

IN THE SUPREME COURT OF INDIA
ORDINARY CRIMINAL JURISDICTION
WRIT PETITION (CRL.) No. of 2020
[Under Article 32 of the Constitution of India]

IN THE MATTER OF;

CHANDRA BHAN SINGH

PETITIONER

VERSUS

STATE OF UTTAR PRADESH& ORS

RESPONDENTS

PAPER BOOK
FOR INDEX KINDLY SEE INSIDE

ADVOCATE FOR THE PETITIONER: SMARHAR SINGH

INDEX

Sl. No.	Particulars of Documents	Page No. of part to which it belongs		Remarks
		Part 1 (Contents of Paper Book)	Part II (Contents of file alone)	
(i)	(ii)	(iii)	(iv)	(v)
1.	O/R on Limitation	A	A	
2.	Listing Proforma	A1-A2	A1-A2	
3.	Cover Page of Paper Book		A-3	
4.	Index of Record of Proceedings		A-4	
5.	Limitation report prepared by the Registry		A-5	
6.	Defect List		A-6	
7.	Note Sheet		NS1 to ...	
8.	List of dates	B-J		
9.	Writ Petition Criminal with affidavit	1-17		
10.	APPENDIX Section 297 IPC Article-25 of Constitution of India and Section -297of IPC	18-19		
11	ANNEXURE-P-1 True copy of the Aadhar Card	20		

12	ANNEXURE-P-2 True copy of Voter ID Card	21		
13	ANNEXURE P-3 True copy of the News Paper repots	22-28		
14.	F/M		29	
15.	V/A		30	

PROFORMA FOR FIRST LISTING**SECTION- XI**

The case pertains to (Please tick/check the correct box):

- Central Act : (Title) Constitution of India
- Section/Article: 21& 25
- Central Rule : (Title) NA_____
- Rule No(s) : NA_____
- State Act : (Title) NA
- Section : NA
- StateRule : (Title) NA_____
- Rule No(s) : NA_____
- Impugned Interim Order : (Date) NA_____
- Impugned Final Order/Decree: (Date)-NA
- High Court : (Name)-NA
- Names of Court :NA
- Tribunal/Authority: NA_____

1. Nature of matter : Civil **Criminal**

2.(a) Petitioner/appellant No. 1 : Chandra Bhan Singh

(b) e-mail ID : NOT KNOWN

(c) Mobile phone number-NA

3. (a) Respondent No. 1 : STATE OF U.P

(b) e-mail ID : NOT KNOWN

(c) Mobile phone number NOT KNOWN_____

4. (a) Main category classification : 14

(b) Sub classification: 1402

5. Not to be listed before: _N/A_____

- 6 a. Similar disposed of matter with citation if any with case details- No similar matter disposed of.
- 6 b. Similar pending matter with case details- No similar matter pending
7. **Criminal Matters:N/A**
- (a) Whether accused/convict has surrendered: NA
- (b) FIR No.NA Date: NA
- (c) Police Station: NA
- (d) Sentence Awarded: NA_____
- (e) Sentence Undergone:
8. **Land Acquisition Matters: N/A**
- (a) Date of Section 4 notification: N/A
- (b) Date of Section 6 notification: N/A_____
- (c) Date of Section 17 notification: N/A_____
9. **Tax Matters** :State the tax effect : N/A
10. **Special Category** (first petitioner/appellant only): no
- Senior citizen >65 years SC/ST Woman/child
- Disabled Legal Aid case In custody
11. Vehicle Number (in case of Motor Accident Claim matters): NA

Date: 3.10.2020

AOR for petitioner(s)/appellant(s)



(Name)- **SMARHAR SINGH**
 Registration No. 2386
 e-mail-smarhar@rediffmail.com
 Mob-09312081645

SYNOPSIS

Petitioner, a retired Judicial Officer aged about -76 years of age having served the temple of justice for more than 25 years is perturbed, antsy and dismayed by the bizarre acts of the U.P State machinery. According to majority view of a celebrated Judgment reported in (1967) 2 SCJ page -486, the remedial right U/A 32 of the constitution of India itself is a fundamental right and the same can readily be invoked for enforcement of others fundamental rights if arbitrarily infringed or abridged.

ab to ghabrāke ye kahtehaiñki mar jā.eñge,

markebhī chain napaayā to kidharjā.eñge

(Anxiety makes me wish to cease/ the life,

But where to go even if death wont bring me peace.0

This couplets of 'Sheikh Ibrahim Zauq' is echoing in everyone's ear (except few) swathed with wail of the victim a 19 year old girl from Hathras, U.P, who as per newspaper reports, was gang-raped, assaulted to the hilt leading to multiple fracture of bone and rib, her tongue and other body parts were mutilated. For a fortnight she valiantly fought with death and finally on 29thSeptember, succumbed at Safadarjung Hospital. The events followed her death which was orchestrated high handedly by

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the State Administration, Government of U.P is not less gruesome, irksome, and ignominious as the cadaver of the 19 Year old girl was treated like garbage and burn to ashes at 2.30 in the intervening night of 20-30 September 2020. By respondent-3 to 6.

Now the village is fortified by the Administration with barricades due to furtive fallacy.

Upon investigation if the respondent nos-3 to 7 found to be guilty of treating the cadaver/corpse of the victim in an undignified manner then Whether this Hon'ble Court is duty bound under Article 32 of the constitution of India to issue direction for lodging criminal prosecution against the erring respondents under section 297 of IPC or any other germane provision of law as the state administration/Police itself being the perpetrator.

'Salmond' the legal philosopher has said that there are three things in respect of which the concern extend and transcend even after the death i.e body, reputation and property, in such conspectus whether right to dignified cremation/burial is an integral facet of Article 21 of the constitution of India and if so then whether the said fundamental right of the victim and her family has been denied, seized and snatched by the State Administration.

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Whether customary rituals practiced and professed by Hindu family upon a dead person during cremation/last rites comes within the purview of Article 25 of the Constitution of India, if so, then whether denial to profess, participate and conduct the last rites by the Respondent No-3 to 7 is not only violative of Article 25 of the constitution of India but also is a penal offense.

Whether word and expression 'person' in Article 21 includes a dead person to whom the right to life should be extended in such a manner that his dead body is given the same respect/dignity to which such person is entitled had the person been alive subject to his customary law, tradition, culture and religion which the person profess.

The scripts, verses and stanzas of 'GARUR PURAN' the guiding granth for Hindus since time immemorial tangibly speaks that for salvation and to bestow peace to the departed soul inter-alia methodology is prescribed for cremation, last rite, any wilful transgression or omission of those customary rituals results in inflicting pain to the departed soul and the remaining alive member of his/her family considered as sinner then whether the respondent No-3 to 7 who supervised and orchestrated the arson/torching of the dead body of victim young girl and also denying/ forcefully obstructing and locking the

father and brother to participate in the cremation should be prosecuted and penalized.

In view of the Judgment reported in 1995 (3) SCC Page-248-Right to dignified life and fair treatment bestowed under Article 21 of the Constitution of India is not only available to a living man but also to his /her body after demise, Whether the acts, omission of the State Administration in general and Respondent No-3 to 7 in particular resulted in infringement of the rights of the victim deceased and his family hence they are liable for penal action.

In A.I.R 2002 SC Page-554 this Hon'ble Court acknowledge that the Government should take steps for a decent burial even to unclaimed bodies hence the case in hand which is a sordid saga of arson of the cadaver of victim of Gang rape, mutilation, amputation of tongue (by 04 co-villagers) by the respondent Nos-3 to 7 and that too without pouring ghee but some other inflammable thing upon the corpse so that it turns into ashes swiftly in the intervening night i.e 2-3 AM of 20-30 September 2020, warrants appropriate direction U/A 32 of the Constitution as the felons are the State agencies.

Arun Shourie Authored 'Worshipping false Gods' with a failed endeavor to undermine the stature of Dr. Ambedkar as well as to decimate the de-

Facto prevalence of discrimination in our civilized society. He called it a hyperbole and braggadocio created by Dr. Ambedkar. It was written with a motive to stride on the hidden agenda of his ideological affiliation. A rejoinder namely 'Who Worship False Gods' was scripted by Mr. Ganga Das who born in a poor Dalit family in Muzaffarnagar adjacent to Hathras and became Civil Servant in 1967 pouncing over all apartheid. In his book he has countered and rebutted with sagacious dexterity the baseless vile (s) of ArunShourie. He goes on to point out in that Book how this social boycott unfortunately surged within the Hindus.

JiyaLal Arya a Cambridge educated bureaucrat from Amethi, U,P in 1997 wrote a book 'Dalit KahaJaye: has depicted the quotidian ignominy encountered by an untouchable. He has acknowledged that Mhatma Gandhi coined the term 'Harijan' and founded HarijanSewakSangh in 1932 to comprehend their betterment but nothing happened and there after the Harijans were called Dalit the term used in post Mandal era as vote bank.

In such premise this Writ Petition is filed with a prayer for directing investigation and penal action against the perpetrators who are being the custodian of social welfare and order have indulged in a most sinister and heinous act which amounts to sacrilege of the Constitutional ethos.

LIST OF DATES & EVENTS

- 2000-01 case under provisions of Schedule Caste and Schedule Tribe atrocities act was lodged by the grandfather of the victim girl naming the father of main accused Sandip, and the accused has to undergo imprisonment for three months in connection of that FIR.
- The victim girl reported to have born that year in a village of Hathras, U.P which is demographically dominated by an upper caste populace.
- 14.9.2020 As per news Paper Report narrating the content of FIR four persons namely Snadip, Ravi, Luv Kush, Ramu all members of the family against whom the FIR was lodged by the grandfather of the victim, abducted the victim girl from agricultural field, gang-raped her and thereafter assaulted her, sliced here tongue, pulverized her ribs and fled from the spot leaving the girl in a vegetative state soaked in pool of blood.
- It was noticed by her mother who is a chronic hearing impaired lady but somehow the girl was taken to local

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hospital in Hathras, then to JLN Medical College Hathras.

It is stated that initially the police neither took any initiative for ascertaining about rape nor register FIR for Rape it is only after the girl regain senses ephemerally and gave statement to the effect that she has also been gang-raped then it was added.

27.9.2020 after two weeks the persons who perpetrated the crime were arrested.

28.9.2020 Plight of the girl deteriorated and she was taken to Sadarjung Hospital and there she succumbed.

29.9.20 at 6.55.A.M the victim took her last breath.

29.9.20 at 9.30P.M Body was released from the hospital and taken out from the Hospital. It was put on an ambulance and accompanied by a Police constable from U.P police Services. Without informing or taking any of the family members of the deceased the cadaver was rushed for Hathras.

29.9.20 at
10 P.M

I
the father and the brother were accosted by the officials, they were pushed inside a Government Vehicle and taken to Hathras and the Vehicle was escorted by the District Magistrate, Pravin Kumar and S.P Prakash Veer.

29-30 Sep 2020
12 P.M-1A.M

Instead of taking the dead body to the family home it was straight away reached at the cremation ground. The visuals show that the mother of the victim beseeching and imploring with the Police to put turmeric on the dead body of her daughter as part of ritual and have the last glimpse. It is seen in the visuals that the mother and the other family members leaning in front of bonnet of the government vehicle and begging. The Police officials truculently became a deaf ear and they were pushed aside from the Government vehicle.

29-30 Sep 2020
2.30-3.00 AM

wood and logs were already put in place by the administration, highly flammable substance was sprinkled all over the Cadaver to arson it in heinous

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haste. The father and brother were not allowed to come near the cremation and even not allowed to do any last rite. The mother, father and brother have been locked inside the house. The visuals shows the presence of respondents and other Police personnel. One police official was seen laughing while the corpse was being incinerate to ashes.

2.10.2020

Visuals surfaced in electronic media shows that bones of the victim still scattered in the open field and there is complete embargo on the press, media, any civilian, or even law maker to enter inside the village. This conduct is because of the inherent furtive fallacy of the administration.

The conduct of the involve officials of the government administration is a penal offense hence prosecution should be launched against the erring Government officials. Since the perpetrators are the Police officials and the administration of the state therefore nothing can be hoped from the state authority, therefore the Petitioner is constrained to file this Writ Petition.

3.10.2020

Hence this Writ Petition.

**IN THE SUPREME COURT OF INDIA
CRIMINALORDINARY JURISDICTION
WRIT PETITION (CRL.) No. of 2020**

[Under Article 32 of the Constitution of India]

IN THE MATTER OF:

1. CHANDRA BHAN SINGH
S/O KHAZAN SINGH
R/O Vill-KHAIRWA JALALPUR
TEHSIL-SARDHANA, MEERUT
UTTAR PRADESH,
PRESENTLY AT-
H.NO-53, SEC-9, JUDGES COLONY,
VAISHALI, U.P
PETITIONER

VERSUS

1. STATE OF U.P
THRU SECRETARY HOME
LUCKNOW, U.P
RESPONDENT-1
2. DIRECTOR GENERAL OF POLICE
LUCKNOW, UTTAR PRADESH
RESPONDENT-2
3. PRASHANT KUMAR
ADG, LAW AND ORDER
UTTAR RADESH
RESPONDENT-3

4. PRAVIN KUMAR
DISTRICT MAGISTRATE
HATHRAS, U.P RESPONDENT-4
5. VIKRAM VIR
SUPERITENDENT OF POLICE
HATHRAS, U.P RESPONDENT-5
6. PRAKASH KUMAR
ADDL. S.P, HATHRAS,U.P RESPONDENT-6
7. BHRAM SINGH
CIRCLE OFFFICER
SADABAD, HATHRAS, U.P RESPONDENT-7

WRIT PETITION UNDER ARTICLE 32 READ WITH ARTICLE 21 AND 25 OF THE CONSTITUTION OF INDIA INTER ALIA PRAYING FOR ISSUANCE OF WRIT OF MANDAMUS OR ANY OTHER APPROPRIATE WRIT(s), ORDER OR DIRECTION.

To

Hon'ble the Chief Justice And His Companion Judges of Supreme Court of India At New Delhi

The humble petition of the petitioner above named

MOST RESPECTFULLY SHOWETH:

1. That the writ petition has been filed imploring issuance of appropriate writ (s), order (s), direction(s) for conducting investigation against the callousness and highhandedness of the

State Administration in general and respondent No- 3 to 7 in particular in treating the cadaver of the victim of Hathras gang-rape and murder which has violated the basic human rights and fundamental rights of the victim deceased and his family and accordingly after investigation lodge a criminal prosecution against the erring officials.

2. QUESTIONS OF LAW:

- a) Upon investigation if the respondent nos-3 to 7 found to be guilty of treating the cadaver/corpse of the victim in an undignified manner then Whether this Hon'ble Court is duty bound under Article 32 of the constitution of India to issue direction for lodging criminal prosecution against the erring respondents under section 297 of IPC or any other germane provision of law as the state administration/Police itself being the perpetrator.
- b) Salmond the legal philosopher has said that there are three things in respect of which the concern extend and transcend even after the death i.e body, reputation and property, in such conspectus whether right to dignified cremation/burial is an integral facet of Article 21 of the constitution of India and if so then whether the said

fundamental right of the victim and her family has been denied, seized and snatched by the State Administration.

- c.) Whether customary rituals practiced and professed by Hindu family upon a dead person during cremation/last rites comes within the purview of Article 25 of the Constitution of India, if so, then whether denial to profess, participate and conduct the last rites by the Respondent No-3 to 7 is not only violative of Article 25 of the constitution of India but also is a penal offense.
- d.) Whether word and expression 'person' in Article 21 includes a dead person to whom the right to life should be extended in such a manner that his dead body is given the same respect/dignity to which such person is entitled had the person been alive subject to his customary law, tradition, culture and religion which the person profess.
- e.) The scripts, verses and stanzas of 'GARUR PURAN' the guiding granth for Hindus since time immemorial tangibly speaks that for salvation and to bestow peace to the departed soul inter-alia methodology is prescribed for cremation, last rite, any wilful transgression or omission of those customary rituals results in inflicting pain to the departed soul and the remaining alive member

of his/her family considered as sinner then whether the respondent No-3 to 7 who supervised and orchestrated the arson/torching of the dead body of victim young girl and also denying/ forcefully obstructing and locking the father and brother to participate in the cremation should be prosecuted and penalized.

- f.) In view of the Judgment reported in 1995 (3) SCC Page-248-Right to dignified life and fair treatment bestowed under Article 21 of the Constitution of India is not only available to a living man but also to his /her body after demise, Whether the acts, omission of the State Administration in general and Respondent No-3 to 7 in particular resulted in infringement of the rights of the victim deceased and his family hence they are liable for penal action.
- g.) In A.I.R 2002 SC Page-554 this Hon'ble Court acknowledge that the Government should take steps for a decent burial even to unclaimed bodies hence the case in hand which is a sordid saga of arson of the cadaver of victim of Gang rape, mutilation, amputation of tongue (by 04 co-villagers) by the respondent Nos-3 to 7 and that too after pouring highly flammable substance upon the corpse so that it turns into ashes swiftly in the intervening night i.e 2-3 AM

of 20-30 September 2020, warrants appropriate direction U/A 32 of the constitution as the felons are the State agencies.

3. **BRIEF FACTS GIVING RISE TO THE WRIT PETITION;**

- 3.1 Petitioner, a retired Judicial Officer aged about -76 years of age having served the temple of justice for more than 25 years is perturbed, antsy and dismayed by the bizarre acts of the U.P State machinery. He is born and brought up in a Dalit family in the vicinity of Hathras and has seen, suffered and lived with discrimination and taboo of being a 'Dalit.' The Email Address of the Petitioner is 953.cbs@gmail.com and Mobile No.is +91-9873098228. A true copy of the Aadhar of the Petitioner is annexed herewith and marked as **ANNEXURE-P/1** at page 20. A true copy of Voter ID Card of the Petitioner is annexed herewith and marked as **ANNEXURE-P/2** at page 21.
- 3.2 That Respondents are Administrative and police agency of the State of U.P.
- 3.3 Hence, all the Respondents are "State" within the meaning of Article 12 of the Constitution and hence amenable to Writ Jurisdiction of this Hon'ble Court.

3.4. That 2000-01 case under provisions of Schedule Caste and Schedule Tribe atrocities act was lodged by the grandfather of the victim girl naming the father of main accused Sandip, and the accused has to undergo imprisonment for three months in connection of that FIR.

The victim girl reported to have born that year in a village of Hathras, U.P which is demographically dominated by an upper caste populace.

3.5 That on 14.9.2020 as per news Paper Report narrating the content of FIR four persons namely Sandip, Ravi, Luv Kush, Ramu all members of the family against whom the FIR was lodged by the grandfather of the victim, abducted the victim girl from agricultural field, gang-raped her and thereafter assaulted her, sliced her tongue, pulverized her ribs and fled from the spot leaving the girl in a vegetative state soaked in pool of blood.

It was noticed by her mother who is a chronic hearing impaired lady but somehow the girl was taken to local hospital in Hathras, then to JLN Medical College Hathras. It is stated that initially the police neither took any initiative for ascertaining about rape nor register FIR for Rape it is only after the girl regain senses

ephemerally and gave statement to the effect that she has also been gang-raped then it was added.

- 3.6 That on 27.9.2020 after two weeks the persons who perpetrated the crime were arrested.
- 3.7 That on 28.9.2020 plight of the girl deteriorated and she was taken to Sadarjung Hospital and there she succumbed.
- 3.8 That on 29.9.20 at 6.55.A.M the victim took her last breath.
- 3.9 That on 29.9.20 at 9.30 P.M Body was released from the hospital and taken out from the Hospital. It was put on an ambulance and accompanied by a Police constable from U.P police Services. Without informing or taking any of the family members of the deceased the cadaver was rushed for Hathras.
- 3.10 That on 29.9.20 at 10 P.M the father and the brother were accosted by the officials, they were pushed inside a Government Vehicle and taken to Hathras and the Vehicle was escorted by the District Magistrate, Pravin Kumar and S.P Prakash Veer. True copy of the News paper reports is annexed here to and marked as ANNEXURE-P/3 Page-22-28.
- 3.11 That on 29-30 Sep 2020 12 P.M-1A.M Instead of taking the dead body to the family home it was straight away reached at the

cremation ground. The visuals show that the mother of the victim beseeching and imploring with the Police to put turmeric on the dead body of her daughter as part of ritual and have the last glimpse. It is seen in the visuals that the mother and the other family members leaning in front of bonnet of the government vehicle and begging. The Police officials truculently became a deaf ear and they were pushed aside from the Government vehicle.

3.12 That on 29-30 Sep 2020 3.00-3.30 AM wood and logs were already put in place by the administration, highly flammable substance not ghee was sprinkled all over the Cadaver to arson it in heinous haste. The father and brother were not allowed to come near the cremation and even not allowed to do any last rite. The mother, father and brother have been locked inside the house. The visuals shows the presence of respondents and other Police personnel. One police official was seen laughing while the corpse was being incinerated to ashes.

3.13 That on 2.10.2020 Visuals surfaced in electronic media shows that bones of the victim still scattered in the open field and there is complete embargo on the press, media, any civilian, or even law

maker to enter inside the village. This conduct is because of the inherent furtive fallacy of the administration.

3.14 The conduct of the involved officials of the government administration is a penal offense hence prosecution should be launched against the erring Government officials. Since the perpetrators are the Police officials and the administration of the state therefore nothing can be hoped from the state authority, therefore the Petitioner is constrained to file this Writ Petition.

3.15. That on 3.10.2020 left with no alternate and remediless as the State agencies himself is in hand and gloves to perpetrate the illegality with the cadaver of the victim and his family so to expect justice from them is a far cry hence this Writ.

4. **GROUND:**

That writ petition Under Article 32 of the constitution of India is based on the following amongst other grounds, which are without prejudice to one another:-

- a) Because the State Administration in general and respondent Nos -3 to 6 in particular after locking the father, mother and brother of the victim inside the house and not allowing them to perform last rites

which should mandatorily be performed by the father or the brother as per Garur Puran have committed offense.

- b) Because as per the guidelines of 'Garur Puran' the source of Hindu Cremation methodology followed since time immemorial the dead body has to be washed with holy water, ghee and vermilion, new cloth is to be wrapped, the log and wood will be brought by the family member and the body of the deceased shall be draped with the logs, thereafter and 'Mukhagni' will be given by class-I heir of the victim, father or brother in case of the victim girl herein, only ghee shall be used on the corpse, but as per video clips and news reports nothing was followed rather audaciously it is egregious to find that highly flammable substance not ghee was sprinkled on the dead body.
- c) Because 5 Judge bench of Hon'ble Apex Court in Common Cause case propounded that 'Right to die with dignity is a fundamental right, thus integral part of Article -21, right to life extend up to the point of death including dignified process of death which can very aptly be stretched to dignified burial of the dead body.

- d) Because In view of the Judgment reported in 1995 (3) SCC Page-248-Right to dignified life and fair treatment bestowed under Article 21 of the Constitution of India is not only available to a living man but also to his /her body after demise, so the acts, omission of the State Administration in general and RespondenrNo-3 to 7 in particular resulted in infringement of the rights of the victim deceased and his family hence they are liable for penal action.
- e) Because the scripts, verses and stanzas of 'GARUR PURAN' the guiding granth for Hindus since time immemorial tangibly speaks that for salvation and to bestow peace to the departed soul inter-alia methodology is prescribed for cremation, last rite, any wilful transgression or omission of those customary rituals results in inflicting pain to the departed soul and the remaining alive member of his/her family considered as sinner then the respondent No-3 to 7 who supervised and orchestrated the arson/torching of the dead body of victim young girl after sprinkling impure substance and also denying/ forcefully obstructing and locking the father and brother to participate in the cremation should be prosecuted and penalized.
- f) Because word and expression 'person' in Article 21 includes a dead person to whom the right to life should be extended in such a

manner that his dead body is given the same respect/dignity to which such person is entitled had the person been alive subject to his customary law, tradition, culture and religion which the person profess..

- g) Because customary rituals practiced and professed by Hindu family upon a dead person during cremation/last rites comes within the purview of Article 25 of the Constitution of India then denial to profess, participate and conduct the last rites by the Respondent No-3 to 7 is not only violative of Article 25 of the constitution of India but also is a penal offense.
- h) Because Upon investigation if the respondent nos-3 to 7 found to be guilty of treating the cadaver/corpse of the victim in an undignified manner then this Hon'ble Court is duty bound under Article 32 of the constitution of India to issue direction for lodging criminal prosecution against the erring respondents under section 297 of IPC or any other germane provision of law as the state administration/Police itself being the perpetrator.

5. The Petitioner herein craves the liberty of this Court to add, alter, modify or amend the grounds during the pendency of this Writ Petition, if necessary.
6. The Petitioner herein states that he has not filed a similar Writ Petition or any other Petition before this Hon'ble Court or any other Court/s involving the subject matter of this Petition, which is pending or has been disposed of.
7. This Hon'ble Court has the jurisdiction to entertain the present Writ Petition.
8. This writ petition is made bona fide and in the interest of justice.
9. That the annexure filed with the petition are true copies of the respective originals.
10. **PRAYER**

Therefore, in the facts and circumstances of the case made above, it is respectfully prayed that this Hon'ble Court may graciously be pleased to:-

- i) Issue Writ in the nature of Mandamus or any other writ(s) writ(s)/order(s)/direction(s) for investigation of the role of Respondent No's- 3 to 7 with regard to allegations of inhuman treatment, insult and manhandling of the cadaver of 19 year old

victim girl from Hathras, Uttar Pradesh who died on 29.9.2020 at 6.55 A.M in Safdarjung Hospital by any agency other than affiliated to Uttar Pradesh Government ,and,or;

- ii) Direct the investigating agency to get the statement of the mother, father and brother of the victim recorded before a Magistrate Under Section 164 Cr. P.C, AND,OR;
- iii) Direct the investigating agency that in the event the allegation made by the family of the victim as reported widely in Print and Electronic media is found to be true then F.IR be lodged against the erring respondents and all others whose involvement is found , and'or;
- iv) Pass such other or further orders as this Hon'ble Court deems fit and proper in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS, THE PETITIONERS AS IN DUTY BOUND SHALL EVER PRAY.

DRAWN BY & FILED BY:



SMARHAR SINGH

Adv-On-Record for the Petitioner

Filed On: 3.10.2020

**IN THE SUPREME COURT OF INDIA
ORDINARY CRIMINAL JURISDICTION**

WRIT PETITION (CRL.) No. of 2020

[Under Article 32 of the Constitution of India]

IN THE MATTER OF;

CHANDRA BHAN SINGH

PETITIONER

VERSUS

STATE OF UTTAR PRADESH & ORS

RESPONDENTS

AFFIDAVIT

I, Chandra Bhan Singh, S/O Khazan Singh, R/O H.No-53, Sec-9, Judges Colony, Vaishali, U.P, Pin-201010 presently at new Delhi do hereby solemnly affirm and declare as under:--

1. That I am the Petitioner in the present case and am well conversant with the facts of the case and thus competent to depose this affidavit in such capacity.
2. That the averments made in the accompanying writ Petition from pages 1 to 15 and list of dates from pages B to J are true and correct to the best of knowledge and belief of the Deponent.

3. That copies of the annexures P-1 to P-3 from pages 20 to 28 attached to the Petition are true copies of their respective originals.
4. That I further state that I have not filed any other earlier writ petition before this Hon'ble Court.
5. That the present affidavit is of the same or subsequent date of the drafting of the petition/application.

Zhandva Bhanu

DEPONENT

VERIFICATION:

Verified at New Delhi on this the day of October, 2020 that the contents of this affidavit are based on the information derived from the records and also on the basis of the information received and believed to be correct. No part of it is false and nothing material has been concealed or suppressed here from.

Zhandva Bhanu

DEPONENT

APPENDIX**SECTION -297 IPC**

297. Trespassing on burial places, etc.—Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or on any place of sepulture, or any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Article 21 of the COI

21. Protection of life and personal liberty No person shall be deprived of his life or personal liberty except according to procedure established by law

Article 25 of the COI

25. Freedom of conscience and free profession, practice and propagation of religion

(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion;

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law

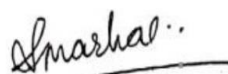
(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of

Hindus Explanation I The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion Explanation

II In sub clause (b) of clause reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist

religion, and the reference to Hindu religious institutions shall be construed accordingly;



(True Copy)


 **भारत सरकार**
GOVERNMENT OF INDIA

 चन्द्र भान सिंह
Chandra Bhan Singh
जन्म वर्ष / Year of Birth : 1944
पुरुष / Male




9218 6932 4288


आधार — आम आदमी का अधिकार


 **भारतीय विशिष्ट पहचान प्राधिकरण**
UNIQUE IDENTIFICATION AUTHORITY OF INDIA


पता: हाउस नं. ५३ जज कॉलोनी, सेक्टर ९, नीयर सि.एन.जी. पुम्प, वैशाली, ई.ए.साहिबाबाद स्., गाजियाबाद, उत्तर प्रदेश, 201010

Address: house no.53 judges colony, sector 9, NEAR C.N.G. PUMP, vaishali, I.E.Sahibabad S.O, I.E.Sahibabad, Ghaziabad, Uttar Pradesh, 201010

 1947
1800 180 1947


 help@uidai.gov.in

 www.uidai.gov.in

 P.O. Box No.1947,
Bengaluru-560 001



Smrha..

(True Copy)


भारत निर्वाचन आयोग
ELECTION COMMISSION OF INDIA

पहचान पत्र
IDENTITY CARD

FVX7334303

निर्वाचक का नाम : चन्द्र भान सिंह
Elector's Name : Chandra Bhan Singh
पिता का नाम : खजान सिंह
Father's Name : Khajan Singh

लिंग / Sex : पुरुष Male
1.1.2007 को आयु : 35
Age as on 1.1.2007

पहचान पत्र संख्या :- FVX7334303

पता
म.सं. : 53
गली/मोहल्ला : जज कालोनी वैशाली से0 9
ग्राम/नगर : गाजियाबाद
थाना : साहिबाबाद
जिला : गाजियाबाद

Address
H.No. : 53
Strt/Mohalla: Jaj Colony Vaishali Sec 0 9
Vill/Town : Ghaziabad
PoliceStn. : Sahibabad
Distt. : Ghaziabad
Pin :

निर्वाचक रजिस्ट्रीकरण अधिकारी के
हस्ताक्षर की अनुकृति
निर्वाचन क्षेत्र 372-गाजियाबाद
Facsimile Signature of
Electoral Registration Officer
for 372- Ghaziabad

स्थान : गाजियाबाद
Place : Ghaziabad

दिनांक : 04/02/2007
Date : 04/02/2007

इस कार्ड को विभिन्न सरकारी योजनाओं के अन्तर्गत पहचान पत्र के रूप में प्रयोग किया जा सकता है ।
This card can be used as an Identity Card under different Government Programmes. 89/3487

Smasha..
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I reached my hotel at 4 am. I saw the Joint Magistrate's statement to news agency ANI, saying that the cremation is over and that things are under control. He said the police and other authorities will make sure that perpetrators are brought to justice.

My gut feeling was challenged that night. I had not expected a cremation but I slept with visuals of the pyre playing on repeat in my head. To die with dignity is also a privilege that poor of this country miss on.

(Arun Singh is a reporter with NDTV 24x7)



📌 and ☆ + appearing in the article do not reflect the views of NDTV and

"Ah! They will never cremate in the dead of night. Not possible!" - I told my cameraperson Pawan Kumar as we drove to Hathras.

A few hours later, I couldn't believe what I was seeing.

A pyre had been lit at 2:30 am in a dark field in western Uttar Pradesh, with only a handful of cops and no family. A 20-year-old woman who had been gang raped was being cremated furtively by policemen while her parents and brothers were locked in their home.

It was a shocking end to a dramatic day that involved driving some 200 km from Delhi and discovering no one knew where the woman's body was until almost the very end.

We set out from Delhi at around 8 pm on Tuesday and reached Hathras around 11:30 in the night, much before the body arrived.

On our way, we saw the local police station, packed with cars. We spotted the commissioner's car and it seemed there was some kind of meeting going on inside.

I asked some officers if I could speak to them. They said a high-level meeting was on with top police officers at the station.



Family members tried to stop the police from cremating the woman's body.

This was unusual for such a small police station. By this time, suspicions surrounding the body and the intention of authorities were growing. There was no clarity on where the body was - Delhi, Kanpur or Hathras.

On our way, a few locals I was in touch with told me over the phone that they saw someone carrying piles of wood and guessed that it must be for the cremation. I thought a cremation at night would be too brazen a move even for the UP police. Yet, what I had just seen at the local police station made me think.

When we were entering the village, our car was stopped and we were told by the police that if wanted to go ahead, we must proceed on foot.

Finding it difficult to contest this arbitrary restriction, Pawan and I started walking through the deserted fields in the dark towards the home of the woman, some 1.5 km away.

Halfway there, we were a bit startled by a red van with flood lights that zoomed past us and went into the dark.

When we reached the woman's house at around 12:45 am, we didn't see the vehicle and wondered where it was.

At her home, there were a large number of police personnel and local media.

I asked Joint Magistrate Prem Prakash, who was present there, where the body is. He said, "I have no idea. As soon as we get information, we will update."

Two to three minutes after this conversation, the ambulance carrying the body and the family members reached the house. Behind the ambulance, we saw the woman's father and brother in a Scorpio.

Surprisingly, the ambulance did not stop at the house and went past it.

Villagers and family started resisting, saying the body must be taken to the house first.



They started chasing the ambulance, screaming: "Ambulance *nahijaayegiaage* (The ambulance can't go further)."

I, too, ran after the ambulance.

The cries of "Body *aagenahijaegi* (Body can't go further)" grew louder.

In the commotion, I spotted police officials and the Joint Magistrate wearing helmets. The Joint Magistrate came out and told the locals: "DM *saab* is coming."

Soon, the District Magistrate appeared, also wearing a protective vest and a helmet.

The woman's father said, "I will take responsibility (for the cremation). There won't be any problem in the morning."

The District Magistrate told the father: "*Aapkosubahkarnihaiyaabhikarnihai... abhi hi kardardijiye*. (You have to do it now or in the morning... why not do it now?)."

"You were saying on the way that you will get it done tonight?" the DM insisted.

By now, people had started banging on the ambulance and its windows. It was brought back to the house and parked outside.

One of the officials said, "Let's take the body out". But nothing happened.

Staring at the coffin, the thought struck me how this woman had fought for over 14 days for her life and her tragedy did not seem to have ended even after she had left this world.

Around 2 am, when the father and other relatives had gone inside the house, the authorities stepped up efforts to persuade them to have the cremation done as soon as possible.

Pawan's camera light was turned on and I was standing away from him. The District Magistrate entered the house and asked Pawan to turn off the camera and leave.

I silently sat behind a relative, inside the house. I hid my mic to quietly listen in to what they said. I knew they wouldn't be their real self, knowing a media person was listening.

The District Magistrate tried to persuade them again to agree to immediate cremation. He declared he would talk only to the father.

A cop joined in, trying to appeal to the father emotionally. "This is an unusual situation. Even I wouldn't have been here under regular circumstances," he said.

Then, Tanushree Pandey of India Today entered the house. The District Magistrate noticed her coming and said, "Ma'am I can't talk in front you."

She replied, "I haven't switched on my camera and mic. Why can't I stand here?"

I stepped outside to see the woman's mother on the ground in front of the ambulance, crying and beating her chest.

The mother of the 20-year-old sat on the road sobbing and beating her chest.



A policeman approached me and took me aside. "All journalists are being called there. Our sir will speak to you," he said.

I knew nobody would be there and it was an attempt to keep us away from the ambulance. I headed back and that's when the ambulance engine roared back to life and sped away. I managed to take a shot of the ambulance and people running behind.

We also started running behind it. When we reached a clearing, I saw two big floodlights and then I was able to connect the dots. The vehicle that we saw on our way to village was carrying lights for this moment.

Despite the lights, we were kept in the dark. The police formed a human chain on the road and did not allow the media through. We tried to reason with them but to no avail.



Around 2:30 am, we saw that that the pyre has been lit. We went into the field to get a clear view. I recorded my piece to camera or "P2C" there.

I was stunned at how policemen were doing all this. I kept looking around to see if the father was there.

Pawan suggested we must go to her home to see if family was there. On reaching the house, we saw that it was bolted. I asked for the father. The relatives said he is unwell and that he is resting. They said they (officials) are not giving the body.

I informed them that the body had already been cremated.

I reached my hotel at 4 am. I saw the Joint Magistrate's statement to news agency ANI, saying that the cremation is over and that things are under control. He said the police and other authorities will make sure that perpetrators are brought to justice.

My gut feeling was challenged that night. I had not expected a cremation but I slept with images of the pyre playing on repeat in my head. The poor of this country are even denied the right to die with dignity.

Smasha..

(True Copy)

IN THE SUPREME COURT OF INDIA
ORDINARY CRIMINAL JURISDICTION
WRIT PETITION (CRL.) No. of 2020
[Under Article 32 of the Constitution of India]

IN THE MATTER OF;

CHANDRA BHAN SINGH

PETITIONER

VERSUS

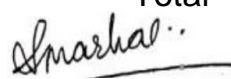
STATE OF UTTAR PRADESH & ORS

RESPONDENTS

I N D E X

S.Nos.	PARTICULARS	COPIES	COURT FEES
1.	Writ Petition with Affidavit		
2.	Translation of Annexure		

Date: 3.10.2020

Total

SMARHAR SINGH
AOR for Petitioner(s)
Off.Add-142, Tower -10, Supreme Enclave
Mayur Vihar Ph-1, Delhi-91,
Mob-09312081645
E-mail-smarhar@rediffmail.com
Registration No. 2386

IN THE SUPREME COURT OF INDIA
CIVIL/CRIMINAL/ORIGINAL/APPELLATE JURISDICTION

WP(CRL) No. OF 2020

CHANDRA BHAN SINGH

... PETITIONER

VERSUS

STATE OF UTTAR PRADESH & ORS

...RESPONDENTS

VAKALATNAMA

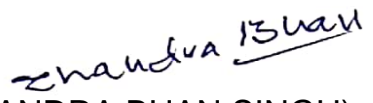
I/we under signed Plaintiff(s)/ Defendant(s) Appellant(s) Respondent(s) Opposite Party in the above Suit/Appeal/Petition/Reference do hereby appoint and retain Shri **SMARHAR SINGH** Advocate of the Supreme Court to act and appear for me/us in the above Suit/Appeal/Petition/Reference and on my/our behalf to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same of any decree or order passed therein, including proceeding proceedings in taxation and application for Review to file and obtain return of documents, and to deposit and receive money on my/our behalf in the said Suit/Appeal/Petition/Reference and in applications of Review and to represent by the aforesaid Advocate in pursuance of this authority.

Dated this day the 1st, October, 2020

Accepted, identified, satisfied and executed


(**SMARHAR SINGH**)

Supreme Court of India
New Delhi


(**CHANDRA BHAN SINGH**)
Petitioner

MEMO OF APPEARANCE

To,
The Registrar
Supreme Court of India
New Delhi

Sir,

Please enter my appearance on behalf of the Petitioner(s) Respondent(s) Opposite Parties/ Intervener in the matter mentioned.


(**SMARHAR SINGH**)

Supreme Court of India
Off: 142, Tower No. 10, Supreme
Enclave, Ph-1, Delhi-91
M: 9312081645
Code: 2386

Dated : 3/10/2020

E-Mail.: smarhar@rediffmail.com