

JUSTICE FOR ALL- A MOTHER'S QUEST FOR JUSTICE

- By Navaz Kotwal

Medina wants justice. That's all. She lived for her children now they are dead. It is painful for her to tell her story again and again: to the police; to the court, to the good people who visited her, but she will do it. There is nothing else to live for. Two months ago, in November 2002, in court, Medina told her story again.

"My daughter Shabana was only seventeen, we were to get her married next year. Those men -- all our neighbours and 'friends' -- caught hold of her and flung her around. I heard my daughters' screams begging them to get off her. But instead they continued raping her one after the other. They cut off her breasts. My niece Subana and sister in law Rukaiyya were also raped. They backed my old in laws to death. They killed seven members of my family. Taufique was only 18 months old. They sliced off his thumb. They gathered all the bodies -- piled wood and dry leaves on them and set them on fire. Then they left. Suddenly there was silence. It was all over. Right before my eyes I lost those very people who I lived for. The 2nd of March 2002. And life will never be the same again."

An eerie silence prevailed as I heard a mother's account of her daughters' rape. I sat with her, weeping silently. That was all I had to offer; what consolation could I give her. And how do I promise her justice?

Medina lived all her life in Eral village in Panchmahals Gujarat. Eral is a tiny village surrounded by jungles and hills. A dirt road connects Eral to the outside world. Among the 4000 odd residents, about 250 were Muslims, who earned their living through farming and petty business. Medina's family was one such amongst the many. Bounded by a family of eleven, looking after the house and the needs of the family members was what she did all day. Medina knew nothing of Godhra and nothing of the arson of the train that killed Hindus. But if she had, she would have prayed for their souls and damned their killers to hell.

Since March 2002 Medina has been a refugee in her own land. For months she's lived in relief camps. In all these months of pain, passing those long hours with pictures of her children in mind, thinking why death forgot her, Medina has at least won one small victory. Unlike most of her camp mates, she has managed to get her First Information Report registered. She identified all those who raped her children and murdered them. She named seven of them in her report to the police.

The police have investigated the case and filed the charge sheet. The case is up for hearing. A few arrests have been made but most of those named are said to be 'absconding'. But Medina sees them roaming free in the village. They continue to threaten and intimidate the witnesses. According to the law the term 'absconded' is not to be understood as implying necessarily that a person leaves the place in which he is. It is etymological and its ordinary sense is to hide or conceal oneself. But in this case the 'absconding' are making no attempt to even hide. They are living in the village, free to do as they please and yet are treated as absconding.

There are 32 other witnesses in the case. They were small farmers and shopkeepers. Most have lost everything and have themselves just returned from camps. As for Medina she cannot even return to what was once her home. The rapists and murderers demand that her return will be conditional. Intermediaries have contacted her to bargain. She will be allowed to return only if she drops all charges and withdraws her complaint. Medina is scared. The police refuse to help. There is no one to guarantee her safety.

The case has come up for hearing thrice. Each time the judge insists that all 32 witnesses come to court. The prosecutor does not resist the order or seek to have just a few witnesses examined at a time. If every witness were to take only a half hour to be examined, cross-examined and reexamined it would take 16 hours of hearings and all in one day! Everyone knows that the cross-examination will not take place in one day but they have to obey the magistrate. All the witnesses come. The court is 60-70 kms away from the village. For safety the witnesses travel together in a bus. Most of them are men. The women, who are left behind, feel scared and vulnerable in the village so they have to be transported to the nearest camp to await the night journey home together with their menfolk. The Magistrate is aware of the situation. In our land extraordinary circumstances can only be invoked for extraordinary people and the rest must suffer.

On the 12th of October 2002, the day of the first hearing, just 3 witnesses were heard. The courtroom was packed with villagers and cadres of a semi political outfit. The questioning of the witnesses bordered on the ridiculous – it was insensitive, crude, and patronising. All three witnesses broke down at having to relive the trauma of the 2nd of March. The issue was rape. There were smirks and laughter in the courtroom. No one objected from the prosecution side. No one intervened from the bench. The audience was not warned, nor was the court cleared. Outside these halls of justice, the other 29 witnesses waited nervously for their turn. It did not come. The exercise was to be repeated on the next hearing.

All 32 have again been ordered to appear on the 25th of October-the day of next hearing. Once again they appeared on the 25th. The situation was not much different. This time only one witness was heard. The rest waited outside. The next date was given for the 12th of November, the presence of all the witnesses being mandatory. This time no one was heard. The case was adjourned. After a long journey witnesses returned home...some frustrated, some dejected and some without any hope.

Written submissions have been made to the court to take notice of the ‘absconding accused’ and the constant threats to the witnesses. Not much has happened in the case since then. No arrests have been made. The accused still roam fearlessly as the free citizens and the witnesses lead unpredictable lives.

Outside the court Medina and the witnesses live in fear. They are constantly approached by agents of justice to withdraw their testimony. Medina has been offered money to give up the fight. She has been threatened that she will never be able to return home otherwise. Other witnesses are tempted by the money and the need to get on with their lives. This is sapping their will. They know that court proceeding will last for years on end. Unsure of the ability to survive each day, the strength to force the justice system to respond seems too much to ask for.

All Medina wants is justice. A mother wants justice. She wants the accused punished so that they are not free to go out and rape other girls and burn them alive. Her message is loud and clear-- you cannot kill and rape and maim and go unpunished. She is willing to fight her children's killers, but she didn't know she would have to fight the system. She is learning. She says she will struggle. She will knock and knock till someone hears and some official conscience stirs into action. This is yet to happen.

Gujarat has become a cold news item and has ceased to merit the attention of the vast newspaper reading classes. Medina's voice will soon have no listeners. Her story and struggle will soon be buried in the thousands of reports on the killings of that time. I hate to be pessimistic but impunity rules. The law just never seems to catch up.