



Commentary

Legally Wrong! 11 Rapists and Murderers Prematurely Released in India

“Is this how justice ends?”



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On Aug 15, 2022, 11 rapists and murderers of Bilkis Bano’s family were released by the Gujarat state government under remission, although the Central Bureau of

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In March 2002, a pregnant 20-year-old woman named Bilkis Bano watched in horror as 14 members of her family, including her three year old baby, were murdered by a mob of 30 men who were armed with sickles and swords in the Chapparwad village in the state of Gujarat, India. She was then gang raped by 11 men, who took turns in raping her mother, her and three other women in her family. The other women died but Bilkis Bano survived, although they left her for dead. Bilkis Bano, the lone survivor, knew her attackers since many of them bought milk from her family for years.

Bilkis Bano's Long Road to Justice (*Timeline*)

When Bilkis Bano initially tried to file a police complaint after the incident, the state police threatened her with dire consequences. In December 2003, she approached the National Human Rights Commission, and the Supreme Court handed over her case to the CBI. When the CBI exhumed the dead bodies to identify the victims, they couldn't find the head of the corpses. In 2004, Ms. Bano received death threats, so the trial was moved from Gujarat to the neighboring state of Maharashtra. In January 2008, 13 men were convicted of conspiracy to commit rape and murder and 11 of them were sentenced to life imprisonment. In 2017, the Bombay High Court upheld the life sentence when the men appealed against the life sentence. Her road to justice has been long but she finally managed to get her rapists and murderers of her family convicted. But now they are roaming free.

Legally Wrong

The men who gang raped Bilkis Bano and killed her family members were released under remission by the Gujarat government, Remission is a pre-release before the

Since the CBI, which conducted the investigation, is a central investigative agency, the current Gujarat state government has no power to release the 11 rapist-murderers. Since the investigation was conducted by CBI, under Section 435 of the Indian Criminal Procedure Code (CrPC), the Union Government should have been consulted before granting remission. Whether this process was followed is unknown.¹ Bilkis Bano's lawyer, Ms. Shobha Gupta, agrees that this is the law, whereby the Gujarat state government has no power to release the rapist-murderers of Bilkis Bano's family of 13 unless the current Union government headed by Modi provides concurrence.

As per Section 432(2) CrPC, the opinion of the presiding judge of the court that passed the order of conviction should be taken before granting remission. It appears that the opinion of the judge of the respective CBI court was not taken.²

In response to this, Ms. Shobha Gupta says, "Since none of us have the remission order, we do not know whether it was sent to the presiding judge of the court of conviction. We have applied for the copy but it has not yet been provided"

Mr. Malhotra, the lawyer for the 11 rapists/murderers said, in an interview given on social media, that he agreed that he had no copy of the remission order but he assumes the central government under Modi must have given concurrence.

Through this date, neither the advocate for the rapists/murderers nor the advocate for Bilkis Bano was given a copy of the remission order.

Effect of Release

While the advocates wait for the remission order, the release has scared many

who instituted the appeal (Ms. Subashini Ali, a parliamentarian; Ms. Revati Raut, a journalist; and Ms. Roop Rekha Verma, a professor).³ which challenges the order by the Gujarat Government, allowing the premature release of 11 convicts sentenced to life in the Bilkis Bano case for gang rape and murder.

The second appeal was filed on September 9th by Supreme Court lawyer Mr. Shadan Farasat, representing Ms. Mahua Moitra, another parliamentarian.⁴ The appeal takes into account both the violation of sections of the criminal procedure code and the legitimate apprehension of Bilkis Bano, which includes her personal safety and that of her family. On both appeals, the Supreme Court has sent notice to the state Government of Gujarat, asking them to reply to queries raised in both cases.

Ms. Bano, however, has not filed an appeal thus far, according to Ms. Gupta, since she has left her home state of Gujarat out of fear, and now lives in another state in India. Upon learning of the release of the convicts, Bilkis Bano asked, “Is this how justice ends?”

References :

1. Section 435 – <https://indiankanoon.org/doc/323239/>
2. Section 432 (2) – <https://indiankanoon.org/doc/445276/>
3. <https://www.livelaw.in/top-stories/remission-granted-in-bilkis-bano-case-challenged-before-supreme-court-207223>
4. <https://www.livelaw.in/top-stories/bilkis-bano-case-supreme-court-issues-notice-on-tmc-mp-mahua-mostras-plea-challenging-gujarat-govts-order->