2024 INSC 613

Reportable

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION

SMW (Crl) No 2 of 2024

IN RE: ALLEGED RAPE AND MURDER INCIDENT OF A TRAINEE DOCTOR IN R.G. KAR MEDICAL COLLEGE AND HOSPITAL, KOLKATA AND RELATED ISSUES Versus

Signature Not Verified
Digitally signed by Sanjay Kumar
Date: 2024.08.20 13:52:36 IST
Reason:

O R D E R

1. On 9 August, 2024, a thirty-one year old postgraduate doctor at RG Kar Medical College Hospital, Kolkata who was on a thirty six hour duty shift was murdered and allegedly raped inside the seminar room of the hospital. As horrific details have emerged in the course of media reportage, the brutality of the sexual assault and the nature of the crime have shocked the conscience of the Nation. The name and graphic images of the deceased have been widely circulated on social media without regard to her privacy or dignity.
2. Writ petitions were instituted before the Calcutta High Court seeking among other things, a court-monitored investigation of the crime and the conduct of the hospital authorities, including the role of the Principal of the medical college and other officials by a special team of investigating officers. It has been alleged that the parents of the deceased were initially informed that their daughter had committed suicide; they were permitted to see the dead body after several hours and a first information report in regard to the murder was registered belatedly by the police after several hours.
3. By its order dated 13 August 2024, the High Court transferred the investigation to the Central Bureau of Investigation.
4. Following the incident, agitations and protests were called by doctors' associations, student bodies and civic groups across the country. On the eve of Independence Day, several areas in Kolkata saw protests spurred by the 'Reclaim the Night' campaign. At 12.30 am on 15 August, when a

protest was underway at the hospital, a large mob assembled at the premises of the RG Kar Medical College Hospital and vandalized the Emergency Ward and other departments of the hospital. Following the acts of wanton destruction and vandalism, the Indian Medical Association (a private and voluntary organization of doctors in India) called for a nation-wide withdrawal of medical services, except emergency services, for twenty-four hours on 17 August 2024.

5. In the aftermath of the brutal incident and the demonstrations which followed, the State Government was expected to ensure the deployment of the state machinery to prevent a breach of law and order. It was all the more necessary to do so since investigation of the crime which took place in the precincts of the hospital was under way. We are unable to comprehend how the State was not prepared to deal with the incident of vandalization of the premises of the hospital.

6. Nation-wide protests following the brutal incident in RG Kar Medical College Hospital have brought the issue of the lack of institutional safety for doctors to the forefront. Medical Associations have consistently raised issues of the lack of workplace safety in health care institutions. Medical professionals in the performance of their duties have been unfortunate targets of various forms of violence. Hospitals and medical care facilities are open throughout the day and night. Medical professionals - doctors, nurses and paramedic staff - work round the clock. Unrestricted access to every part of healthcare institutions has made healthcare professionals susceptible to violence. Patients of relatives in anguish are quick to attribute untoward results to the negligence of medical professionals. Such

allegations are immediately followed by violence against medical professionals. In May 2024, two on-duty doctors were allegedly attacked by relatives of a patient who died during treatment in a hospital in West-Bengal.[1] In another incident in May 2024 in Bihar, following the death of a twenty-five year old pregnant patient, a nurse was allegedly pushed off the first floor of the building by the kin of the patient.[2] In August 2024, a final year resident in a hospital in Hyderabad was allegedly assaulted by a patient's attendants after the patient died due to medical conditions.[3] These incidents of violence are a few amongst the many that have been unleashed against members of the medical community in the recent past. They are portents of a systemic failure to protect doctors, nurses and para medical staff in the confines of hospitals. With few or no protective systems to ensure their safety, medical professionals have become vulnerable to violence. With the involvement of systemic issues for healthcare across the nation, this court has had to intervene.

7. Women are at particular risk of sexual and non-sexual violence in these settings. Due to ingrained patriarchal attitudes and biases, relatives of patients are more likely to challenge women medical professionals. In addition to this, female medical professionals also face different forms of sexual violence at the workplace by colleagues, seniors and persons in authority. Sexual violence has had its origins even within the institution, the case of Aruna Shanbag being a case in point. There is a hierarchy within

[1] https://medicaldialogues.in/news/health/doctors/mob-attack-2-surgeons-brutally-attacked-after-patient-death-admitted-in-icu-128063
[2] https://timesofindia.indiatimes.com/india/pregnant-womans-death-sparks-violence-by-kin-nurse-thrown-off-1st-floor-of-bihar-nursing-home/articleshow/110475737.cms
[3] https://indianexpress.com/article/cities/hyderabad/hyderabad-doctor-attacked-in-hospital-by-attendants-after-patient-dies-8604280/

medical colleges and the career advancement and academic degrees of young professionals are capable of being affected by those in the upper echelons. The lack of institutional safety norms at medical establishments against both violence and sexual violence against medical professionals is a matter of serious concern. While gendered violence is the source of the more malevolent manifestations of the structural deficiencies in public health institutions, the lack of safety is of concern to all medical professionals. Preserving safe conditions of work is central to realizing equality of opportunity to every working professional. This is not just a matter of protecting doctors. Their safety and well-being as health providers is a matter of national interest. As more and more women join the work force in cutting edge areas of knowledge and science, the nation has a vital stake in ensuring safe and dignified conditions of work. The constitutional value of equality demands nothing else and will not brook compromises on the health, well being and safety of those who provide health care to others. The nation cannot await a rape or murder for real changes on the ground.

8. Several States, such as Maharashtra[4], Kerala[5], Karnataka[6], Telangana[7], West Bengal[8], Andhra Pradesh[9] and Tamil Nadu[10] have enacted legislation

[4] See Maharashtra Medicare Service Persons and Medicare Service Institutions (Prevention of violence and damage or loss to property) Act 2010
[5] See Kerala Healthcare Service Persons and Healthcare Service Institutions (Prevention of Violence and Damage to property) Act 2012
[6] See The Karnataka Prohibition of Violence Against Medicare Service Personnel and Damage to Property in Medicare Service Institutions Act 2009
[7] See Telangana Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage to Property) Act 2008
[8] See West Bengal Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage to Property) Act 2009

to protect healthcare service professionals from violence and damage to property. All these enactments prohibit any act of violence against medical professionals. The offence is non-bailable and punishable with three years of imprisonment. However, these enactments do not address the institutional and systemic causes that underlie the problem. An enhanced punishment without improving institutional safety standards falls short of addressing the problem effectively.

9. We have attempted to flag here the ground reality indicating the lack of institutional safety standards in health care establishments. A non-exhaustive formulation is set out below:

    a. Medical professionals who are posted for night-duties are not provided adequate resting spaces. More often, doctors rest in the patients' room or in available public spaces. Duty rooms are scant. Separate duty rooms for male and female medical professionals are conspicuous by their absence in most health care establishments;

    b. Interns, residents and senior residents are made to perform thirty-six hour shifts in conditions where even basic needs of sanitation, nutrition, hygiene and rest are lacking. There is an absence of uniformity in terms of a standard national protocol. The fear of retribution prevents most health care professionals from questioning the absence of facilities for basic well-being;

    c.

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[9] See Andhra Pradesh Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage to Property) Act 2008

[10] See Tamil Nadu Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to Property) Act 2008

d. Lack of security personnel in medical care units is more of a norm than an exception. More often than not, medical professionals, which includes young resident doctors, interns and nurses are left to handle unruly attenders. Open access to healthcare facilities leaves medical professionals vulnerable to undesirable elements;
e. Medical care facilities do not have sufficient toilet. Most often there is only one common toilet for medical professionals in one department;
f. The hostels or places of stay for medical professionals are situated far from the hospital. Doctors and nurses who have to travel to and from the hospital are not provided transport facilities by the institution. Even within the precincts of the sprawling spaces of public hospitals there is either inadequate or no transportation facilities for the safe commute of professionals;
g. There is an absence or lack of properly functioning CCTV cameras to monitor ingress and egress to the hospital and to control access to sensitive areas;
h. The patients and their attenders have unrestricted access to all places within the hospital, including Intensive Care Units and the doctors resting rooms;
i. Lack of screening for arms and weapons at the entrance of the hospitals;
j. Dingy and ill-lit places within the hospitals;
k. Medical professionals have to shoulder the responsibility of being both medical and ‘emotional’ caregivers to patients and their

relatives. There are no supportive facilities and no training in communication skills; and

l. Certain spaces within hospitals such as the Intensive Care Unit and the Emergency Wards are prone to a greater risk of violence because of the severity of medical conditions of patients in these departments.

10. We have in this backdrop formed the view that a national consensus must be evolved - after due consultation with all stake-holders - on the urgent need to formulate protocols governing the issues which this order has highlighted. We have attempted to compose for this purpose a diverse body of persons with experience in healthcare institutions. A National Task Force (NTF) with the following members of the medical profession is constituted:

a. Surgeon Vice Admiral Arti Sarin, AVSM, VSM, Director General, Medical Services (Navy);

b. Dr D Nageshwar Reddy, Chairman and Managing Director, Asian Institute of Gastroenterology and AIG Hospitals, Hyderabad;

c. Dr M Srinivas, Director, All India Institute of Medical Sciences (AIIMS), Delhi;

d. Dr Pratima Murthy, Director, National Institute of Mental Health and Neurosciences (NIMHANS), Bengaluru;

e. Dr Goverdhan Dutt Puri, Executive Director, All India Institute of Medical Sciences, Jodhpur;

f. Dr Saumitra Rawat, Chairperson, Institute of Surgical Gastroenterology, GI and HPB Onco-Surgery and Liver

Transplantation and Member, Board of Management, Sir Ganga Ram Hospital, New Delhi ; Member, Court of Examiners, Royal College of Surgeons, England;

g. Professor Anita Saxena, Vice-Chancellor, Pandit B D Sharma Medical University, Rohtak. Formerly Dean of Academics, Chief-Cardiothoracic Centre and Head Cardiology Department at All India Institute of Medical Sciences (AIIMS), Delhi;
h. Dr Pallavi Saple, Dean, Grant Medical College and Sir JJ Group of Hospitals, Mumbai; and
i. Dr Padma Srivastava, formerly Professor at the Department of Neurology, AIIMS Delhi. Currently serving as the Chairperson of Neurology at Paras Health Gurugram.

11. The following shall be the *ex-officio* members of the NTF:
    a. Cabinet Secretary, Government of India;
    b. Home Secretary, Government of India;
    c. Secretary, Ministry of Health and Family Welfare, Government of India;
    d. Chairperson, National Medical Commission; and
    e. President, National Board of Examinations.

12. The NTF shall formulate effective recommendations to remedy the issues of concern pertaining to safety, working conditions and well-being of medical professionals and other cognate matters highlighted in the above

segments of this order. The NTF shall while doing so, consider the following aspects to prepare an action-plan. The action plan may be categorized under two heads (I) Preventing violence, including gender-based violence against medical professionals; and (II) Providing an enforceable national protocol for dignified and safe working conditions for interns, residents, senior residents, doctors, nurses and all medical professionals.

I. <u>Prevention of violence against medical professionals and providing safe working conditions</u>

a. *Ensuring due security in medical establishments:*

i. Triaging departments and places within the hospital based on the degree of volatility and the possibility of violence. Areas such as the emergency rooms and the Intensive Care Units are prone to a greater degree of violence and may possibly need additional security in place to deal with any untoward incident;

ii. A baggage and person screening system at every entrance of the hospital to ensure that arms are not carried inside the medical establishment;

iii. Preventing intoxicated persons from entering the premises of the medical establishment, unless they are patients; and

iv. Training security personnel employed at Hospitals to manage crowds and grieving persons.

b. *Infrastructural development:*

i. Provision of separate resting rooms and duty rooms in each Department for (a) male doctors; (b) female doctors; (c) male nurses; (d) female nurses; and (e) a gender-neutral common resting space. The room must be well-ventilated, have sufficient bed spaces, and provide a facility for drinking water. Access to these rooms must be restricted through installation of security devices;

ii. Adopting appropriate technological intervention to regulate access to critical and sensitive areas including through use of bio-metric and facial recognition;

iii. Ensuring adequate lighting at all places in the hospital and, if it is a hospital attached to a medical college, all places within the campus;

iv. Installation of CCTV cameras at all the entrance and exit points of the hospitals, and the corridors leading up to all patient rooms; and

v. If the hostels or rooms of the medical professionals are away from the hospital, provision of transport between 10 pm to 6 am to those who wish to travel to or from their place of stay to the Hospital.

c. Employment of social workers trained in grief and crisis counselling at all medical establishments;

d. Conducting workshops for all employees of medical establishments including doctors, nurses and helpers on handling grief and crisis;

e. Constitution of “Employees Safety Committees” composed of doctors, interns, residents and nurses at every medical establishment to conduct quarterly audits on institutional safety measures;

f. Including additional requirement(s) on institutional safety measures for medical professionals as a criteria for accreditation of healthcare establishments by the National Accreditation Board for Hospitals & Healthcare Providers; and

g. The possibility of establishing police posts in medical facilities commensurate with the footfall, bed strength and facilities.

II. Prevention of sexual violence against medical professionals:

a. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 applies to hospitals and nursing homes[11] (including private health providers[12]). In terms of the provisions of the Act, an Internal Complaints Committee must be constituted in all hospitals and nursing homes;

b. The duties of an employer listed under Section 19 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 which includes organizing sensitization programmes and providing a safe working space must be discharged; and

[11] See Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013; Section 2(o)(iii)

[12] See Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013; Section 2(o)(ii)

c. Ensuring for every medical institution a helpline number for medical professionals which is open 24 x 7 and emergency distress facilities.

13. It is clarified that the phrase medical professionals used in this judgment encompasses every medical professional including doctors, medical students who are undergoing their compulsory rotating medical internship (CRMI) as a part of the MBBS course, resident doctors and senior resident doctors and nurses (including those who are nursing interns). The phrases Medical Establishments/Hospitals/Medical Institutions are interchangeably used.

14. The NTF shall be at liberty to make recommendations on all aspects of the action-plan highlighted above and any other aspects which the members seek to cover. They are at liberty to make additional suggestions, where appropriate. The NTF shall also suggest appropriate timelines by which the recommendations could be implemented based on the existing facilities in Hospitals. The NTF is requested to consult all stake-holders. Bearing in mind the gravity and urgency of the situation we have included the heads of the National Medical Commission and the National Board of Examinations as Ex-officio members of the NTF. Bearing in mind the national concerns which have been raised over the issue and the high priority which must be given to the creation of safe working conditions in healthcare institutions, we request the Cabinet Secretary to the Union Government to associate with the work of the NTF. The Home Secretary of the Union Government has also been made a member of the NTF in order to facilitate proper co-ordination with the State Governments. The Secretary to the Ministry of Health and Family Welfare of the Government

of India will be the Member-Secretary of the NTF. The Ministry of Health and Family Welfare will provide all logistical support including making arrangements for travel, stay and secretarial assistance and bear the expenses of the members of the NTF.

15. The NTF is requested to submit an interim report within three weeks and the final report within two months from the date of this order.

16. All State Governments and UT Governments, through their Secretaries, in the Ministries of Health and Family Welfare and the Central Government, through the Secretary, Union Ministry of Health and Family Welfare must collate information from all hospitals run by the State and the Central Government, respectively on the following aspects:

a. How many security personnel are employed at each Hospital and each department;
b. Whether there is a baggage and person screening mechanism in place at the entrance of the medical establishment;
c. The total number of resting/duty rooms in the Hospital and specific details of the number in each Department;
d. The facilities provided in the resting/duty rooms;
e. Information on whether all areas of the hospital are accessible to the general public and if so, with or without any security restrictions;
f. Whether there are CCTV cameras in the hospital. If there are, how many and in which locations;
g. Whether the institution provides medical professionals training to appropriately handle the grief of patients. If so, the details of the training must be provided;

h. Whether social workers who specialize in handling grief of families of the patients are employed at the hospital. If so, the total number of social workers must be provided;

i. Whether there are police posts within the premises of the Hospital or the Medical College Hospital campus;

j. Whether an Internal Complaints Committee in terms of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 has been constituted; and

k. Whether the employer of the establishment has discharged the duties prescribed by Section 19 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013. If so, details of it.

The data as submitted shall be tabulated and filed with an affidavit by the Union Government within one month of this order.

17. The Central Bureau of Investigation shall submit a status report to this Court by 22 August 2024 on the progress in the investigation of the crime at RG Kar Medical College Hospital. The State of West Bengal shall also file a status report by 22 August 2024 on the progress of the investigation on the acts of vandalism which took place at the Hospital in the aftermath of the incident.

18. The matter shall be listed on 22 August 2024.

.....CJI
[Dr Dhananjaya Y Chandrachud]

.....J
[J B Pardiwala]

.....J
[Manoj Misra]

New Delhi;
August 20, 2024