

12. Justice too Far: Targeted violence and the working of the criminal justice system

January 2020

1. Introduction

In September 2017, Citizens Against Hate published 'Lynching Without End' a report of fact finding of 24 incidents of religiously-motivated, mostly cow-related, vigilante violence against Muslims resulting in 34 murders and 2 rape cases, almost all having occurred 2015 onwards.³⁹⁴ The vast majority of these incidents were reported from the states of Haryana, Jharkhand, and western Uttar Pradesh, the rest in Assam, Gujarat, Rajasthan, and West Bengal. The report was an attempt to shed light on the post-violence actions of law enforcement and prosecution agencies – in the aftermath of the violence – and to document the working of the criminal justice system for victims of hate crimes. The findings of the report revealed serious failures on the part of the police and prosecution agencies – both of omissions and commissions – with regard to the victims. From registration of First Information Reports (FIRs) to the investigation of the crime and taking action against the perpetrators, the role played by the police was marked by bias and a poor commitment to uphold the rule of law.

This briefing summarises findings of trial monitoring conducted by Citizens Against Hate in the period December 2019 – January 2020 (well over two years after the initial report) – select cases in an attempt to look further into how the trials were conducted, to shed light on access to justice for victims and their families. The findings are not encouraging --- They speak to the weak working of the justice system in India generally, especially poor for marginalised groups, particularly so in hate crime cases.

³⁹⁴ Citizens Against Hate. 2017. Lynching without End: Report of fact finding into religious motivated vigilante violence in India.

2. Research and methodology

For the purpose of this review, we chose 9 out of the initial 24 incidents, that together led to the murder of 12 Muslim men in the States of Haryana, Rajasthan and Uttar Pradesh. This was a combination of old cases (before the publication of LWE), and new, those more recent, all cases CAH has been engaged with from the beginning, since publication of LWE, supporting families with rehabilitation and helping them access justice, working with their lawyers. We took 6 of the former: [(i) deceased: Tehseen, Yamunanagar, Haryana (ii) Mustain Abbas, Kurukshetra, Haryana (iii) Ghulam Mohammad, Bulandhshar, Uttar Pradesh (iv) Pehlu Khan Alwar, Rajasthan (v) Farid and Sher Singh, Nuh, Haryana (vi) Anas Qureshi, Arif Qureshi and Nazim, Dadri, Uttar Pradesh]. We also took 3 of the recent, viz. (i) Akbar Khan, (ii) Umar Khan, both Alwar district of Rajasthan and (iii) Shahrukh, Bareilly, Uttar Pradesh. Of these three, 2, Akbar Khan's and Shahrukh's murder occurred after the Supreme Court of India laid down preventive, remedial and punitive measures/guidelines to prevent vigilantism in the name of cow protection. (Tehseen S. Poonawalla vs. Union of India & Ors. [W.P (Civil) 754/2016] on July 17th 2018). In this analysis, we wanted also to explore the impact of the Supreme Court guidelines on the investigation and prosecution of lynching cases.

With the help of the lawyers, legal documents pertaining to each of the 9 cases were accessed by the CAH Team. Certified copies of the documents submitted by the police to the court which form a part of the case file, were taken from the court and analysed. The following legal documents were looked at for each case for the purpose of this analysis - FIR³⁹⁵, Post Mortem Report³⁹⁶, General Case Diary³⁹⁷, Chargesheet³⁹⁸, Court Orders, depositions of witnesses before the Court and representations sent by the family to various authorities.

395 First Information Report (FIR) means an information recorded by a police officer given either by the aggrieved person or any other person to the commission of an alleged offence. On the basis of first information report, the police commences its investigation.

396 Post Mortem (PM) report is an examination and dissection of a dead body to determine cause of death

397 Record kept by Police Station of all events

398 A chargesheet is filed after the FIR. It is a formal police record showing names of each person brought into custody, the nature of the accusations, and the identity of the accusers.

Tehseen Poonawala Writ Petition (CIVIL) No. 754 OF 2016

Supreme Court order dated 17th July 2018

A. Preventive Measures:

1. Appoint a senior police officer as Nodal Officer to prevent incidents of mob violence and lynching and for intelligence about the people who are likely to commit such crime.
2. Identify Districts, sub divisions and villages with high incidence of lynching / vigilantism
3. Nodal officer to hold regular meetings to identify the mob violence or lynching or cow vigilantism and take steps to prevent them.
4. Government of India to take initiative to identify the measures to prevent mob lynching and violence.
5. The police to register FIR u/s 153 A of IPC against persons disseminating irresponsible messages or videos.

B. Remedial Measures:

1. Police to file FIR without any undue delay under the relevant provisions of IPC.
2. Investigation to be personally monitored by Nodal Officer. Charge sheet to be filed within the statutory period.
3. State government to form a victim compensation scheme u/s 357 CrPC.
4. Cases of lynching and mob violence to be tried by designated court/ Fast track courts in each district. Such courts shall hold trial on the daily basis and be concluded within 6 months.
5. To set a stern example in the cases of mob violence and lynching, upon conviction of the accused person, the trial court must ordinarily award maximum sentence as provided for various offenses under the provision of IPC
6. The courts trying the cases of mob violence and lynching shall take steps for the protection of victims.
7. Victims to be given notice of any proceedings and he/ she to be heard at the trial – all stages. Have the right to file written submissions on conviction and acquittal or sentencing.

8. The victims or the kin of deceased shall receive legal aid and shall have the right to choose her/ him own advocate form the legal service authorities act 1987.

C. Punitive Measures:

1. Any act of police and other officers coming in the way of effective implementation of these orders, shall be considered as an act of deliberate negligence. Appropriate departmental proceedings within 6 months.
2. State government must take disciplinary action against the concerned officials if officials found not preventing incidence, or apprehending and taking punitive action against culprits.

3. Trends in the investigation and prosecution of hate crimes

3.1 Registration of FIRs and 'cross-cases' against victims:

An analysis of the cases shows that the police is reluctant to register FIRs for murder of victims based on the family's version. Attempts by victim families to get FIRs registered has not always been successful. In the case of Farid, Sher Singh and Toufiq, inspite of multiple letters sent to higher authorities for registration of FIR against the culprits responsible for the murders, an FIR to that effect was never registered. Where families have been successful in getting FIRs registered, the same has been done only after sufficient public outrage and after a long delay which is left unexplained in the FIR. This is taken advantage of by the lawyers of the accused during prosecution. In the case of triple murder of Anas Qureshi, Arif Qureshi and Nazim (Gautam Budhnagar), the family's version was recorded in an FIR by the police after a delay of 6 days. In the case of Mustain Abbas (Kurukshetra, an FIR u/s 302 IPC was registered only after the intervention of the High Court of Punjab & Haryana. In Shahrukh's case (Bareilly), an FIR was registered u/s 302 IPC against his friends who were accompanying Shahrukh at the time of the incident.

Other than delay, there are other discrepancies noticed in the FIRs which are registered based on the statement of family members such as not invoking

appropriate sections of the Indian Penal Code against the accused for conspiracy (S. 120-B IPC); attempt to murder (S. 307 IPC); destruction of evidence (S. 201 IPC); voluntarily causing grievous hurt by dangerous weapons or means (S. 326 IPC); and dacoity (S. 391 IPC). It has also been noticed that the police routinely invoke charges for lesser crimes in the FIRs, such as wrongful restraint (S. 341 IPC) and causing simple hurt (S 323 IPC), which entail smaller punishments.

In its place, police has been quick to register FIRs against victims and eyewitness – a phenomenon called 'cross cases'. Of the 9 cases analysed, in 8 cases, the police immediately registered an FIR against the victims and witnesses present with the victim, under the provisions of state prevention of cow slaughter legislations. Typically, Police use sections penalising the slaughter of bovine animals, causing injury and hurt to bovine animals and export of bovine animals outside the State for the purpose of slaughter in these FIRs. As explained later in this report, cross cases filed against eye-witnesses of mob violence under the provisions of cow slaughter prevention legislations are used as an tactic to intimidate these witnesses of murder and to ensure that they do not depose before the Court. The only case where an FIR has not been registered against the victim is in the case of Ghulam Mohammad where the case did not pertain to smuggling or slaughter of cows. This trend also speaks to another key element in all these cases that as long as prevention of cow slaughter legislations are present, police will continue to be pulled in two directions - concern for cow protection vs vigilantism by private parties, while some of these cases end up in deaths.

3.2 Shoddy investigation by police

An analysis of the cases show that the police have deliberately conducted botched up and shoddy investigations in these cases without adherence to the process of law. For instance in the case of Pehlu Khan and Ghulam Mohammad, police exonerated all the named-accused, based on dubious testimonies. In all cases, police failed to arrest any attackers from the crime scene. In Akbar's case no charges were filed against Naval Kishore, one of the main conspirators of the crime and a local politician, Gyan Dev Ahuja, who had openly stated on television that he knew how the Hindu Vahini group had attacked the victim and that they would continue to do the same unless cow slaughter does not stop. Both belong to the ruling Bharatiya Janata Party (BJP), that was also the ruling party in the state of Rajasthan, at the time of the incident. In Akbar's case, there was also a delay in providing medical aid to Akbar who was grievously

injured. Akbar, on being attacked, was first taken to the police station and was only taken to hospital when his condition became very critical. He was declared dead by the time he reached the hospital. In Shahrukh's case, police had initially refused to include the family in the investigation and take their statements. It was only after local pressure was mounted that police took the family's statements. In all the cases analysed, the police failed to contest bail applications by the perpetrators, leading to the accused getting bail. In none of the cases that was analysed, victim's lawyer moved any application for cancellation of bail of the accused. This is partly because the victim's family are mostly uneducated and hence not aware about the legal proceedings and mostly, because the lawyers representing them do not inform them about such legal provisions. This trend also highlights the failures of the District Legal Services Authorities entrusted to provide free and effective representation to people.

Pehlu Khan's is the only case that has been ruled so far. An acquittal has been obtained. The judgement of the session court, provided a damning account of the botched up and weak investigation conducted by the Police, and which led to its ruling acquittal. The acquittal was a direct result of deliberate and prejudiced investigation by the police, and wilfull neglect of rule of law. The Court in its judgment had pointed out the following instances where the police failed to investigate the case leading to acquittals:

- The Dying declaration of Pehlu Khan was not attested by the doctor approving the patient to be fit for statements. No affidavit was also given by the then posted doctor for the same. (It was the duty of the investigating officer and the nodal officer to ensure that all aspects of investigation and collection of evidence were done as per requirement of law)
- There was delay of 16 hours in submission of the statement of Pehlu Khan by the Investigating Officer (IO) to the police station. The statement was recorded on 1.04.2017 at 11:50 am but submitted on 02.04.2017 at 03:54 pm.
- The arrest of the accused(s) were made on the basis of the video given by the informant which was converted to Compact Disk (CD). It did not indicate any date and timing of the recording. It also did not disclose the medium of transfer of video to the IO. Even the phone from which the video was made not seized. These are all aspects that show that State Officials, Nodal Officer and Investigating Officer did not take due steps to ensure proper investigation.
- The device from which the informant shot the second video was never produced before the court. The same was not seized by the police officer.

- The IO never produced certificate under Section 65-B of the Evidence Act, 1872 for supporting electronic records including photos and videos that were collected while the accused were lynching the deceased.
- The electronic evidence was neither sealed, stamped nor were sent to the FSL which weakens the most relevant evidence against the accused by questionable credibility of such evidence.
- No statement was recorded with respect to the electronic record. It is a settled principle of law that such electronic evidence shall be accepted only if the witness gives a specific verbal declaration of the same.

The Supreme Court had held in *Tehseen Poonawala vs Union of India* that the investigation lynching/vigilante violence offences shall be personally monitored by the Nodal Officer who shall be duty-bound to ensure that the investigation is carried out effectively and the charge-sheet in such cases is filed within the statutory period from the date of registration of the FIR or arrest of the accused, as the case may be³⁹⁹. However, there is little to show that adequate efforts have been made by the police to conduct diligent and speedy investigation in such cases.

3.3 Half-hearted prosecution of cases

Criminal trial begins with the filing of 'chargesheet; before a Magistrate by the police officer investigating the case. The Chargesheet contains the details of the investigation conducted by the police, the evidences that have been collected and based on the investigation, the charges that have been made out against the accused persons. As highlighted above, deliberate registration of FIRs against the accused under offences with lesser punishments, failure to collect relevant evidence and deliberate shoddy investigation invariably leads to filing of weak chargesheets and acquittals by the court.

Out of the 9 cases, chargesheets have been filed only in six cases, despite the passage of at least a year and half from the last incident (*Shahrukh, Bareilly*). In none of these cases, charges for heinous crimes that occurred during the lynching, such as conspiracy (S. 120-B IPC), grievous hurt by dangerous weapons (S. 326 IPC), dacoity (S. 391 IPC), Criminal intimidation (S. 506 IPC), have been brought against any of the accused persons. In the case of triple murder of *Anas Qureshi, Arif Qureshi and Nazim*, after investigating the FIR filed by the victim families, the police instead of a chargesheet, filed a Final Report for closing the

³⁹⁹ Supreme Court WP 754 of 2016, order dated 17th July 2018, Para 40, Remedial Measure. Sub (iii).

case before the Magistrate. It is pertinent to note that the FIR was not filed for murder (S. 302 IPC) but for a lesser offence of culpable homicide not amounting to murder (S. 304 IPC). The police have stated in the Final Report (FR) submitted before the Magistrate that during the investigation 73 people from the village had filed affidavits stating that the villagers had caught cow smugglers (the deceased victims) who were attacked by the villagers in self-defence, and were later handed over to the police on the basis of which an FIR was registered against the deceased victims. The affidavit also states that similar incidences of cow smuggling have taken place in the area which were reported to the police. Interestingly, the Magistrate accepted the FR filed by the police on these grounds and closed the case. The case of Mustain Abbas also stands out as the investigation of the case was transferred to the Central Bureau of Investigation (CBI) by the High Court of Punjab & Haryana on 9th May 2016, the CBI registered fresh FIRs in the case on 23rd May 2016, however till date the investigation is ongoing and the Chargesheet has not been submitted by the CBI to the court.

Once the Chargesheet is filed and the case committed to the sessions court, charges are framed against the accused by the court and arguments are heard from both sides. It is interesting to note that in none of these cases, the Public Prosecutor (PP) has argued for the accused to be tried under graver offences, a glaring lapse on the part of the prosecution agency. Further such as in the case of Akbar Khan (Alwar), the main conspirators of the crime, Naval Kishore and Gyan Dev Ahuja were not arraigned as accused and no charges were brought against them, in spite of eye-witnesses naming Naval Kishore as one of the main conspirators and new evidence coming to the fore of the involvement of Gyan Dev. Interestingly the police had made Naval Kishore a witness in the chargesheet. Later applications were filed by the victim's lawyer in the court to further investigate the role of the two accused u/s 173(8) CrPC which has not seen any further developments. The case is currently pending in the Sessions Court in Alwar.

3.4 Witnesses turning hostile: Role of 'cross cases'

As mentioned, a pattern noticed in these cases is the presence of an FIR filed against the eye witnesses of the crime of murder. These FIRs, also known as 'cross cases' serve the purpose of intimidating the eye witnesses so that they do not give their testimony or identify the accused in the murder trial. A pattern of eye witnesses turning hostile in court has been observed in the cases of Tehsin (Yamunanagar); Farid, Sher Singh and Toufiq (Faridabad); Pehlu Khan (Alwar) and

Shahrukh (Bareilly). In Tehsin's case, his co-travelers who were eye witnesses and were present at the scene of crime refused to identify the accused persons and stated that they had no information about the said crime. An FIR for illegal transportation of ox had been filed against them. In the case of Farid, Sher Singh and Toufiq, while Farid and Sher Singh were killed, Toufiq escaped but sustained major injuries and his leg had to be amputated. An FIR was filed against the victims for smuggling cows and Toufiq was arrested, released on bail and has now been declared to be a Proclaimed Offender in the case. Being named in the FIR, he is not ready to support the case of Farid and Sher Singh, and efforts by the two families to have him support application of registration of an FIR against murder culprits and the police. In the case of Shahrukh, victim's friends who were present at time of his murder, have been made the main accused in the murder trial whereas in the case of Pehlu Khan, key witnesses who gave videos and developed photos of the crime scene and were also witnesses to the recovery of weapons from the accused, turned hostile leading to the acquittal of the accused.

3.5 No protection provided to victim's family and witnesses

Several survivor families and witnesses have been threatened by the accused in the course of the trial. In none of the cases, inspite of courts being made aware of threats, no orders for protection have been issued. The cases of Pehlu Khan (Alwar, Rajasthan), where the victim's son was attacked when he was on his way to the trial court for a hearing and Ghulam Mohammad (Bulandshar, UP), where the family had to relocate to another city due to fear of reprisal, bear testimony to the threats faced by victim families in their search for justice. The family and witnesses in Pehlu Khan's case were threatened while they were on their way to depose before a local court in Behror. According to the Supreme Court guidelines, it is the duty of the Station House Officer, in whose police station such FIR is registered, to intimate the Nodal Officer in the district who shall, in turn, ensure that there is no further harassment of the family members of the victim(s). Sadly, such appreciable efforts have not been made in any case to protect the family of the victims. Rather the families often have been exposed to the deadly threats by the accused to not testify in court.

3.6 Long and delayed trials

The guidelines issued by the Supreme Court in the case of Tehseen Poonawalla vs. Union of India state categorically that the cases of lynching and mob violence shall be specifically tried by designated court/Fast Track Courts, with the case

being heard on a day to day basis.⁴⁰⁰ The Court further held that the trial shall preferably be concluded within six months from the date of taking cognizance and further stated that this direction shall apply to even pending cases and that it shall be the duty of the State Governments and the Nodal Officers in particular to see that the prosecuting agency strictly carries out its role in appropriate furtherance of the trial. In none of the 9 cases analysed, the prosecution agency has moved any applications before a court for appointment of a fast track court or for hearing the case on a day to day basis. In Mustain Abbas's case, the CBI which was handed over the investigation of the case in May 2016 has not yet filed the Chargesheet after a lapse of three and a half years.

4. Conviction and acquittal in cases

4.1 Weak investigation and prosecution leading to acquittals

In criminal cases, the prosecution must prove beyond any reasonable doubt that the accused committed the crime and the court must be convinced that no other logical explanation can be derived from the facts except that the crime was committed by the accused. The Prosecution agencies have, in the cases under review, failed miserably to meet this legal standard of proof to validate a criminal conviction in these cases of religiously motivated vigilante violence. Shoddy investigation of cases, marred by deliberate omissions and commissions by the police and prosecution have led to the courts acquitting the accused or convicting them under lesser offences with a few years of imprisonment. Out of the 9 cases analysed, only in two cases have final judgements been passed by the Sessions Courts – Tahsin (Yamunagar) and Pehlu Khan (Alwar).

In Tahsin's case, the Sessions Court of Yamuna Nagar District, Haryana convicted Subhash Chand for culpable homicide not amounting to murder (S. 304 Part II IPC) and acquitted 3 other accused due to lack of evidence. Subhash Chand was sentenced to undergo rigorous imprisonment of 5 years and fine of Rs. 10,000/- u/s 304 Part II IPC and rigorous imprisonment of 3 years and fine of Rs. 5000/- u/s 201 IPC, the punishments running concurrently. At the end of the trial which was concluded within 10 months of the incident, the Court held that even though the prosecution has been able to prove the presence of accused Subhash Chand at the scene of occurrence and the complete chain of circumstances with the opinion of the doctors, it cannot be ruled out that the injury on Tahsin's

400 Supreme Court WP 754 of 2016, order dated 17th July 2018, Para 40, Remedial Measure sub (v).

head was inflicted by the danda (rod) recovered from the accused. The Court therefore held that the prosecution was not able to prove that the accused had an intention or motive to commit Tahsin's murder, and only wanted to apprehend him to prevent slaughtering of cows and that he had inflicted an injury on Tahsin to teach him a lesson. On these grounds, conviction was ordered for the offence of culpable homicide not amounting to murder (S. 304) instead of the stringent offence of murder (S. 302). In the case of Pehlu Khan, the court acquitted all the six accused. After going through the evidence presented by the prosecution, the court held that due to shoddy investigation and casual approach of the police, serious deficiencies have been left in the case, due to which the alleged offences against the accused persons cannot be considered proven beyond any reasonable doubt.

4.2 Appealing against trial court judgments

In Tehsin's case, the State of Haryana did not prefer any appeal to the High Court against the acquittal of the three accused persons and for the enhancement of sentence of the convicted accused. This shows the attitude and seriousness of the State Government in prosecuting heinous crimes of religiously-motivated mob violence. The victim's family had to hire a personal lawyer and file an appeal against the judgement in the High Court of Punjab & Haryana u/s 372 read with S 378 CrPC. The appeal is currently pending in the High Court. In Pehlu's case, after much public outrage the State Government filed appeal against the acquittal and another appeal has been filed by the victim's family which are both currently pending before the Rajasthan High Court.

4.3 Compensation for victim families

Except for the case of Akbar, in none of the cases under review has any compensation been given to victim families by Governments. Akbar, being a resident of Haryana, the Haryana Government has paid a compensation of Rs. 3 Lakhs to Akbar's family, however no compensation has been offered by the State of Rajasthan where the incident leading to Akbar's murder took place. Supreme Court had in Tehseen Poonawala Vs UoI directed State Governments to prepare a lynching/mob violence victim compensation scheme, in the light of the provisions of Section 357-A CrPC, within one month from the date of its judgment.⁴⁰¹ The Court had further stated that in the said scheme for computation

401 Supreme Court WP 754 of 2016, order dated 17th July 2018, Para 40, Remedial Measure, sub (iv).

of compensation, the State Governments should give due regard to the nature of bodily injury, psychological injury and loss of earnings including loss of opportunities of employment and education and expenses incurred on account of legal and medical expenses. It also asked for the scheme to include provisions for interim relief to be paid to the victim(s) family. Clearly, even the compensation paid to Akbar's family does not meet the progressive criteria for compensation set by the SC.

In the same orders, Supreme Court had directed for provision of legal aid to victims⁴⁰², and for families to be kept informed of the progress of prosecution.⁴⁰³ In none of the cases have authorities offered legal aid to victims, either through the State Legal Services Authority or otherwise. In most cases, the families are not aware about the provisions of legal aid and are also not informed about the same by the police or any other authorities.

5. Question of accountability

An analysis of the persistence of cow vigilante violence in the country, and the progress of criminal proceedings in the cases under review proves that the directions of the Supreme Court of India against vigilante violence, have – regrettably – not had much effect in terms of justice for victims and accountability for perpetrators. In fact, the murders of Akbar and Shahrukh took place in the months of July and August 2018, immediately after the Supreme Court judgment, however, the role played by the police and the progress of the investigation do not inspire much confidence. The Supreme court had, in the same orders, asked for designating a senior police officer as Nodal Officer in each of the affected districts; while also noting that any police officer found not complying with the guidelines to prevent, investigate and facilitate expeditious trial in mob violence / lynching cases, shall be construed to be deliberately negligent. It had directed competent authorities to take appropriate action against such errant officers, preferably within 6 months. Despite these clear directions, and evidence of botched up investigation by police officers, no punitive action has been initiated against any police officer, as well as Nodal Officers, responsible for ensuring prevention, investigation and expeditious trial in mob violence / lynching cases. Pehlu Khan's case is an apt example of how despite the SC's directions, no punitive action has been taken to establish accountability of officials.

402 Supreme Court WP 754 of 2016, order dated 17th July 2018, Para 40, Remedial Measure, sub (ix).

403 Supreme Court WP 754 of 2016, order dated 17th July 2018, Para 40, Remedial Measure, sub (viii).

An analysis of the cases highlights the prejudiced, deliberate and negligent attitude of the police, in the form of shoddy investigations, resulting in acquittal of the accused by the court. In Akbar's case there are allegations of the police assaulting Akbar while taking him to the police station and deliberately denying him immediate first aid. This delay caused his death. In Pehlu Khan's case the trial court has categorically held that the shoddy investigation conducted by the Investigating Officers led to the acquittal of the accused. The role played by the police is succinctly described by the High Court of Punjab & Haryana in the case of Mustain Abbas which observed that the members of the Gau Rakshak dal were involved in illegal activities, with the connivance of the police and local administration. The Court held as follows⁴⁰⁴:

"what meets the eye is that certainly an incident during the intervening night of 5th and 6th March, 2016 has taken place in the area/jurisdiction of Police Station Shahbad, District Kurukshetra, in which so called vigilante group so constituted with the backing of political bosses and senior functionaries governing the State including police under the name and style of Gau Raksha Dal has sought to take law in its own hands. The local administration, be it the police or otherwise, by their muteness and connivance are allowing unleashing terror upon the persons carrying on such a trade in animals. It is not out of place to remark here that it has also come to the notice of this Court on earlier occasions that such like groups are bent upon circumventing law and fleecing poor persons who are ferrying their animals, be it for any personal/domestic use or otherwise. This is not the first instance that has come to the notice of this Court in the State of Haryana which is abound by such incidents where the State, which is supposed to follow rule of law and to give good governance, is looking the other way round."

On the role played by the senior police officers and district administration, the Court had observed:

"The indolent attitude of the senior police officers on report being lodged is in itself suggestive of the role of police in this episode and apparently even the District Magistrate has failed to perform his duties. The mere assumption that the occupants of the vehicle were committing cruelty to animals by mere transporting them is wholly unjustified as Article 21 provides right to pursue and carry on a legitimate occupation. Thus, such a restraint and by

404 Punjab & Haryana High Court WP.

such a vigilant group which has no legal backing and authority, that too when a person is doing so within social order, this Court would not hesitate to hold that it is duty bound to act into the matter....

As has been conceded by the State that they have registered an FIR pertaining to this incident but nothing worth to convince this Court about fruitful results into this disappearance has come forth and rather from this stand, it elicits that there is a feigned attempt under this FIR to wash off the hands of such vigilante groups having backing of the local police and therefore, this Court has every apprehension that the local police would not only circumvent the law but would also not carry on fair and impartial investigation which this Court wants them to do.... Having regard to the fact that even representation of the petitioner to the Superintendent of Police of the District has not met with any response apparently reflects that even the senior functionaries of the police are hand-in-glove with such vigilante group, obviously to achieve the sinister design and pursuing a definite agenda and it appears that the local police may not carry on the investigations in the right earnest.."

6 . Conclusion

The analysis of cases has confirmed the past trend of consistent and systemic failure of the criminal justice system. Access to justice for families of those killed in religiously motivated vigilante attacks is an uphill task, compounded by the fact that these hate crimes are perpetrated by groups and individuals with strong networks and political support behind them. Further, the victim families are all socio-economically marginalised, and hence unable to sustain the long road to justice. Across all these cases, investigation has been deliberately slow and laboured, evidence has not been gathered systematically and scientifically, and in most cases, is influenced by political and social biases.

This is despite Supreme Court having issued specific directions for speedy investigation and prosecution of the cases, besides for compensation among others, to affected families. As with other such orders, want of monitoring of the implementation of the directions has meant that states take little interest, and there is little compliance. Since the last hearing in the said case (WP 754 of 2016) on 24th September 2018, no further hearing has taken place, hence little account of compliance by states of the directions. Civil society groups have attempted to push authorities – using the SC directions – to act, but there has been little traction. Alongside, accused in prison have been getting bails, whilst victim families suffer

in silence, knowing their fight for justice is long and without a definite end.

The conclusions of this report are the same as the last one – that unless drivers of hate crime are addressed, there is little hope for justice, both for survivors families and for justice, rule of law and inter-community relations in the country.