

***Report of independent fact-finding into the incident of gang-rape and death  
of an ASHA worker***

***Somwati Tyagi, in Muzaffarnagar District Uttar Pradesh, India***

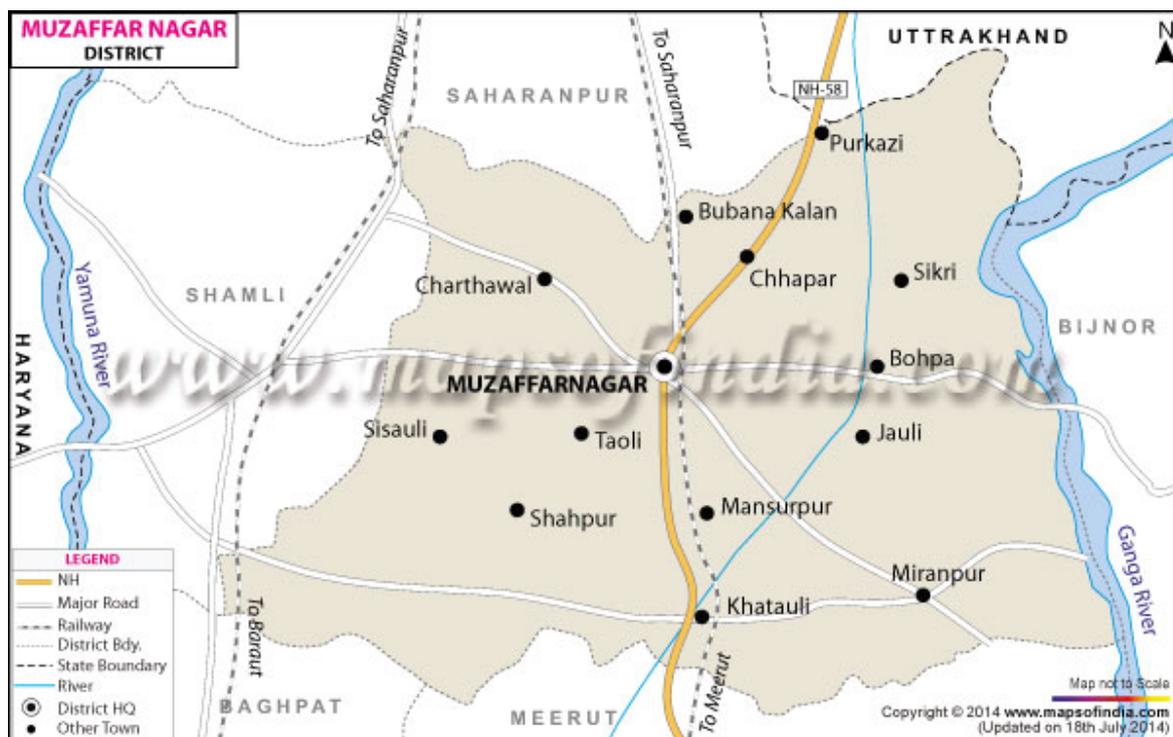


***Report prepared by***

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***NATIONAL ALLIANCE FOR MATERNAL HEALTH AND HUMAN RIGHTS &  
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***New Delhi, January 2016***



**About the area:** Muzaffarnagar in western UP borders on Haryana and has recently seen violent communal incidents such as the riots of 2013. These incidents and the consequent polarization of Hindus and Muslims are seen as politically expedient, especially before elections. Apart from being communally 'sensitive' the local communities are extremely patriarchal in their attitudes towards girls and women, and gender-based violence is extremely common. The region is notorious for Khap Panchayats that dictate what punishments must be meted out to women and men who exercise their rights to choice of partners, and they are often in the news for community-endorsed killings of such couples. In addition the area has very strong influence of the Deoband *ulemas* who also issue *fatwas* that try to control the mobility and sexuality of Muslim women and girls to the greatest extent possible. In short, Muzaffarnagar is a flashpoint for communal polarization, caste violence and use of 'honour/dishonour' as a patriarchal notion to control women. Recently that area has other incidents of abduction and rape, and MMS of gang-rape [incidents](#) being used for blackmail.

**Background:** The [video clip](#) of a news-report about the recent gang-rape and death of an ASHA worker in Muzaffarnagar, Uttar Pradesh (UP), was shared on the Medico Friend Circle E-group on January 14, 2016. The incident was seen as reflecting the inadequate arrangements for supporting frontline women health volunteers and their vulnerability to sexual assault and abuse. A fact-finding was suggested by several members of health e-groups and on January 16<sup>th</sup> a small team from Delhi went for a site visit to try and ascertain the facts of the case.

**Our response:** A preliminary fact-finding team was composed of a representative (Ms. Ruchi) from SAMA the women's health organization in Delhi, a lawyer (Ms. Gangotri) and social worker (Ms. Pritisha) from Human Rights law Network, and women's health activists Ms. Jayashree

Velankar representing NAMHHR (National Alliance for Maternal Health and Human Rights) and Ms. Jashodhara Dasgupta (SAHAYOG /Healthwatch Forum UP). Both are also allied with other health groups such as Medico Friend Circle (MFC) and Jan Swasthya Abhiyan (JSA).

In Muzaffarnagar the team was joined by Ms. Rehana Adib (Director, ASTITVA/ Healthwatch Forum UP) and her team members. The team conducted a one-day visit on 16<sup>th</sup> January 2016 to the district and met the following people –

	People we met	Location
1.	Station House Officer and other policemen and women	Chhapaar Police Station
2.	Husband of Somwati, other family members including mother, sister, two younger children	Chapra village
3.	Former Pradhan of village (Anil Kumar) and several other villagers who came when we were visiting	
4.	Members of the ASHA sangathan of that district	Muzaffarnagar District Hospital
5.	Senior Superintendent of Police	Muzaffarnagar, Camp Office

In addition, Ms. Jayashree Velankar visited the village again on 21<sup>st</sup> January during the memorial meeting for the deceased ASHA worker.

In addition to field observations and information provided by people we met, the team also consulted the following **sources of information**: the Youtube news [video clip](#), local print news clippings (see annexure); FIR of the case. [Information still lacking – Copy of post-mortem report]

**About the ASHA and her family-**

**Name of the victim:** Somwati; W/o SurajTyagi

**Age:** 35 years

**Place:** Chapra Village, Muzaffarnagar.

Somwati was an ASHA worker for the last eight years in her village. She had three children, an older son who is about 16, a daughter who is about 12 and a younger son who is 8 years. Her husband is a heart patient and does not do any work; he is rumoured to be an alcoholic as well. They had three animals (cows and buffaloes) and lived in a single-roomed house that did not have a toilet. The entire economic burden of the family was on her. She joined as ASHA worker under NRHM and somehow managed to earn a minimal amount. As the ASHA, she also worked in the Muslim neighbourhood of her village and visited their homes.



### **Timeline of events:**

- i. For the last eight years, Somwati worked in her village as an ASHA, including among a Muslim neighbourhood. Her phone number was available among families with pregnant women.

### **September- October 2015**

- ii. The SHO and press coverage indicates that there were call records over 2-3 months of phone conversations between Somwati and a young man from a Jhojha Muslim household called Shahid. According to the community, the family of Shahid is a powerful one; according to Rehana the Jhojha Muslims are very powerful farmers in that area. The SHO and Police have assumed that the phone records indicate an extra-marital relationship between the two, and have not investigated possibility of threats or blackmail.
- iii. According to community women we spoke to, Somwati had gone to the house of Shahid three months ago to provide post-partum care information for his sister-in-law who had just delivered a baby in the hospital. At the end of that visit, Shahid pulled her aside under the stairs and asked her to have a relationship with him. Since that visit, Shahid started chasing her and pressurizing her to have relationship with him. She refused saying she had children almost his age. However he continued to follow her on roads, stalking and calling her up on her mobile. He even asked her to leave her family and marry him and made threats that 'either she would become his or one of them would die'. Somwati kept resisting him. They mentioned that few days before her death Shahid raped her. The rape was video recorded. Shahid blackmailed her to keep quiet otherwise he would make the video public.

### **7 - 8 January:**

- iv. According to the former Pradhan and villagers, a video of sexual acts involving Somwati was circulating in the village through Whatsapp for some time before her death. Most of the people had seen it. According to those who have seen it, the video indicates use of force and resistance and presence of more than one man (they mentioned a foot placed on her chest and she was trying to dislodge it. They noticed her shalwar was torn, and her bag and slippers were scattered, etc). The community members said the person Shahid was visible in the video clips, as well as some others. [The group of ASHA workers mentioned three clips, the former Pradhan and SHO mentioned two video clips.]

### **11<sup>th</sup> January**

- v. Although the rape video was circulating in the village by Whatsapp for some time before her death, it was not clear whether anyone tried to help Somwati or enable the family to register a police complaint. Only the former Pradhan, Anil mentioned having seen it and was intending to speak with the family, but apparently he got delayed due to his embarrassment in broaching the subject with Suraj Tyagi, who was his childhood friend<sup>i</sup>. By the time he decided to go and speak with them, he could not find them at home.
- vi. According to Somwati's husband Suraj, he and his wife had a discussion **on 11<sup>th</sup> night** in which she told him about the gang-rape and expressed her great distress at the video that

was circulating. According to him, he told her not to worry or take any extreme steps; that they would deal with it somehow; and she said that she would complain to the police against Shahid about the rape and the video. Further, he reported to the team that she was not suffering from any mental depression that would lead to her committing suicide<sup>1</sup> and in fact she was ready to fight for justice.

#### **12<sup>th</sup> January 2016 –**

- vii. According to Somwati's husband Suraj, on that day, she woke up early at 3 am which was unusual, as they usually woke during the Azan. Her older son was sick with jaundice, and she went with him to a local clinic at Purkazi to consult a doctor and get medicines. However for unknown reasons, the son reached home by himself; Somwati was not with him. Apparently she had asked him to go home without her, and she would follow soon.
- viii. It is not known why Somwati did not return with her son<sup>2</sup> or what happened with Somwati after her son left her.
- ix. Somwati's death occurred on 12 January at some point during the day. A few hours after her son came home, her husband got a call from unknown number informing him that his wife was lying face down on a roadside. She was immediately taken to hospital but she was declared dead.
- x. That evening at 4pm, an FIR was lodged in the local Chhapaar Police Station by her husband Suraj Tyagi and the former Pradhan, Anil Kumar. The FIR was lodged under section 376 & 306 of the Indian Penal Code which deals with the punishment of rape and abetment of suicide respectively and 66 A of The Information Technology Act which deals with punishment for sending offensive messages through communication service, etc
- xi. A Post mortem done that night. According to the ASHA workers, the PM doctors had watched the video clips of the gang-rape as well.

#### **13<sup>th</sup> January –**

- xii. Next day the incident was covered in the papers and was seen by ASHA workers. All the ASHA workers came together and demonstrated; they blocked the National Highway road to the village for almost half an hour, saying they would not let the body go for cremation until their demands were met. They also had ASHA's joining in from as far as Ghaziabad, and from other parts of the district. All the ASHA works paid for their own travel and joined the demonstration. An FIR was lodged against 100 ASHA workers by Chhapaar Police Station.
- xiii. The ASHAs got the information that the body had been taken through a different route so they went to her house and had a dharna (sit-in demonstration) on the site. The local MP (BJP) and Union Minister Sanjeev Baliyan came to the house and heard their demands. He called up the DM and CMO and asked them to visit the bereaved family. After he gave assurances to the ASHA workers that the CMO would come, then they allowed the body to be taken for cremation. The CMO came much later in the evening. There was an

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<sup>1</sup> But in the FIR, he mentioned that on 11<sup>th</sup> Jan, he came to know about the fact that Somwati was raped by Shahid and after that incident she was mentally depressed and was shocked.

<sup>2</sup> on the day we visited the family her son was sick and had gone to visit the doctor, so we could not ask him where she left him on 12<sup>th</sup> morning, whether she consumed anything, or met anyone else.

announcement that the state would give a compensation of Rs 30,000 to the family but the ASHA workers asked for more.

### **15<sup>th</sup> January**

- xiv. After two days, an official from SDM office came to the house and handed over a cheque for 5 Lakhs from the state government.

### **16<sup>th</sup> January**

- xv. When we had left the house of Somwati on 16<sup>th</sup> January in the afternoon, we saw that the local Hindutva leader, Sadhvi Prachi, had also come to visit the family.
- xvi. Initially she did not speak because we were still waiting there. After we left she made a speech in which she reportedly said, "*Mussalmanon ke liye bas do jagah bache hain – ya to Pakistan ya kabristan*" (there are only two places left for Muslims, Pakistan or the cemetery).

### **21<sup>st</sup> January**

- xvii. Around 150 ASHAs had gathered from all over Muzaffarnagar district to attend the 10<sup>th</sup> day ritual following Somwati's death to express solidarity, call for strict punishment of the culprits<sup>3</sup> and also to impress upon the family and villagers that the money (Rs 5 lakh) given by the state government be invested in Fixed Deposit in the names of her children. They reiterated their demands and declared that they will meet CMO after 10 days to pursue the matter. After the 'Pagdi' ceremony<sup>ii</sup> two ASHAs spoke, paying tributes to their colleague Somwati. Both of them talked about how women are still discriminated against and urged all the men present to treat women with equality and dignity. They also stressed that this is not a Hindu - Muslim incident and no attempt should be made to portray it in a communal light.
- xviii. Speaking on behalf of the health movement and women's movement Jayashree Velankar expressed solidarity with their actions and demands, and stressed on the need to look into safety of women workers. She critiqued the apathy and insensitivity displayed by the health ministry and bureaucrats. Following her Sadhvi Prachi made a fairly incendiary speech, warning those present that the government would not protect them; they should take things into their own hands. She made a strong appeal to boycott families of the culprits in addition to demand for imposing draconian laws like NSA.

## **Our observations and preliminary conclusions**

### **I. Police response –**

- a) Overall, it is commendable that the police showed promptness in arresting the prime accused Shahid that very night within 6 hours of the FIR. (The SHO and others reported complete cooperation from the local Muslim families in Chapra in locating where Shahid was

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<sup>3</sup> During our interaction, I explained to them the rationale behind opposing capital punishment or NSA for rapists and urged them not to press any demand for such measures. They expressed need for such info and dialogue.

hiding). Till date we understand that a total of **three arrests** have been made and all are sent to judicial remand.

- b) Their immediate assumption is that it was an extra-marital love affair gone sour, and that it may have been consensual sex that was filmed. They have concluded this because of the call records. There is also a tacit assumption that it was a suicide as she felt betrayed and had lost her 'izzat' (honour). We feel that there should have been some exploring of the blackmail angle, or investigation whether there was any foul play. Why is the only conclusion that it was a suicide and failed love affair?
- c) The team suggested to the SSP that the additional charges could be added of Sec 292 of the Indian Penal Code which deals with the sale, etc., of obscene books, etc. and Sec 66E of the Information Technology Act which deals with the punishment for violation of privacy, to which he readily agreed.
- d) According to the assurance given to us by the SSP, apparently the FIR upon ASHA workers will not be acted upon, it was more of a formality since they had blocked the road.
- e) Given that Muzaffarnagar is a potentially inflammable area, we can see that there is clear pressure upon the police and their own anxiety to maintain communal harmony, given that this incident involved Hindus and Muslims. They were prompt in sending a police force to the village soon after Sadhvi Prachi left on 16<sup>th</sup> January.

**Our suggestions for the police force:**

- a) Investigation needs to be more open-ended: for there should not be an assumption she was having an extra-marital affair only based on call records. If the video is indicating use of force, then it was certainly rape and there may have been blackmail and threats before and after the rape. Also they need to establish number of videos that were circulated and whether steps have been taken to ensure they are no more in circulation.
- b) Further, if she wanted to commit suicide then why would she consume poison on her way to home from the doctor/health centre? Where did she go after coming out from the doctor/health centre; why did she send her son home by saying that she will join him later? Can there be some investigation if there was foul play?
- c) We strongly feel it is a priority to check communal violence as a result of inflammatory statements by Sadhvi Prachi (video available)

**II. Response of health department and ASHA Union –**

- a) ASHA groups are isolated from each other, but have great solidarity as the entire district came together for the memorial at their own cost. We are impressed by the organizational unity, fast mobilization and voluntary efforts of the ASHA workers to get justice for Somwati. They were able to reach out beyond their district borders, and even had planned to come together for a memorial meeting in the village on the 10<sup>th</sup> day of the death. They had very clear demands, and have plans to boycott all national programmes like immunization until their demands are met.
- b) They needed to put a lot of pressure and boycotted the national programmes like Pulse Polio before the CMO said he needed ten days to consider their demands. They had very clear demands from the government that included:

- ✓ Proper investigation into the case<sup>iii</sup>. They want strict punishment for the culprits (we suggested they avoid calling for hanging of the rapist)
  - ✓ They propose that the compensation money should be made in the name of the children
  - ✓ Life insurance,
  - ✓ Security when they accompany pregnant women at night;
  - ✓ Transport to return or a place to stay at the hospital;
  - ✓ Status of a formal worker;
  - ✓ Permission to conduct delivery (willing to undergo special training)
- c) We note the apathy and insensitive manner of dealing with the issue – no one from the district health department came in support for the *dharna* of the ASHA workers; they were very disappointed when there was no visit by CMO until the local MP (Union Minister) called up and asked him to come
- d) After this incident, they report that other ASHA workers are receiving lewd phone calls from men; notably the minority community ASHA workers are feeling vulnerable in case of any backlash.

#### **Our suggestions for ASHA Mentoring group:**

- a) JSY is a flagship programme and ASHA is the backbone of the community health outreach, but not enough thought has gone into support and back-up needed by the ASHA workers in terms of dealing with the fallout of their new social roles in rural areas, and community reactions to this. *We need to consider what is the ecosystem within which ASHAs are working?*
- b) ASHA workers are meant to go out of their homes at all times of day or night but no support is provided to them in terms of a place/room/bed to wait at the hospital, or any transport to come back home
- c) Their phone numbers are public and they have to move and visit the homes of the families in their neighbourhood but this mobility is not supported by gender and empowerment interventions that prevent their exploitation and protect them in case of any unwanted attention /assault/VAW.
- d) The VAW, gender equality and human rights understandings of ASHA workers appears inadequate (they are asking for hanging or NSA) and we as feminist/human rights movements have not reached them yet.
- e) There needs to be more cross-country solidarity among ASHAs. They do not know about the payments/working conditions to ASHA works in other states

### **III. Response of non-state actors –**

- a) It appears that all the men in the village had seen the video and enjoyed watching and sharing it, but no one came and expressed solidarity with the family or went with them to complain to the police in time before the death of Somwati. Only after she died the ex-Pradhan went with the husband to complain about the rape video. [We do not know if the video is still in circulation?]

- b) The role of local Hindutva leaders like Sadhvi Prachi needs to be kept under a close watch. Polarization of communities along religious lines has been seen as an easy way to garner votes and the BJP is not shy to use this method. The speeches of Sadhvi Prachi need to be monitored and her openly anti-Muslim rhetoric needs to be checked. She is also advocating indirectly that people should take the law into their own hands and not wait for the government to take action or ensure justice.

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**Endnotes**

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<sup>i</sup>According to ex-Pradhan, on 11<sup>th</sup> at night he got a call from villagers and he was informed that Somwati's sex MMS was going viral on whatsapp. He informed that the video was of 45 mins and it was in three video files (15 mins each.). Further he informed the team that he saw the video on the same night and he clearly saw the face of Shahid forcefully having physical relationship with her. He and few others present claimed that it was evident from the video clip that she was gang raped because he noticed someone else apart from Shahid in the video. They saw that someone was putting his foot on her chest, her salwar was torn, and her slippers and hand bag lay scattered in the field.

He told the team that he planned to inform her husband on next day but unfortunately when he went to his house both husband and wife was not there. Later, he got the news that Somwati was found dead near the roadside. After that he along with her husband filed an FIR at Chappar PS.

<sup>ii</sup> I was informed this is a ritual to pass on the responsibility of the family to next person. Somwati's 16 year old elder son will now be the Head of the family. I couldn't resist thinking that this was some tacit admission that Somwati was indeed the 'Head' of the family.

<sup>iii</sup> ....“Also, there was no change of colour in the body and if someone consumes poison then the body color change. Somwati had made a promise to herself for the family to not to end her life and instead to fight for her dignity and justice. This was shocking for us also because we never thought that she will end her life in this way.”