

THE HON'BLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA

AND

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P(PIL).No.53 of 2018

ORDER: *(Per the Hon'ble the Chief Justice Satish Chandra Sharma)*

The petitioner before this Court has filed this writ petition as a public interest litigation against the alleged extra judicial killing, which took place on 02.03.2018, in which ten persons were killed along with a woman.

It has been stated that the police has alleged that all the deceased persons are belonging to CPI-(Moist) and there was an exchange of fire resulting in killing of 10 persons. The petitioner in the present case wanted the State Government to comply with the directions issued by the Hon'ble Supreme Court in the case of ***People's Union for Civil Liberties vs. State of Maharashtra***¹.

The State Government has filed a counter affidavit in the matter and it has been stated that an encounter took place on 02.03.2018 at Thondapal Forest area resulting in the death of ten persons and one constable also sustained bullet injuries and succumbed to the injuries on the same day. The respondents/State in its counter affidavit, in paragraphs 7 to 9, has stated as under:-

"7. It is submitted that pursuant to the directions of this Hon'ble Court the finger prints of the deceased were taken and sent them for chemical analysis to Finger Print Bureau, Kothagudem vide C.No.29/Cr/Charla/SDO-D/2018 on 2.3.2018 and the report is awaited. It is also submitted that the deadbodies were brought to Government Area Hospital, Bhadrachalam. The postmortem was conducted by a team of doctors, including three

¹ 2014(10) SCC 635

doctors in Forensic Medicine on 3.3.2018 and the Postmortem reports are awaited.

1. Dr. Krupal Singh, Forensic expert, Kakatiya Medical College, Warangal.
2. Dr. G. Lavanya Kowshil, Forensic Expert, Gandhi Medical College, Hyderabad.
3. Dr. Sk. Khaza Mohinuddin, Forensic Expert, KMC, Warangal

Apart from them, 8 doctors participated in the postmortem of 10 dead bodies. The postmortem report is awaited. The entire postmortem exercise was videographed and preserved and a CD containing the same is filed herewith for the kind perusal of this Hon'ble Court.

8. It is submitted that wide publicity was given in the print and electronic media. In response to the same, the kith and kin of the deceased persons approached the police and identified the deadbodies. The persons killed in the encounter were identified as:

- 1) Kudam Kosi, R/o Rangaigudem Village, Sukuma District, Kunta Block.
- 2) Podium Baman @ Mallesh R/o Dunga, Orcha Block, Narayapur District.
- 3) Punem Jogalu, R/o Oosur Block, Oornar Village, Bijapur District.
- 4) Rame @ Sodi Pande R/o Veerapuram, Sukuma District, Kunta Block, South Baster.
- 5) Sangeetha @ Kumma Prameela R/o Mukavelly, Bhupalapatnam Block Bijapur District, West Bastar, National Park Area
- 6) Rathna @ Tellam Soni, R/o Kakikorama Village, Bijapur District, West Bastar, Gangaluru Area.
- 7) Dadabovina Swamy @ Prabhakar, S/O Met Ramulu aged 53 years, Rampeta, near Kadipikonda, Warangal Urban district, Telangana State.
- 8) Hemla Payaki @ Lalitha R/o Avunar Village, Bijapur District, West Bastar, Gangaluru Area of Chattisgarh.
- 9) Madavi Shanthi @ Sony, R/o Dendodu Village, Bhairamgadh Block, Bijapur District, West Bastar.
- 10) Sundam Jogi @ Lalitha, R/o Vikadampalli Village, Sukuma District, Kunta Block, South Bastar, Jegurugonda area.

And handed over to their kith and kin on 3.3.2018 (one dead body of Dadabovina Swamy from Telangana) and the remaining dead bodies were handed over to their kith and kin on 5.3.2018 under proper acknowledgments.

9. In view of the above, it is false to allege that the Police did not disclose the names of the deceased persons, except one name Hari Bhushan. In fact, no such person killed in the encounter. The further allegation that when the District Committee members of the Petitioner organization visited the Police, the Police did not inform the details is far from truth. In fact, the respondent Police themselves are not aware of the details of the deadpersons till the bodies were identified by their kith and kin on 3.3.2018 and 5.3.2018. As it is thick forest and there is no possibility of shifting bodies in a Jeep, Helicopter was used to bring the deadbodies to Bhadrachalam Hospital and the deadbodies were preserved and after conducting postmortem, the deadbodies were handed over to their kith and kin under proper acknowledgment. It is false to state that the crime was registered under Section 307 IPC, instead of Section 302 IPC. The fact remains that the crime was registered under Sections 147, 148, 302, 307 read with Section 149 IPC and Section 25(1-B)(a) and Section of Indian Arms Act, Section 5 of Explosive Substances Act and Sections 10,13 and 20 of Unlawful Activities (Prevention) Act and Section 174 Cr.P.C. of Cherla P.S. vide Cr.No.29/2018.”

The aforesaid statement on affidavit makes it very clear that post-mortem was conducted by a team of Doctors, including three Doctors who were specialised in Forensic Medicine, on 03.03.2018, videography was done, C.D was preserved, a case has also been registered, vide Crime No.29 of 2018, for offences under Sections 147, 148, 302, 307 read with Section 149 of I.P.C, Section 25(1-B)(a) of the Indian Arms Act, Section 5 of Explosive Substances Act, Sections 10, 13 and 20 of the Unlawful Activities (Prevention) Act and Section 174 of Cr.P.C, and the investigation is going on.

In the light of the aforesaid, as the directions issued by the Hon'ble Supreme Court have been complied with, no further orders are required to be passed in the present case. However, the State Government is directed to conclude the investigation, if the same

has not been done, positively within three months from the date of receipt of a certified copy of the order. The original record be returned back to the State Government for the purpose of investigation.

With the aforesaid, the writ petition (public interest litigation) stands disposed of.

Pending miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

SATISH CHANDRA SHARMA, CJ

ABHINAND KUMAR SHAVILI, J

03.01.2022
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