Aarushi Case - The Systemic Lapses

Why in news?

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- Allahabad High Court recently acquitted the Talwar couple in the murder of their daughter Aarushi.
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- The case has highlighted the need for a sober analysis of our investigative set-up as a whole.
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How did the case evolve?

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- 13 year old Aarushi (daughter of the Talwars) and their domestic help Hemraj were murdered in their Noida home in 2008.
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- The Sessions court had convicted the Talwar couple in 2013 for double murder and sentenced them to life imprisonment.
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- Allahabad High Court has now overturned the conviction and has given Talwars - the benefit of doubt.
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- In its order, the High Court severely censored the Sessions judgment for having drafted a story to implicate the couple.
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- The trial court is said to have proceeded with what were apparently the ‘most appropriate’ assumptions to arrive at its conclusions.
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What are larger implications of various Judicial Directives?

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- **Pressure -** CBI initially wanted a closure due to lack of evidence.
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- But it was overruled by a trial judge, who pressed for further investigation.
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- Investigators cannot be expected to find all the hidden facts in a crime and gaps will always remain.
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- Rather, only a dishonest suppression of facts deserves scrutiny.
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- Hence, the judiciary's tendency to exert enormous pressure on investigating agencies is certainly extra-legal.
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- In this case, the wrongful conviction of Talwars after declaring a lack of evidence is a direct consequence of this.
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- **Arrests -** Also, the decision of arresting an accused must be the discretion of the investigating officer and not the courts.
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- Court intervention is called for only when investigation is proven to be on a dishonest path.
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- **Junior courts –** While, the trial court has indeed delivered an improper judgement in this case, the tone of the current High Court verdict is very aggressive in its criticism.
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- This might create a fear psychosis among lower court judges.
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- They might want to play it safe in future cases – thereby delaying judgments or blunting the deserved severity of verdicts.
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What are problems with investigative policing?

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- Some blatant mistakes were committed by the U.P. Police which initially investigated the crime.
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- The most serious of these was the failure to protect the scene of crime, and allowing free access to public.

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- Investigation work requires thorough knowledge of procedural law and familiarity with advances in technology.
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- Direct recruitment to crime branches for investigative training is not possible as grounding in “law and order” maintainance is a pre-requisite.
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- Unfortunately, policemen once posted in law and order are excessively reluctant to leave it due to the lure of money & power.
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What are the takeaways for the CBI?

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- Heightened media glare and pressure forced the constitution of multiple teams one after the other for investigating the crime.
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- Hence, investigations need to be insulated from media sensationalism & political pressures for better working.
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- While the CBI did come out with a laborious report, the High Court has quashed the report rooted on seemingly correct facts.
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- This calls for a rational reflection, as the reputation of the organisation is under question.
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- Ultimately, the fact that the case remains unsolved and that the Talwars had already suffered 4 years in jail is a blot it itself.
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Source: The Hindu

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