



HOUSE OF HORROR: THE NITHARI KILLINGS

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ABSTRACT

The Nithari Case also known as the “2006 Noida serial Murders” is a notorious case of murder, rape, cannibalism, and necrophilia. The accused persons Surendra Koli and Moninder Singh Pander (Residents of Nithari) have shown no mercy to the people of Nithari in their killing spree from the year 2004 to 2006. This case has been a media sensation amongst the public since then. With a suitcase full of confessions, the discovery of human decomposed bodies, and the pain of the Nithari victims, this case has given many sleepless nights to many. Therefore, In March of 2005, when a group of boys discovered a human hand wrapped in a yellow plastic bag behind a house in sector 36 of Nithari, they had no idea that unfortunately they were now a part of the chronology of one of the most ruthless and chilling cases of India, The Nithari Serial Murder Case. In this article, we are going to dive deep into a small village called Nithari and possibly understand a case that is more complicated and peculiar than it appears.

Keywords: Nithari, Murder, Confessions, Children, Women.

INTRODUCTION

In 2004 – 05, Nithari, a small village in Noida saw an increasing number of missing complaints of children and women. The missing children and women all belonged to poor and backward caste families, which can be a reason why there was no immediate police intervention. The police ruled out the complaints by claiming that the missing victims were not minors but adults who willingly ran away from their homes. One such missing person and later victim of the 2006 Noida Serial Murder case¹ was Pinky Sarkar. When Pinky Sarkar initially went missing,

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¹ Legal Service India, <https://www.legalserviceindia.com/legal/article-11680-a-study-on-2006-noida-serial-murder-nithari-hatyakand-with-special-reference-to-the-psychology-of-the-accused.html> (Last visited on 25th February, 2024)

her parents Vandana Sarkar and Jatin Sarkar approached the police to file a missing person complaint but were denied their right by stating, your daughter is beautiful, she might have run away with somebody to get married. As time went on, the number of missing women and children continued to rise, and the police continued to ignore the issue until they were unable to do so any longer. That marked the beginning of a new tragedy.

2006 – DISCOVERY OF THE CRIME

On the morning of 7th May 2006, Payal, a resident of Nithari, informed her father Nand Lal that she was heading to the residence of Moninder Singh Pander in Sector 36 for work. As Payal did not return to her house in the evening, Nand Lal went to the house himself to check up on his daughter. The servant (Surendra Koli) of the house owner (Moninder Singh Pander) informed Nand Lal that he didn't know any woman named Payal, and neither did she come in for work today. Nand Lal Growing suspicious of the situation, approached the police for help. To his surprise, the Police did not lodge a missing complaint or an FIR against the residents of a wealthy house in sector 36. Tired of waiting for the police to take action, Nand Lal approached Noida SSP for help. However, upon not receiving any updates on the case, Nand Lal approached the court to take action. The Chief Judicial Magistrate ordered the police to lodge the First Information Report against Surendra Koli (herein referred to as S.K) and Moninder Singh Pandher (herein referred to as Pandher) u/s 363 (Kidnapping)² and 366 (Kidnapping or abducting to compel her to marriage).

Upon Investigation, the police found out that along with Payal all the children and women of Nithari who had gone missing were last seen within a radius of 100m to 500m area around the residence of the accused persons S.K. and Pandher. The Police named this radius 'the black hole'. However, it was determined that the investigation was not satisfactory and precise, therefore, a special team unit was created for investigation by the Superintended of the Police, which was led by IO Dinesh Yadav.³ On 29th December 2006, Surendra Koli and Moninder Singh Pandher were arrested. After the arrest, S.K. confessed to sexually assaulting and killing 'Payal' and chopping her body as well as dumping it in the enclosed gallery behind block D-5 (residence of the accused persons), D-6, and in between the Jal Board. He also dumped her accessories, clothes, and other body parts into the flowing drainage in front of his residence. The accused S.K. at the same time confessed that he had killed 14 more people in Nithari. Upon

² The Indian Penal Code, 1860 (Chapter XVI)

³ Indian Kanoon, <https://indiankanoon.org/doc/101738211/>, (Last modified on 16th October, 2023)

his confession, on 29/12/06 the police conducted an extraction in the area behind D-5 and D-6 to recover whatever was remaining of the bodies. The police recovered a total of 15 Skulls from the enclosed gallery. The police also found bones, clothes, slippers, locks of hair, a polythene pouch containing tissues and bones, plastic rope, and pieces of bangles.

2007: CBI INVESTIGATION

Upon such discovery, this case was proving to be very daunting and dark. Therefore, Due to excessive demands of the public and the Government of India, the Uttar Pradesh government transferred the case to the Central Bureau of Investigation on 9th January 2007. The CBI took over on 11th January 2007. After being produced in front of the Additional Chief Metropolitan Magistrate, Patiala House Courts of New Delhi, the accused S.K. confessed to Rape, murder, and disposal of the Victim's bodies. As per the prosecution, "Pandher would often call sex workers and cavort with them. This encouraged or triggered S.K. into enticing victims on one or another pretext inside his residence i.e. D-5, immobilizing them, attempting or rape the victims, and then killing them by strangulation. He would then take the dead bodies to the servant bathroom on the upper floor of the house in sector 36, cut the body parts of the victims to cook and consume them. Sometimes, he would consume a part of their hand, their breast, or their liver. Only when the accused had consumed the food and cleaned the kitchen, he would sever the head and dismember the body. He would then throw the skull behind the house, in an enclosed gallery, and rest in the drain flowing in front of the house."⁴

On 27th February 2007, CBI alerted the magistrate that the accused S.K. was ready to give a video-graphed confession to the magistrate. In his confession given on 1st March 2007, the accused S.K. confessed to the killing of the missing children and women in Nithari. He accepted that he raped, killed, and ate the victims of his heinous crimes. His confession to the magistrate was a clear indication of Cannibalism and Necrophilia. The accused in his confession said, "Whenever I used to look at the women Pandher would bring at his house, he used to feel the need to 'Maroo, Katoo, aur kahoo' (kill, cut, and eat)."⁵ He also expressed the pressure he experienced to have sex after seeing Pandher enjoy himself with several women.

⁴ Pune News Nation, <https://pune.news/nation/dark-confessions-nithari-serial-killers-chilling-revelations-unveiled-69433/> (Last modified on 16th October 2023)

⁵ Febrina Damayanti, 'Psychology Criminology: Nithari Case (House of Horror in India)', Academia.edu.

ARUGEMENTS AND DISCUSSIONS

The Allahabad High Court in the judgement dated 16th October 2023⁶, stated that this whole case is mainly built on circumstantial evidence. There is no proper evidence against the accused apart from the several confessions he made to the police which according to section 25 of the Indian Evidence Act are not admissible. The one confession made in front of the magistrate on 1st March 2007 was considered very repetitive and byhearted in nature.

The facts of the case show that there is no evidence of victims last seen with the accused, and the motive of the accused has not been established yet. The accused has no criminal history and has been working as a domestic help in Noida for nearly six years without any complaint. The two main circumstances relied on against him, confession and disclosure leading to the recovery of biological material, including the victim's body parts, are not proven. The possibility of organ trade is the cause of killings in Nithari, especially since the resident of the adjoining house, House No. D-6, Sector-36, Noida, was arrested earlier in a case of kidney scam, has not been thoroughly investigated/inquired.

The plausibility of accused SK's innocence is thus not eliminated, and it cannot be said with certainty that the crimes of rape, cannibalism, murder, and concealment of evidence against accused SK are established beyond a reasonable doubt based on the five principles laid down in the case of Sharad Birdichand Sharda (supra)⁷. On 29th December 2006, When the accused S.K. had allegedly confessed to the police and was taken to house no. D-5 to guide the police to extract the remains of the victims buried in the enclosed gallery, the extraction had already begun and a huge crowd of the victim's families, locals, and residents of Nithari had gathered in front of the house. Nand Lal (father of one of the victims) had confirmed that by the time the accused S.K. got there, extraction had already begun with discoveries of skulls and bones. This indicates that police already knew about the location of the skulls prior with some intimate information.

A total of 15 skulls were found after digging up the enclosed gallery behind D-5, a total of 4 skulls were a match for the photographs of the Nithari Victims. According to the CFSL, Chandigarh report⁸, The Skulls of set no. 7,10 and 13 do not match any victims of Nithari.

⁶ Surendra Koli Vs. State Thru CBI, <https://indiankanoon.org/doc/101738211/>, (Last modified on 16th October 2023)

⁷ 1984 AIR 1622, 1985 SCR (1) 88.

⁸ Central Forensic Science Laboratory, Chandigarh

However, the photographs of the Missing person report from Sector 24, Noida Police Station were also sent for skull superimposition. Skull set no. 7 and 13 matched with the photographs of two of these persons (Asha and Basanti). The timeline of these two people going missing is a little blur. That means the fact that whether they had gone missing before or after the employment of the accused S.K. at house D-5 is not clear. This discovery indicates the possibility of someone else being involved in the murder and disposal of bodies in the enclosed gallery behind D-5.

It is very necessary to note that the accused was kept in custody for 60 days. All the confessions and disclosures made by him are not recorded properly in police custody. Those that have been recorded are framed in proper legal language which is surprising as the accused is a 7th failed man. Even after the accused was in custody for 60 days, no medical examination was conducted to check whether physical torture had been carried out. The only medical certificate on record is of 1st March 2007 (The day of S. K's confession in front of the magistrate) which states that there are no fresh marks. The doctor who carried out this examination was not produced before the court.

The Accused S.K. on multiple occasions has written letters to the trial court on how all his confessions and disclosure are coerced out of him. He mentioned that the police and later CBI threatened that his family was in their custody and if he did not confess and admit his guilt, they would throw his family to the angry mob of people outside. The accused in his letters said that he was badly beaten by the authorities, physically tortured by burning his genitals and even pouring petrol in his anus.

No legal aid was provided to the accused. Not even during the video-graphed confession in front of the magistrate. He was given 5 minutes of legal aid session to show on records but nothing more than that. On further forensic investigation, the clothes, skirts, salwar, and other clothing material found in the drain which was situated in front of the house had semen stains on them. However, those semen stains do not match with the semen stains found on the accused S. K's mattress or with him.

CONVICTIONS AND ACQUITTAL

Surendra Koli was awarded the Death penalty several times by a special CBI Court in Ghaziabad from the year 2009 to 2022. As per Section 366 of the CrPC⁹, The Allahabad High

⁹ The Code of Criminal Procedure, 1973 (Chapter XXVIII)

Court had upheld the capital punishment. Even if the CBI in its chargesheet had given a clean chit to Pandher, Pandher was convicted in 2 cases out of 12 u/s 3 (Punishment for keeping a brothel or allowing premises to be used as a brothel) and 5 (Procuring, inducing, or taking woman or girl for the sake of prostitution) of the Immoral Traffic (Prevention) Act.

Surendra Koli was convicted u/s 302 (Punishment for murder), 364 (Kidnapping or abducting to murder), 376 (Punishment for Rape) r/w 511 (Punishment for attempting to commit offenses punishable with life imprisonment), and 201 (causing disappearance of evidence or giving false information) of the IPC. Pandher was convicted u/s 302 r/w 120B (Conspiracy), 376, 511 r/w 120B, and 201 r/w 120 B of the IPC by the sessions judge.

From 2009 to 2022, the accused S.K.'s sentence was commuted and again promoted to capital punishment. Various mercy plea petitions were rejected by the Supreme Court as well as by the President. However, On 16th October 2023, the Allahabad High Court Acquitted both the accused (Surendra Koli and Moninder Singh Pandher) on the basis that the investigation had been 'botched up' and 'the basic principles of collecting evidence' had been 'violated'¹⁰.

PANDHER'S ACQUITTAL

The Prosecution, in the beginning, focused on Pandher being the co-accused of S.K. in his crimes. However, Pandher had a strong alibi against the date and time of the events. Pandher being the co-accused in this case is solemnly based upon the confessions made by the accused S.K. The confession is that Pandher is the owner of house no. D-5 (which is an undisputed fact) and S.K. is a live-in servant in the block D-5 (which is also an undisputed fact). He also confessed that Pandher used to call sex workers along with his friends and allegedly rape them or attempt to rape them and ask S.K. to dispose of the bodies however he wants. However, now that the confessions made by the accused S.K. are declared to be non-voluntary and untrue, Pandher being an accused in this case does not hold any reasonable logic.

In another case originating from the Nithari deaths, the accused Pandher was convicted of offenses under Sections 3 and 5 of the Immoral Trafficking (Prevention) Act, 1956, against which no appeal has been sought or filed. Accused Pandher has been in jail since July 24, 2017, and has been incarcerated for more than six years, which is more than the punishment prescribed for violations under the Immoral Trafficking (Prevention) Act of 1956. In such

¹⁰ SCC Online, <https://www.sconline.com/blog/post/2023/10/16/nithari-killings-allahabad-high-court-acquits-surendra-koli-moninder-pander-set-aside-death-sentence/>, (Last Modified on 16th October 2023)

circumstances, continuing imprisonment of the accused Pandher is not justified considering the findings concluded by us in the current appeal.

MINISTRY OF WOMEN AND CHILD DEVELOPMENT

Back in 2007, An expert committee was set up by the Ministry of Women and Child Development to investigate the case. Dr. Vinod Kumar (Medical expert on the team) revealed in the report that the surgical precision with which the body was cut indicates suspicions of Organ trade. It is important to mention the formation of the committee in the later stage of the case analysis because the findings and observations of the committees will be more understandable now that the accused has been acquitted.

Following are the observations of the committees:

- 1) The victims of the Nithari Killing did not have any similar type or pattern which does not indicate a hallmark of a serial killer.
- 2) As mentioned in the confessions of the accused S.K., He used to dispose of the victim's partly chopped bodies in the drains situated in front of house no. D-5. However, the drain is not that deep for the body parts to settle at the bottom nor are they flowing for the human debris to move forward.
- 3) Decomposing the smell of a human body or the smell of a dead human is too much to go unnoticed. How come there was not one suspicious smell complaint? Or any residents or locals acknowledging the smell?
- 4) Normally, A human body decomposes in around 3 years. The accused S.K. started his employment in 2004, and the skulls and bones were dug up in the year 2006. With the accusation of S.K. committing these crimes actively in 2004 as well as 2005, how come only skulls, bones, and skeletons were discovered and no decomposing bodies?
- 5) The accused S.K. in his confessions confessed that he committed all the murders in broad daylight between the time from 9 am to 4 pm. How is it that no suspicious activities or noises were reported by the residents and locals nearby?

RESULT/ FINDINGS

It is disappointing, to say the least, to see the way the investigation has been carried out. The investigation is botched up and the basic principles of collection of evidence have simply been

violated. Even after the observations of the committee set up by the Ministry of Women and Child Development, the expert opinions were ignored and brushed off.

It's a shame that the organ trade angle was not explored and investigated in this matter enough, even when the resident of house D-6 (neighbours of the accused S.K and Pandher) who is a doctor and was involved in an organ trade (kidney) scandal in his hospital in 1998. The heinous manner in which the woman and children of Nithari have been killed deserves justice, to say the least. However, in this case, the court would like to reverse the conviction of the accused Surendra Koli and Moninder Singh Pandher. They have been acquitted till the court does not book them for other charges or cases.

CONCLUSION

The horrors the victims of this case have faced in that small house in Nithari are unimaginable. The Nithari case victims deserve justice and it's so disappointing that executive authorities have failed them yet again. The aggrieved families of the victims have lost all their hope for justice after the new development in the case. Was the judgment to acquit Surendra Koli and Moninder Singh Pandher fair to the victims? No, but the answer lies in the lack of evidence and skeptical gaps in the chronology of the case. For the public and the families of the victims, justice did not prevail but for Surendra Koli and Moninder Singh Pandher, it changed their life forever.