



## **Allegations of Habib being Tortured to Death by the Police at Chandgaon, Chittagong**

Fact-Finding Report

Odhikar

It was unearthed through fact-finding that Md. Habib (18) and Arif (20) were arrested by a group of Police Officers led by SI<sup>1</sup> Md. Rafique in the Chandgaon Police Station in the Chittagong municipality's Badamtol area at 3.45 am on January 28, 2009. Following the arrest, Md. Habib and Arif were taken to the Police Station. The Police stated that they carried out a raid with the objective to arrest the two men concerned because they had attained information that Habib and Arif had imported Indian Phensidyl<sup>2</sup> for the purpose of sale. According to the Police, while the arrest was being carried out, there was a scuffle which caused nominal injuries to Habib and Arif. After arrest, they were taken to the hospital twice for primary treatment, at 4.00 am and 9.30 am and on both occasions they were returned to the Police Station. They were produced before the Court on the same day. As Habib was sick, the Court ordered to bring him back after treatment from the hospital. When Habib was transferred to the hospital from the Court, he was declared dead by the Doctor on duty.

According to Arif, who was confined inside the Chittagong Central Jail, both he and Habib were tortured in Police custody for a long period. He believed that the torture could have caused Habib's death. Comments of Habib's family members could not be attained because they did not reside in Chittagong.

Odhikar engaged in a fact-finding regarding the incident. During the fact finding Odhikar spoke with:

- Eye witnesses
- Several local residents
- The doctor who had performed the Post-mortem of Habib's body and a source from the hospital
- The Magistrate who had prepared the Inquest Report
- Related law enforcement officers.

### **Arif (20), eye witness to the torture**

Odhikar spoke with Arif who was confined in the Chittagong Central Jail. It was impossible to gain a detailed account of the incident because of the congested and noisy atmosphere in jail's the visiting room. In brief, Arif told Odhikar that Habib used to work as a labourer at Hossain's construction site, located beside the Khwaja Kindergarten School in Badamtol area. Arif went on to say that he was introduced to Habib 4/5 days prior to the incident, since they both lived in the same locality. However he claimed that he did not know much about Habib.

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<sup>1</sup> SI: Assistant Sub Inspector

<sup>2</sup> An intoxicating cough syrup, which is smuggled into Bangladesh from India. Phensidyl is banned in Bangladesh.

According to Arif, towards dawn on January 28, 2009 (he was unable to provide an estimated time) the police arrested him from his house at Aminer Dokan in Badamtol and Habib from Hossain's construction site. He stated that the police had not retrieved any Phensidyl from them, and added that the police had the bottles of Phensidyl with them before arresting them. Arif and Habib were then taken to the Police Station with those bottles. While in custody at the Police Station three police officers beat them with sticks for more than two hours at a stretch and accused them of keeping Phensidyl bottles. Arif went on to say that the beatings caused serious injuries to his left hand and right leg. Arif showed his bruises of left hand and right leg to the fact finder during the interview.

Arif alleged that at one point, the three police officers trampled on Habib's chest with their boots on. He believed that the beatings could have led to Habib's death.

**Md. Rustom (26), eyewitness to the arrest, labourer at Hossain's construction site at Badamtol, Khwaja Road, Chandgaon, Chittagong**

On February 3, 2009 while talking to Odhikar, Rustom stated that he had been employed as a labourer at Hossain's construction site for the past 15/16 days. He and the other labourers would also sleep there at night. Rustom stated that Habib joined as a labourer at the site 5/6 days prior to his arrest on January 28, 2009. He had heard that Habib was from Bhola. Like other nights, on January 28, 2009, Rustom and the others were asleep on the first floor of the site while Habib was asleep on the ground floor with Absar, the guard. It was a custom that one of the labourers would sleep on the same floor as Absar every night. At around 4.00 am, Rustom said a police officer arrived and summoned him and his co-worker Md. Siddiq (35) downstairs. Upon arriving downstairs, Rustom saw two/three more police officers at the site gate along with Habib and another person, both of whom were tied up. The police then showed 10/11 bottles filled with a liquid and asked them whether they recognised the bottles. When they replied that they could not identify the bottles the police officers took their signatures on a blank sheet of paper and left the place along with Habib and the other person tied up. Later on, Rustom heard that Habib had passed away.

**Bacchu (22), owner of a tea stall opposite the Khawaja Kindergarten at Badamtol, Khwaja Road, Chittagong; Arif (25), owner of a grocery store on the Khwaja Road**

Bacchu and Arif informed Odhikar that they were not acquainted with Habib or Arif (the person who was arrested along with Habib). They did, however, hear that a person had been arrested by the police from Hossain's construction site late at night.

**Ahmed Jamil, the Magistrate who had prepared the Inquest Report of Habib's body**

While talking with Odhikar, Magistrate Ahmed Jamil recalled that there were no signs of severe wounds on Habib's body except for blood stains on his anus.

**Chittagong Medical College Hospital**

Doctor Md. Mohebullah who was one of the doctor's of the team that conducted Habib's Post Mortem, refused to make any comments regarding the Post Mortem.

However, a hospital source, on condition of anonymity, stated that Habib's body bore several signs of wounds. He/she believed that the infliction of those wounds could have led to Habib's death.

**Nure Alam Siddiqui, Officer-In-Charge (OC), Chandgaon Police Station, Chittagong**

Nure Alam Siddiqui while talking with Odhikar stated that on the basis of information gained from an undisclosed source, Sub Inspector (SI) Md. Rafique, the In-Charge of the Kalurghat Police Base led Assistant Sub Inspector (ASI) Habij Uddin and Habildar<sup>3</sup> Md. Ahad and arrested Habib and Arif, who had 10 bottles of Phensidyl in their possession. While the arrest was in motion, Habib and Arif were slightly injured due to the ensuing scuffle. They were taken to the hospital twice for primary treatment following arrest after which they were brought back to the Police Station. According to the OC, there was no proof of torture on Habib and Arif at the Police Station. Since both of the arrested men were involved in possessing banned brands of Phensidyl, a case was filed against them under Section 25B of the Special Powers Act 1974 on 28 January 2009. Later Habib and Arif were sent to the Court as a part of the case proceedings. When Habib was transferred to the hospital for treatment for the third time under the direction of the Court, the doctor on duty declared him to be dead. Following Habib's death, an unnatural death case was filed on January 28, 2009. The case was numbered 03/09.

**Prosun Kanti Das, the Investigation Officer of the case filed following Habib's death, Chandgaon Police Station, Chittagong Metropolitan Police**

Prosun Kanti Das said that he would take necessary steps after the Post Mortem report reached his hands.

**Syed Mejbah Uddin, Assistant Police Commissioner, Pachlaish Zone, Chittagong Metropolitan Police**

Assistant Police Commissioner Mejbah Uddin told Odhikar that after gaining proof regarding the beating of Habib at the time of his arrest by Sub Inspector (SI) Rafique, Assistant Sub Inspector (ASI) Md. Habij and Habildar Ahad, all three of them have been suspended. The allegation of torture on Habib under police custody was not proved by his investigation. An unnatural death case had been filed following Habib's death. When it was asked why the case had not been specifically filed against the three identified police officers, based on existing proof that they had physically assaulted Habib, the Assistant Police Commissioner replied that the investigation did not mention whether signs of serious wounds were found on Habib's body.

(The doctor who had treated Habib also told him that Habib's abrupt illness could have been associated with some sort of disease.) Mejbah Uddin went on to say that if the Post Mortem Report or the Viscera Report indicated that Habib had died due to beatings, he would initiate measures against the three named Police Officers.

**- The End -**

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<sup>3</sup> Habildar: Police constable