



L. Munuswami

# Defeating the Ends of Justice

## Supreme Court's Indictment in Chhabi Rani Rape and Murder Case

○ Anjana Mishra

**T**wenty-two years ago, the brutal rape and murder of Chhabi Rani had sent shock waves not only through Orissa but all over the country. There was a huge popular upsurge in Orissa demanding that the guilty be punished. And yet it took more than 22 years for only some of the guilty to be held accountable for their crimes.

Naba Kishore Mahapatra and Chhabi Rani first met at Puri. She was then residing with her family, while he was studying Sanskrit. Chhabi Rani's brother was in charge of the Krishna Balam Math at Puri while Naba Kishore was a tenant in their house. Cupid struck and the couple tied the knot at the Shri Jagannath temple at Puri. Chhabi Rani was Bengali, originally a resident of Mednapur.

Both Naba and Chhabi were unemployed after marriage. Therefore, the newly wed couple returned to Naba's village Dhiasahi and from there moved to Biridi village. There, he met some people who suggested that he take up a newspaper agency. The idea appealed to him and apart from selling newspapers like *Niakhunta*, *Durmukh* and *Nirbhika* through his agency, he and Chhabi Rani also made a foray into journalism. Naba became a correspondent for the newly launched paper *Pragati Badi*. Chhabi Rani became a correspondent

for *Durmukha* paper, while he wrote for *Pragatibadi*, *Niakhunta* and *Nirbhika*.

As a correspondent of *Pragatibadi*, Naba Kishore used to send all the news in a truthful manner, and in the process invited the wrath of the rich and influential of the area. The landlord of the village, Raju Rao Dora was the wealthiest businessman of Biridi area. He happened to be a moneylender too and he had in his coterie local *goondas* and a lot of local politicians. Whoever in the area needed money, borrowed from Raju Rao Dora.

Raju was essentially a black marketeer for cement, urea and pilfered rations from controlled rate shops. Naba reported that Raju used to mix ashes with cement. He also wrote about corruption at the Block office, bungling in the distribution of rice meant for relief purposes and corruption by the Block Development Officer. In the process, he invited the wrath of these people and the *goondas* they sponsored.

Biridi village was then under the thumbs of two *goondas* belonging to the Congress Party – Nanda Mohanty and Dibakar Nayak. Dibakar was the president of the Biridi Congress while Nanda Mohanty was the Working Secretary. These two were especially angry with the couple. However, the couple refused to be cowed down and kept

their honest, fearless reporting going.

### The Fateful Day

Naba Kishore began his day early in the morning by distributing daily papers in the village and wrote news reports in the afternoon. The couple was soon blessed with a son whom they named Dani. Apart from their professional work, they rarely ever socialized in the village. Thus life went on till the fateful day of 3<sup>rd</sup> October 1980, which doomed their lives to a perennial nightmare. As Naba disclosed in one of his interviews to a local magazine: "Today, standing on the dust and ashes of those memories, I do not even have the strength to look back". On that day, both of them woke up very early in the morning, earlier than usual, because they were to take the bus to Cuttack at 6.30 am. Chhabi Rani had to go to *Durmukh's* office to get her identity card. She wore a yellow and red saree. They locked the house and left for the market place, planning to have breakfast there. As they ordered breakfast, they noticed five men of the village Naukul Behera, Baga Tanti, Kelu Das, Madhab Tanti and Babaji Mania advancing towards them. Before they could figure out what was happening, one of them shouted in a threatening voice that before 7.30 a.m, they should meet Dibakar Nayak. Naba Kishore informed them

that he would meet Nayak in the evening as he was leaving for Cuttack. The men threatened him that that would not do. Sensing from their gestures and behaviour that something was seriously wrong, instead of proceeding to Cuttack, the couple returned home instead. Hardly had they stepped inside the house when the angry men again summoned them. Then Chhabi Rani asked them why if they had such urgent work, could they not come and meet them instead? At this question, the *goondas* were outraged and tried to force their way inside the house. But they were blocked by Chhabi Rani with a kitchen knife and forced to retreat. However, they soon returned with several others, including a local Congress politician, Sudhir Parida and illicit liquor mafia don Bir Mania.

As Naba Kishore was dragged outside and kicked and assaulted, Chhabi Rani was stripped of her gold chain and earrings. At that time Nanda Mohanty reached there and asked the *goondas* to take Naba Kishore to the local Congress office situated in the market place. Naba Kishore was beaten and dragged all the way to the local Congress office. It was nine o' clock in the morning when he was taken there and asked to sit on a stool. Nanda Mohanty questioned him about his police report about a robbery at their house in the month of September. The couple was sleeping outside their house when a group of people barged into their house. While one bashed up Naba Kishore, the others stole a leather suitcase from the house. The next day Naba Kishore filed a First Information Report (F.I.R.) in the local police station. The police arrested three people – Madhab Tanti, Gudia Barik and Babaji Mania. Others had fled the scene. Local Congress leaders got the arrested ones released



on bail. But they all vowed revenge. Meanwhile, Naba Kishore had reported the incident in the paper, which further outraged them. In the Congress office, Naba Kishore was initially threatened, asked to withdraw the theft case and warned that otherwise things would get dangerous for him. Initially, Naba Kishore did not agree but later he acquiesced. Following their instructions, Naba wrote that his theft allegation was false. He also submitted that he was writing this of his own free will and not under duress from anybody. But that hardly ended his nightmare as he was questioned on a trumped up case about how he had cheated some money from village children. Naba ordered him to return money he had never taken. As Naba Kishore stared in absolute surprise at this false allegation, one of them remarked that his wife's earrings could be sold and the money recovered. As all this was happening, people had crowded outside the office. They were asked to disperse. As the people left, all Congress workers also left for lunch. The last one to leave, Sudhir Parida, bolted the door from outside. Naba Kishore had no option but to sit there tired, and famished till about

5.30 pm. When Dibakar arrived he told Naba Kishore that if he wanted to remain alive he should leave Biridi immediately or he would have to face dire consequences.

Naba Kishore pleaded with them to give them at least a night's time because he was exhausted from physical abuse and hunger. He promised to leave as soon as possible but Dibakar simply reiterated that he should quit the place right away.

### **The Last Few Hours**

Naba Kishore reached home to find Chhabi Rani anxiously waiting for him. As Naba Kishore fell down on the cot in absolute exhaustion, Dibakar came to their home and ordered them to leave the village immediately. The couple realized that it was no longer possible to continue in Biridi village and left immediately for his village Dhasahi. They did not carry any of their possessions and decided to return later to pick up their household belongings. It was already seven in the evening. Naba Kishore walked ahead with the infant in his arms with Chhabi Rani following.

On the way to his village they had to cross the Biluakhai river. There were two streams of the Biluakhai

river and in between a patch of sand. They washed their face, legs and hands in the stream and after washing Chhabi Rani fed the child while Naba Kishore responded to the call of nature. After resuming their journey they were just about to cross the second stream when they noticed a group of men approaching them at a rapid pace. As they tried to walk faster, because of hunger and exhaustion, their strength failed them and their feet dragged. As the men got closer, Chhabi Rani asked Naba to leave with the baby. Naba Kishore was not willing but she forced him to leave saying otherwise the men would kill him. As the men approached closer Naba took the child and hid in a bamboo bush. He had one torch light with him. Naba Kishore noticed that hardly 20 feet from him they had surrounded Chhabi Rani and three to four of them were hunting for him. Not finding him they all returned to Chhabi Rani.

Chhabi Rani's agonized cry rent the surrounding as she was surrounded by eight of them — Biramania, Babaji Mania, Madhab Tanti, Baga Tanti, Surendra Barik, Kelu Charan Das, Raju Dora and Dibakar Nayak. As Chhabi Rani tried to flee she fell down on the ground. Two of them held her from two sides; the others opened her saree. As three to four of them advanced towards Naba Kishore he fled the scene with the child in his arms and reached Kukundara village. There he left his child with a friend and ran to the village headman's house. Within an hour, about five hundred people gathered. By then it was about 10.30 in the night.

All of them came with Naba to the place where he had left Chhabi. Only to find her raped, mutilated dead body lying on the sands on the banks of the river Biluakhai.

### **The Government Response**

Five kms away was Anikhia post office. Borrowing a cycle from a friend Naba Kishore left for Anikhia to call up the police post. It was then one o'clock in the night. The second officer of the *thana* Bhagaban Mishra picked up the phone to assure them that he would reach the spot soon. But nobody turned up. Naba Kishore waited till morning and then left for Jagatsinghpur police station. Not finding anybody, he left for the residence of the officer in-charge of the *thana*, R.K. Prusty. Naba informed him about having called up the previous night and the OIC asked him to return to the *thana* saying that he would follow immediately. Naba Kishore reached the *thana* to find the Superintendent of Police sitting there in civil clothes. The OIC Prusty and the SP examined the FIR and asked him to delete the name of Nanda Mohanty. As Naba Kishore refused, the OIC tore up the FIR in front of the SP.

While all this was going on in Jagatsinghpur *thana* the body of Chhabi Rani lay on the banks of Biluakhai river. It was lucky that wolves did not prey on it as otherwise even a post-mortem would not have been possible. The police dilly-dallied as much as they could. Finally, after 36 hours of the incident, the body was brought for post-mortem to Jagatsinghpur. Dr. Kulamani Jena performed the post-mortem and finally at night the body was handed over to Naba Kishore and last rites performed. By now, news of the rape and murder had spread like wildfire and hundreds of angry people had gathered. They burnt the house of Raju Dora to express their outrage. Seven days after the funeral of Chhabi Rani, a Sub-Inspector of Madhupatna *Thana*, Kedar Jena reached Naba Kishore's house and informed him that the Superintendent of Police had

sent him to grant him security. He managed to reach the *Pragatibadi* office but his agonies hardly ended there. There was a lot still in store for him.

### **The Pressure Continues**

On 29<sup>th</sup> October at about 9.30 in the morning, as he was proceeding from *Pragatibadi* office towards Rajmahal Square in a rickshaw, a black Ambassador screeched to a halt in front of him. Apart from the driver, there were four people in the car. Before Naba Kishore could realise what was happening, they had dragged him from the rickshaw to the car and after threatening to kill him if he resisted, gagged his eyes and mouth with black cloth. Naba Kishore had no idea of where the car proceeded. The vehicle stopped after an hour. He was taken out of the car to a house which seemed to be a lawyer's house going by the law books on book shelves. He was given a piece of paper to read in which was written that his relationship with Nanda Mohanty was quite good and Nanda Mohanty had no connection with the rape and murder of Chhabi Rani, that he had not mentioned the name of Nanda Mohanty in the FIR. The kidnapers also bought a tape recorder and on their instructions Naba Kishore read out what was written in the paper. They also took his fingerprint on a piece of paper apart from making him sign on another piece of plain paper. He had no option but to follow their wishes. After everything was over he was told that his wife was dead and would never return, so he should not pursue the case and that he would be given Rs. 50,000 by way of reward.

Later he was given an injection on his left arm which gave him a severe headache. At about 8 o'clock in the night, he was again blind folded and thrown into the car and

left at a desolate spot in Acharya Vihar Square. Hungry and famished he had no strength to even walk an inch. He took a rickshaw and reached the Lokdal Party's office in Forest Park. There he met Mr. Biju Patnaik and told him everything. Naba Kishore then left for *Pragatibadi* office where the editor Pradyumna Bal took him to Capital Hospital. His head was reeling and he was passing blood in his urine. From Capital Hospital he was later shifted to Cuttack Hospital where he was treated under police custody.

For a month after that he stayed in Madhupatna *thana*. Almost every evening, Deputy Inspector General of Police, Mr. Bana Panda and Bhubaneswar Superintendent of Police Mr. Bata Krushna Tripathy came to the *thana* and coax him to withdraw the case. Bata Tripathy also offered him Rs. 50,000. He was asked to say that his wife was insane and Biju Patnaik, Sarat Kar and Pratap Mohanty had tutored him to make a false FIR. Direct threats coming from senior officers in uniform terrified Naba Kishore. They took him to the Magistrate thinking that he would do as told. But Naba Kishore spoke the truth.

A few days after that the police arranged a press conference for him in the State Guest House where he was surrounded by a lot of police officers but Naba Kishore objected and they were forced to leave. And Naba Kishore spoke to the press about police atrocities. After the press conference he left for *Pragatibadi* office on the scooter of a journalist.

### **The Search for Justice**

Three months after that the Crime Branch took over the investigation of the case, under the pressure of public opinion. While the long trial proceeded in the lower court, Naba Kishore was also in the Crime Branch custody. The lower court orders went against the accused.

They went on appeal to the High Court. Horror of horrors, the High Court acquitted all of them. All the accused were set free, Naba Kishore felt defeated, shocked and completely demoralized. His wife had been raped and killed in front of his eyes and yet the murderers, rapists went absolutely scotfree.

Naba Kishore spent over a lakh of rupees as litigation expenses. His poor financial condition did not permit such high litigation expenses. Biju Patnaik had given him forty five thousand rupees, the State Government Rs. 4,000. He was also suitably rehabilitated by Biju Patnaik who gave him a job in the Forest Corporation.

Once after marriage Chhabi Rani and Naba Kishore had gone on cycle to Konark. On the way the *pallu* of her saree got caught in the bicycle chain. She had mended the tear. She was wearing the same saree on the day she was raped and murdered. Naba Kishore identified the saree in court from the tear – a relic of the glorious beginning of their marriage which had a horrendous end. This was one of the critical pieces of evidence which led to the conviction of Chhabi Rani's murderers.

### **Supreme Court's Indictment**

In a very sensitive judgement in April 2002, the Supreme Court of the country convicted four of the accused in the Chhabi Rani rape and murder case — 22 years after the gruesome incident and, more significantly, after the High Court of Orissa had granted an acquittal to the accused. The verdict is especially important because the Apex Court had thrown light on "how dragging on court proceedings and sometimes the casual application of mind by some learned judges can defeat the ends of justice". The politician-police-criminal nexus is one the people of this country are resigned to. But, if the nexus includes

the judiciary as well, it becomes a fatal combination.

The historic Supreme Court judgment has helped restore, to some extent, people's faith in the judiciary, shattered by the judgement of the High Court.

Ever since the murder of his wife, Naba Kishore has not stepped on Biridi soil.

Today Naba Kishore works as a Field Assistant in Berhampur Forest Corporation Office. He remarried but fears for his life even today. Following the Supreme Court judgement, the Orissa Chief Minister, Mr. Naveen Patnaik took a decision to provide support to late Chhabi Rani's son Dani Mahapatra by providing him with a suitable job.

### **Need for Remedial Measures**

The Chhabi Rani case indicates that it is high time that serious lapses in the investigating and judicial setup are thoroughly examined and prompt remedial measures taken so that dangerous criminals do not get away due to various infirmities in the criminal justice system.

As one goes through the story, various confusing questions torment one's mind. Did Naba Kishore do right in leaving Chhabi Rani alone with the vicious criminals? Could he have saved her if he had stayed back? Probably he would not have survived to tell the story.

The High Court judgement was undoubtedly a shame for the entire judicial system. However, even after the Supreme Court's intervention, the horrible truth is that Nanda Mohanty and Dibakar Nayak, along with the two main accused, have got away with their crimes. So also the policemen who manipulated the investigation and offered bribes misusing the vicinity of the *thana* and the strength of the police uniform. Also the politicians at the top who masterminded the entire crime. □