

Delivery of Justice

(The 'Atithi' Bar Case)

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Editor: When I took over investigation of this case from Venkat I had been mesmerised by the quality of the investigation done by him in a type of case which normally gets short shrift by us. However this story is more about the effort he put in the prosecution when the accused had all but managed to scuttle the trial. We normally wash our hands off the case once it is PT. This is the story how the investigator took it to the logical conclusion- as it should be done.

It was a languid post Christmas morning. December 1993. I was Additional SP (Operations) in Karimnagar district.

I was still recovering from the accident I suffered a month before. I limped out of bed into the drawing room holding a stick, looking forward to a fresh cup of tea and news of the (previous) day. I saw this Express FIR on top of the newspapers. Tore it open to find a reported case of fire accident. Wondered why it was Express. Glanced through the corner of my eye that the property lost was 25 lakhs. So what? How do such silly cases invite the attention of an (anti-extremist) operations man??

Wondered why I got the Express FIR even as I started glancing through the newspapers. Oh yes, I was holding additional charge of Karimnagar Sub Division since the SDPO was on leave. Silly FIRs!!!

Having had a sumptuous breakfast, I started in mufti, to visit a village 'Mothey' in which the brother-in-law of a sitting MLA was killed by extremists of 'Jana Rakshana Samstha' variety two days earlier. I wanted to do a quick round and return before dusk.

I was just crossing the town when I saw a small crowd milling on the road. The policeman in me sniffed that it was the scene of fire accident – 25 lakhs. The (in charge) L&O man in me forced me to have at least a passing glance at the place since SDPOs are supposed to visit scenes of grave crimes and write a Grave Crime Report.

When I stepped into the scene, I was aghast. It took me less than 5 minutes to realize that it was a fake fire accident. They did it so shabbily!!

The fire jumped from place to place. There was no continuity. The fire would jump the staircase to partially burn a bottle cooler, then jump again to cause a black mark on the onions, then the bag of 'maida'so on and so forth.

It was a bar and restaurant. The bar was on the first floor of a road-facing building and kitchen was on the rear, on the ground, separated by a few yards. The thermocol false ceiling was burnt and melted on to the dining tables.

Surprise of surprises – some air conditioners were thrown off the first floor on to the ground below. Lo and behold – some of them were thrown inside the bar hall from the slots they perch on! And what do I find in the alleged air conditioners? Pieces of junk – just put together haphazardly and covered by a recently painted cover!! The mechanical, that too thermal engineer in me was wide-awake and I should admit – I felt sorry for the fellows who did it.

As I was wondering at my finds, I asked for the complainant. There were two of them, the owners of the place. I asked them if they are related to any politician or police officer. My belief was that a normal citizen would not dare commit fraud of such proportions – that too in such a silly way!! They denied. I thought, "Fine, all the better".

In the meantime, the local SI appeared on the scene. Word spreads really fast. I asked him what investigation was done so far. Nothing, except the FIR. I said, "Fine, I, as I/c SDPO, am taking over investigation of the case. Get me a photographer and videographer. And two 'panch' witnesses. These are all the tools I need." So it was done.

As I took the mediators around the place, explaining them what to notice, the videography followed, canning the mediators in the film so that they cannot turn hostile later. I drafted the panchanama IN MY OWN HAND and AT THE SCENE ITSELF in full glare of video camera. Seized the 5-6 liquor bottles remaining in the bar counter, a sample of burnt maida and swabs of burnt portions of bottle cooler for possible hydrocarbon remains. Thus, most of the physical evidence was in the bag.

I declared to the two owners that I just changed the section of law into 120- B, 435, 420, 182, 193 and 424 IPC and that they were under arrest for having tried to defraud the insurance company by hiking the sum insured recently and soon after, setting fire to their insured establishment in a carefully controlled manner to claim huge amount of insurance.

The surveyor appointed by the insurance company was there incidentally. He was witness to the insurance claim being torn into smithereens.

I took the arrested persons to the PS, made relevant entries and took them to my office for interrogation. By then, it was 9.00PM. No lunch or dinner. I informed the SP what happened and he recalled a similar case he handled while he was ASP.

By that time, it slowly emerged that the one of the owners was distantly related to the highest executive of the country at that time and closely related to a country cousin of the highest executive. Well, it doesn't alter the facts of the case.

I sat down for interrogation. Interviewed all the available workers of the bar one by one. Gathered during these leisurely interviews that nine new-looking air conditioners were brought into the bar hall a week ago. Three working A/Cs were taken away, they don't know where, two-three days ago. The bar was opened only nine months ago but of late, had been doing very poor business.

There was no clinching evidence to prove that the owners did it. The missing A/Cs held out a ray of hope. With the information available, it didn't take long to confront the owners and they confessed – that they only did it and that they kept the three A/Cs, which are in working condition, in the house of one of the accused.

I took them right away to the house. It was past mid night. Before entering the house, woke up two neighbours to act as mediators in the recovery. Sleepy eyed, they reluctantly agreed. I marched into the house and found the three A/Cs covered with a blanket. Seized them under a panchanama written in own hand then and there. The videographer wasn't available at that hour. The seizures having been completed, I went to sleep asking the SI to get a rough Remand Report prepared.

Next day, first thing I did was to write to the Executive Engineer, Electricity and EE R&B to visit the scene the same day and give certificate/opinion on 1. Whether an electric short circuit could have caused the fire and 2. Whether the nine A/Cs "installed" in the scene could ever be working air conditioners. I personally took them to the scene, showed them around and got their certificates. The EE Electricity opined that since the electrical cut outs were intact, it could not have been caused by electric short circuit. The EE R&B gave opinion that none of the nine A/Cs in the scene could ever have worked together and that they are just pieces of junk, thus confirming my investigation.

In this conspiracy case, next question that would be asked was, “Where the night watchman was and what did he do when the fire ‘incident’ happened?” I was told that one night watchman, a Nepali and one old man who lives on the house in the bar went missing from the evening of the day of incident. I could procure the father of the watchman and he narrated that his son disappeared and he was searching for him. The old man narrated that he was specifically asked by the accused to come to some place that evening and made to sleep there, how he was prevented from being traced by the police for the next two days. The night watchman was traced in Armour in Nizamabad district four days later. He was made to stay at the school belonging to one of the accused on the night of the incident and later, asked to leave Karimnagar for two months. No link could be left unexplained.

The empire struck back and I was promptly transferred out. No regrets, because I was replaced by a more competent officer. He tied up the loose ends and filed charge sheet in the case. When it was his turn to go out on promotion, he made three copies of the CD file with all the pages numbered and neatly bound. He sent one copy to me, one copy was given to the SHO under acknowledgement and the third copy was kept with him.

We all forgot about the case. It came up for trial some time in 1997. Evidently, none of the important witnesses was produced; they were given up by the APP. Only the Panch witnesses were produced thus far and all of them turned hostile. When it came to the stage of recording my evidence, the prosecutor informed the court that I was away in Bosnia, so I could not be secured.

The Magistrate was a conscientious man. He decided to wait for my return from Bosnia. I came back in September 1999 and informed by the Karimnagar police about my appearance. I was in Hyderabad, waiting for a posting. I took an RTC bus and went to Karimnagar. When I looked at the way the evidence was led thus far, I thought the case was irretrievable. The SI, CI, APP and the court PC – all are to blame.

I instructed the APP to file a petition to issue summons to the witnesses afresh. The court PC tried to say that they are untraceable. I told him that I would trace them.

Having got fresh summons, I requested the SP to put a special team on the task of tracing the key witnesses. SP Karimnagar is normally a busy man with his own priorities. But he put a special team in place and traced some of the witnesses. Their evidence was taken by the prosecutor in a casual manner. By then, I was posted as SP, East Godavari district. I was monitoring the trial. The prosecutor tried to confuse one of the key witnesses to get a deposition favourable to the defence. I had to get a petition filed to recall the witness.

I briefed the then DGP, faxed a note to him to request for a more honest and capable APP to be appointed for this case. The Director of Prosecutions ordered the APP, Sulthanabad to take up the case and sent a Joint Director to supervise. The message went to the prosecution and from then onwards, the case ran on rails.

This was a case of conspiracy. There were no direct eyewitnesses. The case had to be proved by circumstantial evidence only. In a conspiracy case, all the links have to be established to prove it. The two key witnesses, i.e. the night watchman and the old man Narayana were simply not traceable. The court PC said that Narayana became mad and roaming here and there and the Gurkha went back to Nepal.

I called up the special party boys who shared many a night operation with me when I was ASP Peddapalli and with the SP's permission, gave them the task of tracing the two wanderers. They worked for one month and finally traced them in Nizamabad

district. When examined, they narrated how they were prevented by the accused from ever entering Karimnagar again.

They were brought just 2-3 days before the case was to come up in the court. They were fed and given shelter by the local police because they had nowhere else to go. They were so poor that they never knew where their next meal was coming from.

They were grilled by the defence. They just stuck to the truth. They even told the magistrate that they were looked after by the police in the Police Station during the previous 2-3 days. Even though we requested them not to reveal it in the interest of the case, they refused to lie! I was amazed at the honesty of those two destitutes and my faith in humanity, especially the honesty of poor knew no bounds. In fact, this has changed me as a man and as an officer. The investigator of insurance company, Wing Commander (Retd) G.R. Krishnan was on his deathbed. He was brought in an ambulance from Hyderabad and brought into the courtroom on a wheel chair to depose.

The video taken of the scene of crime was played before the magistrate to present him the case in its perspective and also, to offset the damage done to the case by the Panch witnesses who turned hostile.

After all the witnesses were examined, my turn came as IO. I travelled from Kakinada to depose. The cross examination went on for over two hours. The defence counsel was a very competent trial lawyer and sitting MLA from Indurti, Mr. Bomma Venkateswarlu. He caught me on the wrong foot where I put wrong date on one of the key documents. I realized my mistake and informed the court that it was only a typing error. Other than this, no mistake could be pointed out in the investigation.

After all the evidence was recorded, the defence realized that the prosecution case was very strong. They applied to the higher court to transfer the case to another magistrate. Probably they thought that it was only because the magistrate waited for my evidence that the case became strong. Their request was granted and the case was transferred to JFCM, Sulthanabad. Arguments were heard. The new APP put up a good line of argument. Finally, the judgment was given. The charges were held proved. Both the accused were convicted and sentenced for one year in jail.

The accused went in appeal to the district court. After nearly one year, the District Court upheld the judgment and the accused were sent to jail.

That is the kind of pain we have to undergo to get a true case proved against the rich and powerful.

***Postscript:** One wishes that this investigator's story had this fairy tale ending. But now the reality bites! The accused spent exactly 3 days in jail! They were convicted by JFCM Sultanabad on 17th November 2000. Their appeal was rejected and the sentence confirmed by IInd ADSJ Karimnagar on 3rd April 2003 and they were sent to jail for the first time. On 7th April 2003 itself, they were released on bail by the High Court of AP. The case has not come up for final orders since then!*