

NAZRUL IN BANGLADESH

Captivating during his stay in Mymensingh

AMINUL ISLAM, Mymensingh

As the light breeze blows, the leaves of the old banyan tree on the Jatiya Kazi Nazrul Islam University campus in Trishal of Mymensingh sway back and forth, as if it is dancing to the tune of music.

Almost 100 years ago, this tree, on weary afternoons, listened to the beautiful sad tunes of a flute played by a 14-year-old boy, who later grew up to be one of the greatest poet and writer in Bangla literature.

The boy was no other than National Poet Kazi Nazrul Islam, whose memories still live on in Trishal's scenic beauty and reside in the hearts of the locals.

According to Nazrul researcher Rashedul Anam, also assistant director of the Institute of Nazrul Studies at JKKNIU, Nazrul was brought to Kazi Shimla in Trishal in 1913 by Kazi Rafizullah, a Muslim police sub-inspector.

The policeman had met him at Nazrul's birth place in West Bengal's Burdwan, where the poet was born on May 25, 1899, in Churulia village.

Nazrul went to Darirampur High School (now Nazrul Academy) and was in class-VI. The then headmaster of the school was Bipin Chandra Chakraborty, said Anam who wrote

about Nazrul's one-year stay at Trishal in his book "Nazrul Jiboner Trishal Addhya".

Since his school was six miles away from Kazi Shimla and had almost no proper road communication, Nazrul moved his lodging to Bechutia Bepari's house at Namapara, which was near his school.

"He would often spend his days playing the flute, sitting under the banyan tree at Namapara, on his way to school," said Anam.

During his short stay at Trishal, Nazrul became known among the locals for his "Punthi" (a kind of folk literature) reading skills and his mesmerising flute tunes.

Referring to his findings, Anam mentioned Nazrul's English teacher at the school, Mohim Chandra Khasnabish, who had described the poet as a "quiet and absent-minded" boy.

Yet, the young Nazrul had charmed the audience and earned prizes at the annual cultural function of the school reciting two poems of Rabindranath Tagore -- "Dui Bigha Jomi" and "Puratan Bhritiya" -- without any preparation whatsoever.

After his annual examination, Nazrul told Bepari's daughter-in-law Saforjaan Banu about his plan to go back to West Bengal. The kind-



The banyan tree under which National Poet Kazi Nazrul Islam used to play his flute. The tree is on the Jatiya Kazi Nazrul Islam University campus in Mymensingh. The photo was taken recently.

PHOTO: STAR

hearted woman gave him some money so that he could.

Before his departure, Nazrul left a letter for his headmaster. After receiv-

ing the letter, the emotion-gripped headmaster read it out before the students and teachers of the school and asked all his students to find Nazrul but they failed to do so.

"The letter could not be found as it was not preserved," said Anam.

Nazrul is still remembered by Kazi Rafizullah's descendants. "We feel very proud as Nazrul first came to Bangladesh, to our Kazi Shimla," said Durdana Khanam, daughter-in-law of Kazi Rafizullah.

"The presence of Nazrul for a few months glorified and gave us a historic status," said a smiling Durdana. She urged the government to protect Kazi Rafizullah's ancestral homestead, to preserve Nazrul's memories.

On March 1, 2005, the government established JKKNIU at Namapara, Trishal as the only public university named after the poet and writer.

"The university, currently with 4,000 students, has a special focus on liberal-slash-performing arts, education and research," said Prof Mohit Ul Alam, vice-chancellor of JKKNIU.

Perhaps someday, the old banyan tree would again witness the rise of yet another poet who would reign the Bangalee spirit and thoughts for generations, just like Kazi Nazrul Islam.

Rupali, Brac in dispute over Tk 3.97 crore

STAFF CORRESPONDENT

Rupali Bank is embroiled in a dispute with Brac Bank over non-settlement of Tk 3.97 crore withdrawn through the latter's ATM system.

Selim RF Hussain, CEO of Brac Bank, said money was withdrawn from seven to eight Rupali accounts in 2012 although there was no balance in those.

The incident baffled officials of both the banks.

Managing Director M Farid Uddin of Rupali Bank said they hired Bangladesh University of Engineering and Technology to probe the incident.

Brac shares 43 of its ATMs with Rupali under a deal signed between the two banks in 2011.

According to the agreement, Brac provides services to Rupali related to ATMs, ATM cards, card management system and feeding cash into machines.

Clients of the state-run Rupali Bank can withdraw money from Brac ATMs using cards. Rupali debits the money from its clients' accounts and pays back the withdrawn amount to Brac.

Since 2011, Rupali clients have withdrawn Tk 226 crore using Brac ATMs. Rupali has repaid the money to Brac, said a senior Rupali Bank official.

Farid Uddin said they couldn't adjust Tk 3.97 crore as the money was not debited from the clients' accounts.

Sad death gives hopes for all

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and torture of accused in remand to obtain confession.

The petitioners' lawyers argued that the discretionary power of police goes against the fundamental rights guaranteed by the constitution. The HC on April 7, 2003, delivered a verdict barring the government from arresting a person under the Special Powers Act upon detention on suspicion.

It also came up with 15 directives and ruled that sections 54 and 167 of the Code of Criminal Procedure (CrPC) dealing with the arrest on suspicion and subsequent remand were not consistent with the fundamental rights guaranteed by the constitution.

But the then BNP-led alliance government opted to challenge the verdict by filing an appeal with the Appellate Division of the Supreme Court.

Yesterday, the apex court upheld the HC directives with some changes and guidelines to stop arbitrary arrests by police on suspicion and torture of arrestees in remand.

The SC verdict was viewed by legal experts and human rights activists as a boost to people's fundamental rights. They said the judgment also set an example of how a student's tragic death created hopes for ensuring these rights.

Rubel, a BBA student of Independent University in the city, was picked up by a team of Detective Branch of Dhaka Metropolitan Police from in front of his Siddheswari residence on July 23, 1998. Then DB assistant commissioner Akram Hussain led the team.

The 24-year-old student was tortured to death in DB custody the same day.

The following day, Rubel's father Abdur Rob Miah filed a murder case with Ramna Police Station, accusing 14 people, including Akram and Roksana Begum alias Mukuli Begum, a neigh-

bour of Rubel.

In June 2002, a Dhaka court sentenced 13 accused, including Akram, to life imprisonment and Mukuli Begum to one year in prison in the case.

Following separate appeals filed by the accused, the HC on May 5, 2011 acquitted Akram and 11 others, including Mukuli Begum, of the murder charges, saying that the allegations brought against them were not proved beyond reasonable doubt.

The court, however, upheld the life imprisonment of then police official Hayatul Islam Thakur in the case.

Late advocate Serajul Huq defended AC Akram in the trial court while his son Anisul Huq, the incumbent law

minister, appeared for him in the HC.

The Appellate Division on August 30 last year allowed the government to move a regular appeal before it challenging the HC verdict that acquitted Akram in the case. It also ordered the sacked DB official to surrender to the lower court.

Akram later surrendered and obtained bail from the lower court. He is now staying at his village home in Tangail, said his lawyer Sheikh Baharul Islam.

The hearing in the murder case has been pending since then, he added.



Then assistant commissioner of Detective Branch Akram Hussain reaches a Dhaka court in the Rubel murder case.

PHOTO: FILE

Protectors turn predators

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several others from 2:30am," Rocky told The Daily Star yesterday.

Failing to endure the torture, Johnny fell unconscious. Police took him to a local hospital, where doctors declared him dead.

Rocky was later shown arrested under section 54 of the Criminal Procedure Code (CrPC).

Earlier that night, Johnny had slapped police informer Sumon for harassing women at a pre-wedding programme in Pallabi Irani Camp. Half an hour later, Rocky and his brother were picked up from the area.

There were numerous other incidents of custodial torture that resulted in death. Police abused powers through arbitrary arrest and torture in custody by misusing the law and capitalising on the loopholes of laws, particularly sections 54 and 167 of the CrPC. Law enforcers often used the sections for arresting people and forcing them to pay bribes.

The number of such arrests, made frequently during any political unrest, however, came down significantly after the High Court in its 2003 judgement issued a 15-point directive barring arrest of any person under the Special Powers Act after picking him/her up on suspicion.

The Supreme Court yesterday upheld the High Court verdict with some modifications and guidelines to stop police from making arbitrary arrests on suspicion and torturing arrestees on remand.

According to rights watchdog Ain o Salish Kendra (ASK), as many as 237 persons died at the hands of law enforcement agencies from January 2015 till April this year. The victims were under custody with many not shown arrested.

Of them, 180 were killed in "crossfire"; they were in custody and



Sitting next to his mother, the five-year-old son of deceased Sujan shows reporters how he had pleaded police officers to let his father go. The photo was taken in July 2014.

PHOTO: FILE

not shown arrested, says a ASK report.

The same SI Jahid with a group of policemen detained garment waste trader Mahbubur Rahman Sujon, his wife Momtaz Sultana, and their five-year-old son in the wee hours of July 13, 2014 while raiding their house near Dhanmondi.

Police first beat up Sujon before his wife and his son.

Later, the three were brought to Mirpur Police Station; the mother and son were kept in a separate cell while Sujon was taken to the bathroom.

They dipped his head into a bucket full of water and beat him up with an iron rod indiscriminately. The next morning Momtaz was informed that her husband had died, Sujon's mother Shahida Begum told The Daily Star yesterday.

Jahid had been demanding a handsome amount of money from Sujon since 2012, she added.

The sub-inspector is now behind

bars and under trial for the deaths of Sujon and Johnny.

In another incident on June 6, 2013, Shamim Sarkar, a 30-year-old land broker, was tortured after plainclothes officers picked him up along with his nephew Sohail at Hemayetpur, his family claimed.

Police tortured him severely at an outpost as he refused to give them Tk 2.5 lakh for his release. He died of torture the next morning.

Sujan's mother and Shamim's brother Jamil Sarkar both hailed the verdict and hoped none would have to lose dear ones in future.

A BNP leader and Khaleda Zia's counsel Sanaullah Mia said in the last one year at least 200 party leaders and activists have been arrested under section 54.

Sources in the Chief Metropolitan Magistrate's Court, Dhaka, said around 100 cases filed under section 54 of the CrPC have been pending with the court.

No more blanket powers for cops

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recommendations for making changes to the provisions.

It also made proposals for bringing amendments to three other laws for safeguarding people's liberty and fundamental rights guaranteed by the constitution. They are Penal Code 1860, Police Act 1861 and Evidence Act 1872.

The HC verdict said the amendments are required to limit the arbitrary use of powers by the police and magistrates in relation to arrest and remand and to take necessary steps in case of custodial death.

The HC issued a 15-point directive and asked the government to comply with it immediately to stop police from making arbitrary arrests on suspicion and torturing arrestees on remand.

The directives, according to the HC verdict, are needed to be followed until the relevant laws are amended.

The HC delivered the landmark judgment following a write petition filed by a group of human rights organisations and individuals after the tragic death of Shamim Reza Rubel, a student of Independent University, in police custody on July 23, 1998.

But the then BNP-led government opted to file an appeal against the verdict.

The AL-led government has followed the same path and pursued the appeal.

Yesterday, a four-member bench of the Appellate Division of the SC, headed by Chief Justice Surendra

Kumar Sinha, dismissed the appeal against the HC verdict.

The apex court said it would set some guidelines on enforcement of sections 54 and 167 of the CrPC of 1898 dealing with arrest on suspicion and subsequent remand, as the HC has ruled that the sections were inconsistent with the fundamental rights guaranteed by the constitution.

The guidelines and modifications would be mentioned in the full judgement, the SC added.

The apex court's verdict has won plaudits from legal experts and human rights activists.

"This is truly a landmark judgement since it will ensure protection of the fundamental rights of citizens in relation to arrest, detention in custody, remand and interrogation," write petitioners' counsel Dr Kamal Hossain said in a statement.

It would also guarantee protection against torture and abuse of powers by those who rely on outdated laws and practices that are no longer valid under the constitution, he said.

Asked, Law Minister Anisul Huq said section 54 gives emergency powers to police, but it loses its efficacy if it is misused.

"I have heard from the attorney general's office that the government's appeal was dismissed. I will not make any comment until I read the full judgment of the apex court," he told The Daily Star.

Attorney General Mahbub Alam told this correspondent that once the

government receives a copy of the full judgment, it would decide whether it would move a petition with the SC seeking a review of the verdict.

He hoped the government would take steps in line with the SC directives.

In the last 13 years, none of the HC directives were followed by the police.

During the hearing on the government's appeal against the HC verdict on April 17, the Appellate Division expressed displeasure about it.

"Thirteen years back, the High Court had given some specific directives on the detention of any person and subsequent dealings with the detainees on remand. But the government did not implement any of them," it said.

One of the directives says an accused must be interrogated by the investigation officer in a prison room, not in a police interrogation cell. The prison room must have a glass wall or a wall with grills on one side so that the accused is visible to the lawyer or his relatives.

In another directive, the HC bars police from detaining a person under the Special Powers Act of 1974 after picking him up on suspicion.

Barrister M Amir-Ul Islam, another counsel for the writ petitioners, said the government must comply with HC directives as the SC has never stayed those.

Law enforcers should follow the directives, which would remain in force until the relevant law is

amended, he said.

WHY LAWS NEED TO BE CHANGED Citing that 38 people died in custody in 2002, the HC verdict said, "This is absolutely shocking... Obviously, such tragic deaths resulted due to sweeping and unhindered power given to a police officer under section 54 of the Code [CrPC]."

Examining section 54, the HC said the police can exercise the power abusively. There is nothing in this section which allows the accused to be furnished with the grounds for his arrest. It is a basic human right that whenever a person is arrested he must know the reasons for his arrest, it stated.

"As section 54 now stands, a police officer is not required to disclose the reasons for the arrest to the person whom he has arrested," the HC said.

It goes against article 33(1) of the constitution, noted the court.

About section 167 of the CrPC dealing with remand, the HC said a magistrate exercises the power to pass an order authorising detention in police custody.

It is surprising that no guideline has been given in sub-section (2) and (3) of section 167 as to the circumstances under which detention in police custody may be authorised, it added.

"The magistrate in the absence of any guideline passes a parrot like order authorising detention in police custody which ultimately results in so many custodial deaths and incidents

of torture in police custody," the HC said.

If the purpose of interrogation of an accused is to extract information from him, the information gleaned from the person cannot be used against him in view of article 35 (4) of the constitution, it added.

Article 35 (4) clearly provides that no person accused of any offence shall be compelled to be a witness against himself.

"So, we do not understand how a police officer or a Magistrate allowing remand can act in violation of the constitution and provisions of other laws including this Code [CrPC] and can legalise the practice of remand," said the HC.

"Through judicial pronouncements, it is also established that any statement made by any accused before a police officer in course of his interrogation cannot be used against any other accused."

The use of force to extract information can never be justified. Use of force is totally prohibited under article 35 (5) of the constitution, it said.

"Thus, it is clear to us that the very system of taking an accused on remand for the purpose of interrogation and extraction of information by application of force on such a person is totally against the spirit and explicit provisions of the constitution."

The existing provisions of section 167 of the CrPC appear to the HC insufficient for taking appropriate

and effective action in case of custodial death.

Under the provisions, the magistrate is not bound to hold an inquiry. The HC proposed changing the law to make it mandatory for the magistrate to inquire into the custodial death.

"We are also of the view that causing death in police custody or in jail is more heinous than death caused by an individual."

If someone dies in police custody or in jail, it is difficult for the victim's relatives to prove as to who caused the death, said the HC.

"In many cases, this court has decided that when a wife dies while in custody of the husband, the husband shall explain how the wife met her death. Similar principle may be applied when a person dies in police custody or in jail."

Proposing a change in the Evidence Act, the HC said the new section in the act shall provide that when a person dies in police custody or in jail, the jail authorities or the police officer, who arrested the person or took him in custody for interrogation, shall explain the reasons for the death and shall provide relevant facts to substantiate the explanation.

About the Police Act of 1861, it said there is no provision for maintaining any diary to record reasons for arrests without any warrant and other necessary particulars.

The HC recommended inclusion of a new section in the Police Act to overcome the deficiency.