

HC VERDICT ON TSUNDUR

Killing the dead all over again

The recent verdict of the Andhra High Court acquitting all the accused in the horrific killing of eight Dalits in 1991 may be based on legal technicalities, but is an instance of justice denied, argues Venugopalrao Nellutla.

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In August 1991, eight Dalits were killed in one of the worst-ever attacks against the community in Tsundur village of Andhra Pradesh. One could say that the judgment of the Andhra Pradesh High Court on 22 April 2014, which set aside the trial court's 2007 convictions and released all the accused, amounts to reviving the ghastly crime on the victims' families all these years later.

Tsundur is a small village near Tenali town in Guntur district of Andhra Pradesh, right on the Chennai-Vijayawada railway line. Being a village that is fed by the Krishna canals, it is a rich and developed village.

The upward mobility of Dalits of the village, particularly in education and politics, and their consequent lifestyle and assertion, has been an eyesore for the upper castes, particularly the Reddys of the village for a long time. As a Dalit woman told a fact-finding committee immediately after the carnage, "They wanted to teach us a lesson. That we can never live as decent people and should be servile to them forever."

The massacre took place on 6 August, 1991, but the village had been tense for at least a month prior to that. In the obtaining caste prejudices and conflicts, even small and inconsequential altercations were blown out of proportion and on 7 July, a Dalit boy's foot touching an upper caste boy sitting in the immediately front row in a local theatre turned into a big issue.

Incidentally, the Dalit boy was completing his post graduation in Nagpur at the time and his sight itself might have been anathema to the less-educated Reddy boy. Following the altercation, both the Dalit boy and his father, a teacher, were taken into the village and tortured by the Reddys. Not content with that, the Reddys formed a committee of villagers that decided to enforce a social boycott on Dalits from 9 July.

The Dalits were not allowed to work in the fields of upper castes and they were not even permitted to enter the upper caste locality. Land tenancies of Dalits were cancelled. There was rapid build-up of tensions in the village, and in addition to the imposition of Section 144, a 50-strong police picket was also set up in the village. Despite that, the Reddys attacked the Dalit locality on 12 July; the Dalits tried to counter this, and police lathi-charged and dispersed both the groups.

Threats, scuffles, complaints, arrests, cases and release on conditional bail went on in a spiral for the next three weeks. On 4 August, the Reddys attacked a Dalit boy when he was reading a newspaper in a teashop and the next day, a Dalit fair price shop dealer was called into the village and stabbed. Prohibitory orders were reimposed, and police forces sent to the village.

On the fateful day of 6 August, a group of policemen entered the Dalit locality to ask them to flee their houses, as the CRPF was reportedly coming to arrest them on a complaint by the Reddys. In hindsight, it appeared that the Dalits were deliberately sent out into the open fields so that they would be left helpless

out of their homes and in disarray. In the ensuing flight, the Dalits became two groups in different directions and walked into the death traps laid by the Reddys of not only Tsundur, but also of neighbouring villages Modukuru, Valiveru, Munnangivaripalem, Vellaturu and Manchala.

The waiting Reddy gangs attacked the Dalits with lethal weapons and hacked them to pieces, packed the dead bodies into gunny bags and threw them into canals. The police fished out the dead bodies over the next three days and at the final count, there were eight dead – all between the ages of 21 and 40, many more injured and some missing.

A committee of Parliament members visited the village immediately thereafter, and in the detailed debate in Lok Sabha on 13 August, all the members, including Ramvilas Paswan, put the death toll at around 20.

The aftermath

The Tsundur carnage created an uproar across the state and elsewhere in the country too. The Dalits wanted to bury their brethren in the village as a reminder of the inhumanity inflicted for generations to come. The state government appointed a judicial commission of enquiry under Justice A Gangadhar Rao, which submitted its report two years later. The Dalits wanted a special court set up in the village to try the crime, while the upper caste accused strongly resisted standing in the dock in their own village.

The upper castes also petitioned against the case being heard by a Dalit judge. With all these repeated delays, the trial dragged on for about 16 years. This inordinate time led to the usual police inefficiencies and bungling: key culprits did not find mention in the charge sheet, unnecessary and likely-to-be-acquitted persons were charged, witness accounts were not recorded properly, persons openly moving about in the village were shown to be absconding, and the connivance of the administrative machinery in allowing or abetting the crime was completely overlooked.

Finally when the trial court delivered its verdict on 31 July 2007, it pronounced 123 ‘not guilty’ out of the 212 accused in all. 33 among the accused had already died by then. The court convicted the remaining 56, of whom 21 were sentenced to life imprisonment while others were handed one-year imprisonment or fines. Compared to the ghastly crime, the punishments were seen as inadequate, and both victims and the government filed criminal appeals and revision petitions at the High Court.

The accused-convicted also approached the High Court for acquittal. Out of all these appeals, the High Court chose to hear theirs, and based on the arguments, delivered the recent judgment.



The High Court of Andhra Pradesh. Pic: Wikimedia

The verdict

The High Court bench has brought out a number of technical issues such as inconsistencies in the statements of witnesses for the prosecution with reference to the time they were asked to flee, the time they left, the time the Reddys attacked them, the time the deceased died, etc.

The veracity and reliability of these witnesses and the delay in filing the First Information Report were questioned, leading the Court to conclude: “The net result is that the prosecution failed to prove the exact time of the death of the deceased and place of occurrence and the identity of the persons who attacked them. The trial court itself suggested that there are serious procedural lapses in the prosecution but ignored them by mentioning certain reasons.”

Indeed, the prosecution could not drive home the point that the carnage is a blot on humanity and failed to pin the guilt. However, where such a planned crime against Dalits took place and the police machinery inefficiently and haphazardly allowed the case to flounder, it should have been the duty of the courts to take extra care to fathom the issues underlying such a horrific crime and punish the guilty to set an exemplary precedent.

One might argue, of course, that the purely technical arguments offered in delivering the judgment are simply another manifestation of the caste prejudices prevailing in society and the continuing sway of Manu’s prescriptions in terms of differential treatment in crime and punishment, despite the modern jurisprudence that preaches equality before law.

The caste prejudice that allows a villager to kill a fellow villager in such a brutal way, throwing his body into a canal only for it to be retrieved later in decomposed condition, certainly deserves a deeper look. The perpetrator may have acted merely as a tool of that abominable prejudice but any violence must be punished irrespective of a procedural fault, especially when that fault lies not with the deceased, but with the living, administrative personnel, whom the judgment can censure any day. If the failure to register an FIR in time can be made into such a big thing, should not the killing of a human being be treated as a more egregious offence?

It is also a shameful thing that in a democratic republic that respects the rule of law, it took 16 years to try the accused in such a ghastly carnage. After this inordinate delay, if a witness fails to remember what happened that long ago, the loss of memory cannot be used as an excuse to allow impunity. Dead bodies do not appear on their own, somebody must have killed them. Any number of witnesses, with their so-called reliability or unreliability cannot erase this simple fact.

The High Court judgment finally said:

“...we intend to make an appeal to the villagers of Tsundur and Modukur, particularly the elderly persons from all sections. On account of the prolonged differences between various sections, spread over decades together, the precious lives of eight innocent persons hailing from Dalit community were lost, and their families were virtually ruined. The help extended by the Government cannot remove the agony of the members of the families of the deceased.

The counter-attacks and prolonged prosecution for about 15 years, against about 200 persons from other communities, would certainly have its impact upon their families. At least now, wiser counsel must prevail, and differences, if any, must be buried. Every endeavour must be made by the elderly persons as well as the organisations, that are active in the village, to inculcate human values and mutual respect towards each other, in the villagers. Carrying the old legacy would not be in the interest of anyone.”

By invoking altruistic “human values and mutual respect” and appealing for burial of differences between perpetrators of the crime and victims, the learned judges seem to have overlooked their own obligations as the statutory authority to punish crime and deliver justice.

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