

# Acquittal in Pehlu case a travesty of justice

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The Pehlu Khan murder brings to light how the basic job of police investigation gets compromised due to baleful political influence. The police top brass has to take a resolute stand against extraneous influence in police work. Also, the malefactors must learn that political nexus will not save them if they fall foul of the law.



*Shocking: Holes in the case investigation seem to be more by design than default.*

## Sankar Sen

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The recent acquittal and release of the six accused persons by a Rajasthan court in the 2017 murder case of Pehlu Khan is a shocking betrayal of justice. It will diminish people's faith in the criminal justice system prevailing in the country. The court, while acquitting the accused persons charged with murder, passed severe strictures on the state police for poor and shoddy investigation into the case.

The police displayed culpable negligence during the investigation. It is all the more disturbing because the investigation of the case was handed over after two months to the state Criminal Investigation Department (CID). It filed the chargesheet. Normally, the state CID takes over the investigation of cases of complicated nature where sustained and undivided investigation by competent investigators is required. Unfortunately, what happened was exactly the opposite. There is a suspicion of institutional favour for the cow vigilantes who killed Pehlu Khan, a farmer.

The loopholes in the investigation, as pointed out by the Additional District Judge, who delivered the judgment, are many. First, the names of the accused persons did not figure in the initial statement made by Khan to the police. They were not charge-sheeted. It looks as if the police were prevailed upon to shield them. The police gave the clean chit to the named suspects, and booked a different set of persons, including three minors.

Second, the chargesheeted persons were identified on the strength of two videos of the incident shot on a mobile phone. The court found that the photographs taken from it were not taken on record. The mobile phone was also not seized by the police. There were, thus, gaping holes in the investigation of the case. It seems they were more by design than default. It is baffling as to how the state CID allowed this to happen. It was the CID's responsibility to set right the omissions in the investigation earlier conducted by the district police. The investigating officer also did not collect a certificate from the mobile operator of the call detail records of the accused persons.

Third, there were contradictory opinions regarding the death of Pehlu Khan. The government doctors declared that the victim died of injuries, while a private hospital opined that the cause of death was cardiac arrest. It appears that some infirmities were deliberately built into the case.

However, it will be unfair to blame and berate the police only. Other criminal justice functionaries also did not cover themselves with glory and failed to play the roles expected of them. The prosecuting agency should have, as obligatory on them, scanned the charge-sheet submitted by the police thoroughly and pointed out the remediable defects in the investigation of the case before it was placed before the court.

Unfortunately, after the establishment of the independent prosecution agency, following an amendment of the CrPC (Code of Criminal Procedure), coordination and cooperation between the police and prosecution, two important wings of the criminal justice system, is missing. At times, they act at cross-purposes.

The judge has pointed out many flaws in the investigation which deserve close scrutiny by senior police officers so that defaulting officers are taken to task. This line of action, as prescribed in police manuals, is now honoured in the breach. But

the judge, as the apex court has observed, has a responsibility of his own. The court has minced no words and observed, “There is an unfortunate tendency of a judge presiding over a trial to assume the role of a referee, or an umpire, and allow the trial to develop into a contest between prosecution and defence, with inevitable distortions.” The court further said, “If proper evidence was not adduced, or a relevant material was not brought on record due to inadvertence, the court should be magnanimous in permitting such mistakes to be rectified.”

In the Jessica Lal case, which shocked the conscience of the country, the victim was shot dead in a room full of people, but in the trial, the witnesses were gained over and sang different tunes. But in the case of Pehlu Khan, the witnesses, his son and kinsmen, did not retract, and demanded justice and punishment of the accused persons. But this did not happen due to venality and perversity of the criminal justice system and its poor functioning.

The Rajasthan Government set up a Special Investigation Team (SIT) which looked into the lapses in the investigation that bedevilled the case and resulted in the acquittal of all accused persons. The government will prefer an appeal in the High Court against the acquittal order. The court can order a re-investigation into the case, which, it is hoped, would rectify the earlier omissions and present a watertight case before the court. This is the only way the Rajasthan Government and the police can redeem their honour.

The present case also brings to light how the basic job of police investigation gets compromised due to baleful political influence. Police leaders have to take a resolute stand against extraneous influence in police work.

There is another dimension to this case. Honest and thorough investigation, followed by rigorous prosecution and condign punishment of the perpetrators will restore the confidence of the minorities in our democratic order. At present, they feel sullen and disheartened. Malefactors also must learn that political nexus will not save them if they fall foul of law. Fair, efficient and neutral functioning of the police is one of the important means of winning their confidence.

Pehlu Khan’s son Mubarik, who drives a lorry, has bitterly said that he felt shattered after hearing about the judgment. Justice was denied because the police allegedly diluted the case in producing evidence.

The case also underscores the need for payment of compensation to the victims of crime. Pehlu Khan's family suffered great financial hardship because of the murder of the breadwinner. So long, there was no comprehensive legislation for compensation to the victims of crime. Now, under the amended Section 357-A, CrPC, every state government, in coordination with the Central Government, shall prepare a scheme for providing funds for the purpose of compensation to the victims, or his dependents who have suffered and will require rehabilitation. It may also provide interim relief to the victims during the pendency of the trial, which normally drags on for long periods of time.