

# The frame-up of the Maruti Suzuki workers—Part 2: The factory fire and the death of Avineesh Dev

Eric London, Keith Jones  
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*Click here for parts one, three, four and five.*

As we have seen, Judge Goyal found thirteen workers—twelve of them leaders of the Maruti Suzuki Workers Union (MSWU)—guilty of culpable homicide or murder in the death of company Human Resources Manager Avineesh Dev.

At trial, the thirteen contested the prosecution's claim that they or other workers at Maruti Suzuki's Manesar car assembly plant attacked Dev or plotted his murder. They said Dev was set upon by some of the large contingent of "bouncers," that is thugs, the company had brought into the plant to intimidate the workers and that he was attacked because he was sympathetic to the workers' cause. At the meeting between MSWU leaders and company managers that directly preceded the July 18, 2012 altercation and fire, Dev, they further explained, had announced he was resigning in protest over management's intransigence.

Judge Goyal rejected the workers' version of events out of hand. He declared there was no proof Dev had resigned and that this and the claim company bouncers had assaulted Dev and the workers were made up. As proof, he cited the failure of the jailed, impoverished workers to place their claim of what happened on record until weeks after July 18. Yet elsewhere in his judgment, the judge had to admit police colluded with management and fabricated evidence, i.e., that they were not the least bit interested in the workers' version of the events.

Post-mortem examination established Dev was not beaten to death. He did not die from the injuries he suffered, whether at the hands of the workers or company thugs, in the factory-floor altercation, but from asphyxiation due to smoke inhalation.

The prosecution's murder case thus hinged on proving beyond reasonable doubt that the workers had injured Dev, rendering him incapable of escaping the fumes, and even more fundamentally that they had deliberately lit the fire.

The prosecution failed to do either. But as the provenance of the fire is the nub of the case, examination of the prosecution's claims about the fire are pivotal to the exposure of the frame-up. So too, is consideration of how Judge Goyal dealt with the fire in his verdict.

## Who lit the fire?

The prosecution witnesses' testimony on the setting of the fire is wrought with inconsistencies.

One witness, P.K. Roy, said he saw Jiya Lal and others setting the management office on fire, yet this witness failed to identify those people in court. Virenda Parshad, another prosecution witness, contradicted Roy and listed different workers as having set the fire. Another management witness, Shalil Bihari, said Jiya Lal and another worker set the fire, but then wrongly identified another worker as Jiya Lal. Another management witness, Vikram Sareen, failed to identify who started the fire.

Chander Pal, a Labour Inspector and prosecution witness, tried to get the company's and prosecution's point across more bluntly when he testified that all the leaders of the union started the fire.

Prosecution witnesses were also systematically unable to identify those they had implicated in the supposed violent worker assault on management personnel.

To fill these glaring gaps in its case, the prosecution relied heavily on its witnesses' assertions that workers "were heard saying" various incriminating statements. These statements, which the workers deny making, amount to statements of intent to kill, intent to set fire, and intent to harm all management officials.

The prosecution claimed, and the judge concurred, that it is merely a coincidence that these statements supply exactly "the proof" the prosecution needed to secure convictions and that they were heard only by managers in Maruti Suzuki's employ.

Counsel for the workers quoted legal precedent that sheds light on what the prosecution was likely trying to accomplish: "When the prosecution are unable to prove satisfactorily the intention of knowledge of an accused person, they generally ascribed to him certain words which he is supposed to have spoken in order to supply the missing proof."

## The unscathed matchbox cover

The police were never able to establish how the fire was ignited, nor where it began. But at trial the prosecution contended that a matchbox cover found in the ashes of the gutted management office was potentially the key to solving the puzzle of the fire's origins.

In reality it only served to highlight the holes in the prosecution case.

First and most importantly, nothing connected any of the accused workers to the matchbox.

Second, there was what the judge himself referred to as “the matter of doubt” surrounding the “recovery of the matchbox.” It was not discovered when police first combed through the crime scene, but only the next day by police forensics specialist Dr. Rajesh Soni. As the judge had to acknowledge, “Even the fingerprints from the match box were not lifted by Dr. Rajesh Soni. Even Dr. Rajesh Soni was not examined as witness and even the recovery memo of (the) match box did not bear the signatures of Dr. Rajesh Soni.” Rather it bore the signature of another investigating official, H.C. Satpal, who may not even have been present when the matchbox cover was purportedly found.

Third, there is the inexplicable condition of the matchbox cover, which had no burn or smoke marks although all around it was gutted by the fire. Elsewhere in his decision, the judge found that “computer, computer parts, furniture, record and other articles were burnt in a huge quantity,” yet the matchbox cover is said to have escaped unscathed.

In his verdict, Judge Goyal conceded that “the prosecution has not been able to establish who lit the fire,” that is, it failed to prove what should have been the cornerstone of its murder case.

How then does he justify—in reality concoct—a legal, or rather pseudo-legal, argument for convicting the 13 workers?

Judge Goyal dismisses out of hand defense counsel's suggestion that the matchbox was planted, finding it “without force.” Yet in two other instances, to which we will return later, he had no choice but to admit police had fabricated evidence.

He argues in a manner designed to cover over and shift attention away from the holes and discrepancies in the prosecution's case and effectively place the burden of proof on the workers.

Thus in regard to the matchbox, which the prosecution was in no way able to connect to any worker and on which police “oddly” failed to conduct routine forensics, the judge writes: “It was neither burnt nor it consisted of matchsticks but it does not mean that the accused did not lit [sic] the fire, did not cause the injuries to the management officials and did not cause the death of Avineesh Dev.”

Continuing in the vein of prosecution advocate, Judge Goyal latter adds, “It is not the case of the prosecution that the fire

was started by this matchbox cover... here is a possibility that the said matchbox cover was thrown at a place where it was not engulfed in fire whereas the box and match sticks were burnt.”

The judge's shifting of the onus of proof onto the accused is even more explicit, when he cynically declares, “It is for the accused to explain if Avineesh Dev was so dear to them, then how did he die because he was a sympathizer of the workers according to them...”

This brings us back to the question of Dev's relations with the workers. There is considerable evidence, some of it summarized in Judge Goyal's own judgment, to show that he was supportive of the workers and that they were appreciative of him. This includes the fact that he assisted their registering the MSWU with the Haryana Labour Department and the admission of a key prosecution witness and Maruti Suzuki manager, Vikram Khajanchi, that in May 2012 Dev had fallen ill and the “union leaders had gone to see him” in hospital. Yet Goyal claims this is of no import.

Maruti Suzuki had bitterly contested the formation of the MSWU, as attested by three strikes that erupted in 2011 and its repeated appeals to the police to repress the workers. Relations in the plant were such that management deployed, according to the judge's own ruling, some 300 security personnel on July 18. Yet he takes effectively the same position as the Judicial Magistrate who dismissed the workers' counter-complaint against management, in which they alleged company bouncers attacked Dev: “there is no evidence on record” showing Maruti Suzuki management ever had “any issue with” Avineesh Dev.

In the next part we will explore the discrepancies, gaps and contradictions in the claims of the company and prosecution—claims the court upheld in the main—that the workers, led by the MSWU leaders, went on a violent rampage. Not least among the many questions such a probe raises is: how is it that the only fatality in this rampage, indeed the only Maruti Suzuki manager to suffer serious injury, was the one company official who had proven sympathetic to the workers?

*The third part in this series will be posted April 11.*



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