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A new book explores how defendants on terror charges cope with their grinding cases

An excerpt from 'Terror Trials: Life and Law in Delhi's Courts', by Mayur R Suresh.

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While the Delhi trial courts were on their summer recess in 2012, I went to Srinagar (in the erstwhile state of Jammu and Kashmir) to meet several men who, like the majority of people accused of terrorist crimes in India, had been acquitted of the charges. I met one of them, who I call Mohsin, with his two nephews, at his brother's home in Srinagar. He would tell me about how his life had been ruined by a trumped-up terrorism charge.

In January 1996, 16-year old Mohsin came to Delhi to help with his brother's handicrafts business. In May of that year, a bomb placed in a car exploded in a market in South Delhi. The Delhi Police's Special Cell claimed that a Kashmiri terrorist group was behind these explosions. They alleged that the conspiracy was hatched in Pakistan, explosives were sent across the border,

and that a group of Kashmiri men, one of whom was Mohsin, executed the plan. The trial court acquitted Mohsin and his ten co-accused in 2010, by which time Mohsin had spent 14 years in prison.

Mohsin began by telling me about the main charge against him: that he had harboured people who had been behind the bomb blast. The only allegation tying Mohsin to the conspiracy was that he was in possession of the “stepney” (spare tyre) of the car that was used in the bomb-blast. As he told me this, he sent his nephews to bring a document from the next room. After some back and forth, the nephew finally brought in the correct one.

This was a police document upon which the entire prosecution of Mohsin rested: the “seizure memo” stated that that he was arrested while in possession of the spare tyre of the car that was used in the bomb blast.

This apparently was the prosecution’s chain of thought: since he was in possession of the tyre, the people in the conspiracy must have given it to him; they could have only given it to him after the bomb explosion, and hence he must have harboured them after the attack.

Mohsin also told me about how the prosecution’s witness, who was supposed to attest to the allegation that Mohsin was in possession of this spare tyre, had turned hostile in the trial; that is, this witness refused to corroborate the prosecution’s narrative. As Mohsin told me this, he sent his nephews to the next room, asking them to bring the relevant witness statement to show me. They returned with the incorrect document, and Mohsin gave them instructions in Kashmiri, on where to find the correct one.

Every time Mohsin referred to an event from his trial, he would ask his nephews to go into the next room to retrieve a document or file. When they brought the wrong document, their eyes rolled in frustration as they were sent back to get the correct one. Finally, exasperated with this documentary go-fetch, they both dragged a large, heavy metallic trunk into the room where we were sitting and they said something to their uncle in Kashmiri, which I guessed meant, “find it yourself.”

The trunk was filled with paper. I was astounded by the sheer volume of paper that Mohsin had collected. The top layer was lined with magazine and newspaper articles about Mohsin. Some had pictures of his face as an adolescent before he went to jail, juxtaposed against a more recent picture of him, showing the toll that time and the trial had taken. One article contained an open letter to the state’s Chief Minister asking for compensation and a rehabilitation package. Another, reported on a question asked in Parliament about Mohsin’s case, and a third was headlined “Life in jail was hell, it is no better outside.”

The next layer was comprised of documents from his trial. Digging through these documents seemed to recreate the trial process for Mohsin. The papers not only indexed something that happened during the trial, but it was also as if the trial could be re-lived by showing these

documents. As he pointed to the memo that documented the date and manner of his arrest, he told us his version of the events that had led to his arrest, how the document had concocted the story of how he was apprehended. He spoke of the fear and frustration he felt while being held in (illegal) police custody for about 25 days.

As he looked at the magistrate's first order remanding him to judicial custody, he described how he was taken to court with a pistol at his back, remembered his crushing disappointment that the magistrate did not even look at him at the hearing and hinted at the humiliation of being subject to a "full-body search" at the juvenile jail.

He also showed us petitions that he and his family had written to courts, officials, and other authorities, the overwhelming majority of which were met with no reply. He showed me one petition that was sent to the High Court in 2001 asking for bail pending trial, which adopted a number of rhetorical strategies to convince the High Court to grant him bail. It was written in the third person, as if Mohsin presented an objective version of himself. He tried to evoke sympathy from the court:

"The applicant was just a boy...when he was sent to jail, [the] accused suffered all kinds of hardships during this period, his entire youth has been ruined due to prolonged delay..." He wove a positive image of himself by drawing attention to his "exemplary conduct": "He did many courses in jail like computer courses...and also did his graduation in jail..." He then moved away from a claim premised on his own individual suffering, to a claim based on the violation of rights that should have been inherent to him as a citizen: "[the] applicant's right to life and liberty enshrined under [Article] 21 [of the Constitution] and his right to have fair trial stands violated".

Then he pointed out that the main prosecution witness against him, had exonerated him: "That [...] the sole witness of the prosecution on the basis of whose statement the applicant was implicated in the case. However... [he] has not supported the prosecution story..." Finally, he ends his petition with

a near-Gandhian appeal: "That if trial is not concluded expeditiously alternatively applicant is not granted bail he shall be compelled to on hunger strike till his death."

This petition was significant for Mohsin as it was one of the two that he sent that had actually received a reply from the High Court. He showed me the High Court's order, directing that the case be heard on a day-to-day basis and be completed within six months. Instead, the trial took nine more years. "After that, I had lost all hope" he told me. "26 judges had changed in my trial. They would never to let me go."

The trunk that his nephews pulled in from the neighbouring room contained several spiral binders and files, all of which contained a staggering volume of petitions that Mohsin had sent. Some of these were handwritten, and some typed out. Sometimes the same petition was copied out and sent to different authorities. What was even more astonishing was Mohsin continued to write

petitions after his release. These petitions, which were also in files, were sent to the Jammu and Kashmir state government, the government of Delhi, the Indian government, the Jammu and Kashmir High Court and the Supreme Court asking for compensation for being falsely accused and imprisoned, a job, and free educational training.

All of these later letters followed a similar structure: they narrated all that had happened to him, and asked the addressees to provide him what he had asked for. He showed me petitions he had sent to President of India, the Deputy Prime Minister, the Chief Minister of Jammu & Kashmir, the State's law minister, the National Human Rights Commission, the State Human Rights Commission, but "no one listened." None of them received a response.

While he was in jail, both his father and his sister passed away. He petitioned the High Court to grant him temporary bail, so that he could attend the funerals. In both of these instances, the High Court did not respond:

"Though the High Court would do nothing, I sent them an application. I wrote it out by hand. I had my father's death certificate, my sister's death certificate. I thought that at least they would listen to this. It is the duty of a Muslim to do the last rites of his father and sister. If it's my destiny to do these last rites. So I said send me in handcuffs, at least. But the court just sat with my rights. That petition is with me. I [also] sent it to [National] Human Rights [Commission]. But no road opened for me."

He also showed me this hand-written letter to then-Deputy Prime Minister, LK Advani. It was written in English, and in the transcript that follows I have tried to be faithful to his original

Hon'ble Home Minister Mr. LK Advani
New Delhi.

Most Respectfully Mr. Home Minister,

I, [redacted], most humbly beg to submit the following chain of events which have totally destroyed my life even though I am completely innocent.

I came to Delhi at the age of 14 years in Jan 1966 to help my elder brother in his paper mill business as my college was closed due to vacation. I belong a 'Shia muslim' have no link or connection with any terrorist movement in Kashmir.

I am very very helpless through of law. I was arrested by Delhi police against [redacted] after the unfortunate [redacted] market bomb blast on [redacted] on a false charge of Section 379, 411 of a car stealing of a maruti car which was used by criminals who engineered the blast. It is also false case for me. The car which was recovered from the common shop of DDA flats where I used to stay. The police arrested me on [redacted] production the court two days after my medical examination and on the same day I was sentenced to judicial custody. I was granted bail in the case by Hon'ble High Court Judge Sr. N. B. Wadgaonkar on 11-02-1966.

However, I was not released as Delhi police also implicated me against the bomb blast accused in the case E.P.O. [redacted] on the charge 120B, 307, 308, 312 I.P.C. District police involved [redacted]

petition.

Mohsin's Petition to the Home Minister.

"Hon'ble Home Minister Mr LK Advani
New Delhi
Most Respectfully Mr. Home Minister,

I, Syed Mohsin Shah s/o Mohammed Shah, most humbly beg to submit the following chain to events which have totally destroyed my life even [though] I am completely innocent.

I came to Delhi at the age of 19 years in January 1996 to help my elder brother in his [papier maché] business as my college was closed due to vacation. I belong to a “Shia Muslim” had no line or connection with any terrorist movement in Kashmir.

I am very very helpless through of law. I was arrested by Delhi police along with several [Kashmiris] after the unfortunate [...]market bomb blast on [...] On a false charge of sections 379, 411 of car stepney of a Maruti car which was used by criminals who engineered the blast. It is also false case for me.

[...]

The charge against me was framed after 4 1/2 years under section 212 which clearly states that I harboured accused persons after having knowledge and belief that they (accused person) had entered into a conspiracy to cause explosion.

I am feeling the trial even after eight years when the charge under section 212 IPC harbouring the accused persons attracts 5 years of maximum sentence [...]

The attitude of the [prosecution] and even the trial court is to linger on the case indefinitely even though the Hon’ble High Court ordered a day-to-day trial and copy attached. The Court has ignored the same and there is no desire to speed up the case. Only 26 witnesses out of the huge list of 280 witnesses. Only four witnesses were to [testify] against me and three witnesses have already been examined and only one witness is yet to be examined [...]

Sir, I have submitted [several] bail application to the trail court which me kept pending and unanswered/undecided. I have spent eight years in Tihar jail [...]

Sir, as a last resort to end my agony and endless stay in jail. I am [now] writing to kindly take necessary steps to at least grant of bail set me free on the charge. Now my father has died so my family destroy the life. Now my old mother totally blind and she waited me.

Sir, please in only my case. If I involved in this case then I accept all the punishment through the law and Court.

I am sure that this last effort of mine will not go unheard and through justice is delayed it will not be denied.”

To make sure that the letter had been delivered, he sent it by registered post, acknowledgment due. Below is a copy of the receipt that he showed me:

बीमा नहीं/NOT INSURED

क्रमांक/No. [REDACTED]

बिमाये मगरे डाक टिकटों का मूल्य ५०

Amount of Stamp affixed

Rs.

मोहर

Date

Shri

एक रजिस्ट्री

Ahluwalia

प्रोप्त किया

Deputy

Receiv

Prime Minister of India

Ministry of Home Affairs

M.P. 112-11

बिमा नहीं/NOT INSURED

Signature of Addressee

बीमा नहीं/NOT INSURED

क्रमांक/No. [REDACTED]

बिमाये मगरे डाक टिकटों का मूल्य

Amount of Stamp affixed

The International Committee of the Red Cross

Received a Registered Letter

47 Sandher Nagesh

M.P. 112-3

बिमा नहीं/NOT INSURED

Signature of Addressee

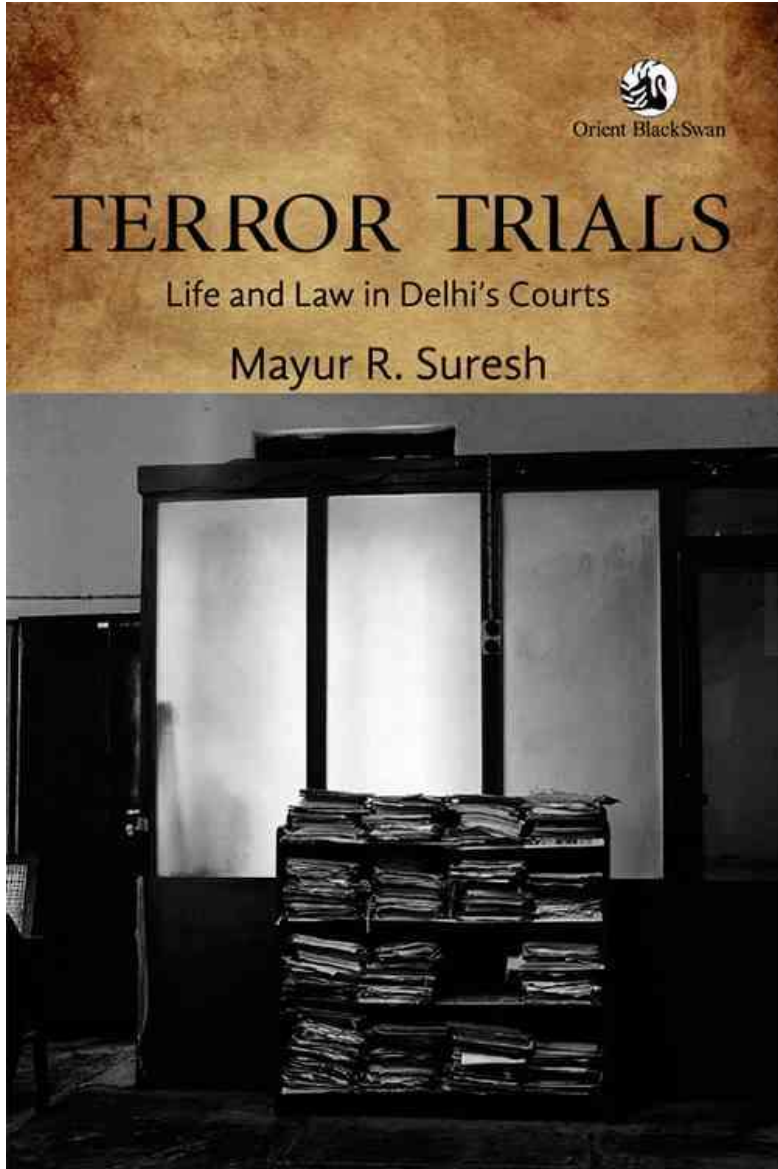
Postal receipts from two of Mohsin's petitions.

The bottom half of the image shows a receipt for a similar petition that he sent to the Red Cross' Delhi office on the same date.

From the trunk, Mohsin also pulled out five notebooks – diaries of his days in jail. Written in Urdu (with a smattering of English), they reflected the scarcity of writing material in the jail: written in the smallest of handwriting, appearing like delicate wisps on paper. They occupied the entire sheet, bursting against the ends of the page.

Mohsin held an intimate connection to these documents. From witness statements, to petitions, to his diaries – all these documents forced Mohsin to relive moments of his trial. When speaking about his petitions, Mohsin would tell me that “koi suna nahin [no one listened]” to his repeated petitions. It is not just that his petitions were never replied to, but also that his experiences were

disregarded, the authorities were unmindful of the “torture” of prison and turned a deaf ear to the many injustices he was put through.



Excerpted with permission from Terror Trials: Life and Law in Delhi's Courts, Mayur R Suresh, Orient Black Swan.