hospital, Sector 16, Chandigarh appear to have played a tool in the hands of Chandigarh Police. For three days, from August 16, 2002 till August 20, 2002 when she was got released from the hospital, the patient was given only vitamin capsule which proves that she was perfectly fit and still she was not allowed to go, in spite of her desire to go back to her home. Dr. Vinay Vyas, M.O. on duty in the female medical ward on August 20, 2002 flatly refused to discharge the patient till the next morning as according to him, no patient can be discharged in the evening. While Dr.S.K.Bhandari of Unit-I of Female Medical Ward of the General Hospital, Sector 16, Chandigarh assured that the patient would be discharged in the morning, Dr.Vinay Vyas of Unit-I of the same ward denied this. In this way, they are accused of detaining the patient without her consent and valid reasons for three days probably on the orders of the police authorities, which is highly condemnable.

REASONS

The reason why we say that it is doubtful about the actual occurrence of the alleged incident is that

the alleged victim has told that she went to the office of Mr.M.K.Jain whose sign board reads as C D C C. (actually the sign board shows " C D A C". She said that she straight away walked into the office of Mr.Jain although a receptionist was sitting there, but she did not ask her anything. On paying a visit to the said office, we found that there are many cabins and on the entrance of the office in the first floor of the show room, there is one security guard who guides a visitor to go to the receptionist and there are many cabins and no person can find the cabin of Mr.Jain on a first visit without the assistance of the receptionist. She then alleged that she was taken by Mr.M.K.Jain in his Lancer Car No.CH-03-E 0125, but she failed to give the color of that car. She also alleged that Mr.Jain brought two cold drinks after a run of about 5-10 minutes by stopping the car on the road. The road she described is towards The Tribune Chowk and there is no shop of confectionary or cold drinks in between. She denied that the car was stopped near a petrol pump. She has alleged in the F.I.R. that she was thrown out of the car on the road side in Sector 33, Chandigarh, in an unconscious state. The personal verification of the spot described by her proved that it was just opposite to the office of Mr.M.K.Jain from where she was allegedly taken towards Panchkula. It is highly improbable that a prudent man will throw the victim after raping her just near his office, inviting probable trouble for him. The place where the victim was allegedly thrown by the car occupant is not an isolated place. Just on the turn of T road, there is a make shift store house of Cable wires and many labourers are present every time, particularly at night they sit and chat till late at night before sleeping at the same place. What baffles us most, is that she is not suffering from any mental stress or trauma or emotional feelings while giving an account of what had happened with her. Her behavior did not show that she is a victim of a heinous crime such as rape. She talked over phone to someone, quite frequently and for long time, for example 10 minutes or so.

The statement of Mr.Surinder Sharma and Mr.Baldev Kumar suffers from serious contradictions. They said that they had taken a turn towards the T road of Sector 33, Chandigarh after getting their vehicle filled with petrol from the IBP Petrol Pump, Sector 33, Chandigarh. A perusal of the entry register maintained at the IBP Petrol Pump, Sector 33, Chandigarh did not support their statement. The number of the vehicle given by Surinder Sharma does not figure in the vehicles entering the petrol pump on the night of August 14, 2002. A Xerox copy of the register's relevant entries are in possession of our organization. Further, Surinder Sharma says that he chased the speeding car and then he came back to Sector 33, Chandigarh. Before that he said that he went to the market in Sector 33, Chandigarh and made a phone call from an STD Pay phone to inform the police control room at no.100 about the incident. This despite of the fact that he had a mobile phone in his possession, but allegedly without an outgoing call facility. Our investigation took us to the said shop from where he made the phone call and after asking many persons, we confirmed that Surinder Sharma and Baldev Kumar alongwith his two other friends are regular visitors to the said market and on August 14, 2002, Surinder Sharma and Baldev Kumar alongwith two girls had allegedly visited the market on their car no.CH-03-E 9375 and asked some chemist to give him some drug which if mixed with some food or liquid can make the person consuming it un-conscious. But the chemist refused to give him any such drug. Then the girl sitting in the car came out and made a phone call from the PCO shop for sometime and then both Mr.Surinder Sharma and that girl went

away. It shows that the character of Mr. Surinder Sharma and Mr. Baldev Kumar is not beyond doubt.

The investigation of the Chandigarh Police in the case is suspicious from the very beginning. Firstly, every aspect of the case is connected with Police Station South, Chandigarh. For instance, the alleged victim as well as the alleged witness also lives within the jurisdiction of P.S. South, the alleged incident of throwing the alleged victim on the road also happened in Sector 33, which falls under the jurisdiction of P.S. South. Thirdly, the alleged witness had made the phone call to police control room at 100 on August 14, 2002 from the STD PCO which is in Sector 33, Chandigarh whose jurisdiction also falls in P.S. South. Actually, there was no probable reason for the alleged witness Surinder Sharma to go to the STD Pay Phone in Sector 33, which does not come in his way of returning back to the alleged spot where the girl was shown to have been thrown. Then the police appears to have intentionally not made Surinder Sharma as the complainant and instead made the alleged victim as Complainant in the F.I.R. The handing over of the investigation of this highly complicated case to a probationer Assistant Sub-Inspector of P.S. South also cannot be appreciated from any angle. The alleged victim and the alleged witnesses and other persons who figured in the investigation should have been jointly and separately interrogated so as to cross-check their contradictory statements. In this case every person has concealed vital information and told a lie for obvious reasons, a good investigation team is all the more necessary to dig out the truth by proper investigation.

RECOMMENDATION

Having explained the reasons and circumstances giving rise to our above findings, our organization is of the firm view that in order to bring out the truth in the present case, the investigation should be handed over to an independent agency like the Central Bureau of Investigation and truth must be brought out and no guilty person should be spared and no innocent person should be punished.

ACTION TAKEN BY LHRI

Our organisation sent the copies of the above report to the Inspector General of Police, U.T. Chandigarh and released it to the media. Our organisation at the first instance, provided free legal aid to the alleged "victim" by filing a Criminal Miscellaneous Petition on her behalf in the Punjab & Haryana High Court. Then Mr. Surinder Sharma and Mr. Baldev Kumar, alleged "informers" were also provided legal aid to approach High Court for protection against torture. But ultimately when it was found that the integrity of the alleged "victim" and alleged "informer" was doubtful, our organisation withdrew from the prosecution and ultimately, all the conspirators except the alleged 'victim' were arrested by the police on the lead provided by our organisation in the investigation report.

CHANDIGARH
AUGUST 24, 2002