

Raid and Rape as Anti-Naxal Operations: Arati Majhi

Eye-witnesses to the gang rape are fearful of speaking out in the atmosphere of terror in Gajapati district. Some witnesses are themselves in jail, others threatened with murder.

Before day-break on the morning of February 12, 2010, 20-year-old Arati Majhi was carrying out her usual morning chore of pounding rice inside her house in village Jadingi village. Her father Dakasa Majhi, mother, brother and sister-in-law were asleep in the same room. Security forces came to her house and demanded that the door be opened. She replied that she would open it after dawn, but they broke open both the front and the back doors and barged in. They started beating her and dragged her outside to the verandah, accusing her of mixing with the Naxals. Lajar Majhi, who lives just a house away, was also dragged out. Another person called Prasanna Majhi was picked up, with the forces insisting that he was 'Sagar'.

About 40 Special Operations Group (SOG) and police personnel from Adava Police Station had stormed into the village. They were looking for specific individuals – 'Sagar' and 'Azad' – who they claimed were

Naxalites. Demanding to know the whereabouts of 'Sagar', they insisted that he had come to the village the night before. They also manhandled several people saying: "So you are a Naxalite!"; "Your village has become a Naxal village"; "Why did you join the Naxals?" Many villagers reported being kicked and threatened at gun-point.

A couple of villagers were asked to identify 'Sagar' from amongst the people present. When they replied that they didn't know 'Sagar', everybody in the village was asked to be identified by name. Martha Majhi, another woman in the village, was also treated roughly. The security forces asked her if Arati had joined the (Maoist) party, and Martha denied any such knowledge. Without further discussion, the force took Arati into custody.

The security forces also took Arati's cousin, Lajar Majhi and Prasanna Majhi with them. Her younger brother, Lalu Majhi, followed the force as they were taking his sister

away. The security forces with the four persons picked up from Jadingi, reached Tangili, about 4 km from Jadingi. They were asking for one 'Hemant' in this village, but on not finding him, they picked up Shyama Majhi, Hemant's brother and another boy, Dakua Majhi.

Context

Village Jadingi, Gram Panchayat (GP) Katama, Block Mohana in Gajapati district, is a small village of 29 families. Majority of the people in this area are Christian Kondh adivasis, who speak the Kui language. Jadingi is a prime example of the government neglect typical of the entire area. It is located 8 km from the nearest motorable road in GP Katama. The walk itself is gruelling with most of the route being uphill. None of the girls have studied beyond primary school as there are no facilities beyond that in the village. For middle school, some boys stay in the hostel in Katama. People eat whatever they grow – beans, ragi (millets), paddy etc. For several months of the year they depend on casual labour and forest produce. Young men and women from some families go out as migrant workers to distant places like Hyderabad.

Gajapati is one of the southern districts in Orissa. Adivasis constitute 51 percent of the population in the district. The terrain is hilly and heavily forested. Parlakhemundi, on the southern tip, is the district headquarters.

According to news reports, Naxalites have been active in the district since the 90s.

On March 24, 2006, Maoists freed over 40 prisoners lodged in jail. They also kidnapped two government officials (who were later released safely) and looted arms from the jail, a local Orissa Special Armed Forces camp and the police station. There have also been reports of a land mine blast that injured 12 SOG personnel on February 16, 2009; calls for boycott of the 2009 Assembly elections; and blowing up of a forest beat office by Maoists on July 11, 2009. A mobile tower blast and a late night attack on four passenger buses of the Orissa State Road Transport Corporation near Nalaghat in Gajapati district during its Orissa bandh on December 27, 2009 were also reported.

There is heavy deployment of the Central Reserve Police Force (CRPF) and SOG of the State Police in the district. Reports of harassment of innocent villagers by the CRPF and false cases accusing them of 'being associated with the Naxals', are common in the area. In November 2008,



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in the nearby Panigonda Panchayat, the CRPF killed one man and seriously injured another. As established by the fact finding report of the Human Rights Forum Andhra Pradesh, these two men had nothing to do with Maoist activities. Several false cases have been filed against the local leaders, including the elected representatives in the Gram Panchayats and Panchayat Samitis, for protesting against the irregularities of the forces. There are also reports of extra-judicial killings.

Enroute in the jungle

Arati and some of the boys were blindfolded for a long stretch while walking in the jungle. The villagers reported that between Tangili and Baliponka, the troop also met another villager, Ravi, on the nallah. He was looking after his field and was making sounds to drive away the birds. The security forces made him walk with them too, alleging that by making sounds he was giving signals to the Maoists. They let him off after a while.

The security personnel also asked two or three boys to return. Prasanna left somewhere on the journey, but Dakua and Lalu continued, saying that they would go back only if the personnel also released the woman. They were finally forced to return to the village from Baliponka, which is very near the dam. Ahead of the dam, there is a pucca road and a vehicle would pick the raiding team from there.

Arati Majhi reported that at this point the SOG and police forces separated her from

the main group and gang-raped her in the jungles. This was a little before the police vehicle picked them up and took them to the headquarters. The perpetrators showed her obscene pictures on their mobiles before raping her. Her brother was also present, and kept protesting the rape. Arati believes that there were five or six people who raped her. When she protested, abusive language and taunts followed: 'how would you handle a rifle's butt if you cannot take in a man's penis'. As regards the identity of the rapists, she was able to describe that they were uniformed and were speaking Oriya.

Police Station, Adava - February 12

Later in the day that Arati and the others were picked up, several people including the victim's parents and family members of the other two arrested, accompanied by the local sarpanch, panchayat samiti members and other villagers, went to the neighbouring police station in Adava. The CRPF personnel on guard at the gate did not let them into the barricaded police station, and threatened to shoot the villagers if they came too close to the police station.

The villagers waited outside the thana the whole day, but no information was provided about where the three were being detained. By evening, they were told that they must go away or they would be killed. A written complaint was given to the Collector on the next day, stating the innocence of the three picked up and

enquiring after their whereabouts. The letter was signed by around 20 villagers and local political representatives. There was no response to this complaint.

The Sarpanch supplied the information that Sagar was another name for Pramod Majhi, the second son of Dakasa Majhi and brother of Arati Majhi. Pramod Majhi's parents as well as other people volunteered the information that Pramod Majhi was from their village. He was studying in Class 10, in a school in Mahuda and after failing twice, asked for money from home for tuitions or to do something else. Since the family could not provide financial support, he left home about five years ago. The family does not know where he is and he has not come back to the village, but they hear that he has joined the Maoists.

Police Version

The arrest memos give the timings of Arati's arrest as 4 pm on February 12; the station diary noted by D.Mohapatra, who was in charge of the entire operation and was the Investigating Officer for this case, has a recording at 9 pm on February 12 that says 'Returned to the base with three Naxals and SOG and staff. One Single Barrel Muzzle Loading has been seized'.

The arrest records at the Police Station showed that all the three persons were charged under the following sections – 41S, 147, 148, 149, 435, 120-B, 121, 121A, 124-A of IPC, 25/27 of Arms Act, 3 of Prevention of Damage to Public Property Act, 17 of Criminal Amendment Act. The PS case

numbers differ (43, 45, 46, etc.) but are all dated 28.12.2009, and therefore suggest that the cases were all filed on the same date.

It was alleged that the three persons arrested were involved in the blasting of a telecom tower and the burning of four state transport buses on December 28, 2009 in/near the village of Raipanka in the Mohana Block located on the Gajapati-Rayagada District Border.

It was separately noted in the arrest records of the thana that one man, Babula of Gurjhuli village, was also arrested in the same case/s on February 16, 2010.

The villagers also mentioned a 'Babula' and said that he had been brought dressed in a uniform of the security personnel and he had identified the house of 'Hemant' in the second village. It can be assumed that Babula had been kept in illegal detention for the days between February 11 and 16 (we don't have details of when and where he was picked up), and had been brought in to point out the houses and family members of the two main people the security forces were pursuing.

As per the arrest records, the witness for all these arrests (even on differing dates) has been the same person, Mr. Rajeshwar Pujari s/o Simanchal Pujari, resident of Adava. The uniformity in the writing, same witness in all these arrests and the ink used indicates that the entries in the arrest records have been created in a fictitious manner, and could have also been done on a single day and all at the same time, instead of (as shown in the records) on differing dates.

When the present the Station In-charge (SI) was asked by the Fact-Finding team the grounds for arresting Arati, he first said that her brother was a prominent member of the Maoist party and moved with the senior party people of the area, and was involved in the blowing up of the tower. When it was countered that this is about her arrest, and not her brother's, he claimed that she was also alleged to have been involved.

As per police records, the three arrested were taken to the court at 3 pm on February 13. Arati was not asked if she needed a medical examination or legal representation. Thus, no lawyer represented her. Nor did her family know where she was. She was asked to sign a paper, but there was no discussion or question asked by the Magistrate about whether she had been ill-treated. (It is doubtful from her description of events if she was even physically presented in the Magistrate's court).

During the medical examination on entry in jail, she reported pain due to being hit by rifle butts. The jail pharmacist also confirmed that she had said this, and said that he had given a painkiller, and also subsequently given her other medicines.

He and the jailer added that it was common for new detainees to complain of being beaten up while in police custody. Most of the fresh inmates need medication when they are first brought to the jail. However, they (the pharmacist and jailer) treat this as a normal occurrence, and limit their responsibility to providing

treatment. They do not see this as a human rights violation or a violation of law, and so do not intervene.

Violation of civil liberties

The arrests by the forces seem to have been arbitrary, because when they did not get the people they were searching for (Azad and Sagar), they picked up anyone available. They did not even detain persons who were later shown as 'surrendered Maoist rebels'. Lalu Majhi who followed the force for a long distance was not considered a risk in February 2010, but later, when he surrendered in March 2010, he was presented as a cadre of the (CPI-Maoist) party. Similarly, there was no specific complaint or evidence against Arati Majhi. People were being arbitrarily picked up and allowed to go back on whim; the purpose only being to meet whatever criteria of a 'successful' raid as laid down by the authorities.

In contravention of the law, and the NHRC guidelines, an accused woman was picked up at night, without any female security personnel present. All rules for detention and arrest of women were violated even though there was no immediate threat from her, and she was peacefully in the midst of routine chores at her residence.

Arbitrary arrests leave everyone feeling insecure. The security forces and the police are able to claim some success with these 'arrests' but this does not make a place more secure for the residents of the area. Indeed, one of the intentions of arbitrary and illegal detention is to terrorize the

general population so as to scare them away from Maoist sympathies.

The norms of civil life have been seriously shaken. Merely living in the area has made a person liable to be arrested. People say they have 'surrendered' because they were being 'suspected', not because they have committed any crime. Women worry about family members and extended relatives being in jail. People have to safeguard against their own arrests.

There were eye-witnesses to the gang rape, who are fearful of clearly voicing what they saw. The atmosphere of terror in the district does not make it easy for them to do so. Some of the witnesses are themselves in jail and have been threatened with murder.

If we take the case of Lalu Majhi, his sister and cousin are inside the jail with an uncertain future, while one brother is 'wanted' for his Maoist links. He has himself 'surrendered' to avoid arrest. Being a helpless witness to his sister being gang-raped has not only left him traumatized, but without any hope of justice. He is unlikely to take another risk by speaking about the atrocities of the authorities.

Arrests have been shown at 4 pm for those picked up from the first village, Jadingi and 5 pm for Shyama Majhi, who was picked up from Tangili village. This is 12 hours after the actual pick-up. Thus that the security forces have tried to conceal the actual time of arrest.

The family members were not given a custody memo when they were picked up

from their homes in the villages. Instead of taking the local villagers or the family members as witnesses at the time of arrest, a person unknown to the arrested has been used to sign as a witness. No information was given to the family members, even though they were waiting to get news of their children and/or husband outside the thana the whole day.

The sketchy information received about 'Babula' also shows that guidelines for arrest and detention are being flouted for men and women easily. The risk of sexual exploitation, physical torture and fake encounters of detainees is very high.

Arati was given practically no opportunity or conducive situation to reveal to the magistrate or jail authorities that she had been raped and ill-treated.

Although it is mandatory that under-trial prisoners should be presented in the court once every 15 days, she has been presented in the court only once during the entire period of over seven months of judicial custody till the petition on the rape case was filed.

Present Status

In June 2011, R. Udaygiri, Judicial Magistrate First Class (JMFC) refused to take cognizance of the case as he 'did not find sufficient grounds for further investigation into the allegations of gang rape by security forces'. An appeal by Arati for revision of order by R Udaygiri had been accepted by Orissa High Court but has not yet come up for hearing.

In March 2012, Maoists issued a 13 point demand in exchange for the release of abducted Italians. The fourth demand of these 13 demands was the arrest and trials of police officials involved in the gang rape of Arati Majhi and false encounter cases and custodial deaths in the region.

The release of 32 Adivasis including Maoist sympathizers was also one of the major demands, and Arati Majhi's name was included in this list. However, she was not

released during the hostage exchange.

In May 2012, Arati Majhi and others arrested in February 2010 have been acquitted in the case related to burning of a bus in December 2009. But six other cases continue, of burning of four other buses and blasting a mobile tower. The High Court had also directed the district court for speedy trial of the eight cases against her. She has been acquitted in six cases at the time of writing this report.