

IN THE SPECIAL COURT FOR THE TRIAL OF NIA CASES, ERNAKULAM

Present: Sri. P.K. Mohandas, Judge for NIA Cases

Monday the 30th day of September, 2024/8th Aswina, 1946

Crl.M.P. No.327/2024

In

RC No.02/2021/NIA/KOC

(SC 02/2021/NIA/KOC)

Petitioner : Union of India represented by National Investigation Agency, Kochi.

**By Sri. Arjun Ambalappatta
(Senior Public Prosecutor, NIA) and
Sri. Sreenath.S (Public Prosecutor, NIA).**

**Respondent/Accused
No.2** : Danish @ Krishna 41/ Saidappa Thevar Street, Poliyakulam, Ramandahapuram, Coimbatore, Tamil Nadu

By Adv. Sri. Thushar Nirmal Sarathy

This Criminal M.P coming on for hearing before me on 30.09.2024 and the Court on the same day passed the following:

ORDER

This is an application for summoning the 2nd accused for recording moving image for comparison at State FSL.

2. The petitioner is the chief investigating officer of this case. According to the petitioner, the case was registered on the basis of the

information tendered by the first accused, Kalidas @ Mani @ Sekhar, when he was arrested by then DySP, Agali on 21.09.2017 in connection with crime No.153/2017 of Sholayur P.S. It was revealed that the accused had voluntarily convened a meeting and training camp in the forest of Karulai in Malappuram district with arms, including automatic rifles for the purpose of furthering the activities of proscribed terrorist organization, CPI (Maoist), in order to wage war against Government of India. Investigation was conducted by the Edakkara Police by registering Crime No.249/2017. Later, the case was handed over to the Anti Terrorist Squad of State Police and further investigation was conducted by the DySP, Crime Branch.

2. During the investigation it was revealed that Crime No.536/2016 was registered by the Edakkara Police in connection with the exchange of fire between the Maoists and the security forces on 24.11.2016, in which 2 Maoists died. During the investigation of that case, various electronic gadgets, including laptop, pendrive, etc were recovered from the scene of incident. On examination of these gadgets, the role of some of the accused were revealed. During investigation by the Kerala Police, involvement of 25 persons in the crime was disclosed. ATS filed charge sheet against five arrested accused. Later, Government of India as per order dated 19.08.2021 directed the NIA to take over the investigation and the case was re-registered in the present number on 20.08.2021. On the basis of video identification proceeding conducted on 07.01.2022 the 20th accused identified three more

accused and arrayed them as Accused No.26 to 28 respectively. The investigation was conducted against A1 to A28 and charge sheet was submitted before this court on 23.04.2022 as SC.02/2021.

3. The videos of arms/physical training etc. by the accused, conducted by CPI (Maoist), found in the digital devices seized in Crime No. 536/2016 of Edakkara PS (MO-86 & MO-87) will prove that the arrested accused had actively participated in the arms/physical training conducted by CPI (Maoist).

4. It is further submitted that investigation revealed that the 7th accused Danish @ Krishna S/o Selvakumar is associated with the proscribed terrorist organization CPI (Maoist) and had conspired and conducted/attended training camps at various places in India to further the activities of the proscribed terrorist organization CPI (Macist). In furtherance of the conspiracy, the accused participated in physical and weapon training for People Liberation Guerrilla Army (PLGA the military wing of CPI Maoist) to get well versed in using sophisticated weapons and IEDs. Moreover, under the supervision of 5th accused Vikram Gowda, the accused had practiced different tactics being used in the Guerrilla warfare.

5. It is further submitted that during the custody of the 7th accused Danish @ Krishna, S/o Selvakumar on 24.11.2018, moving image was captured by the department photographer. This recording was subsequently

handed over to DySP Perinthalmanna in a CD on 22.12.2018 and was submitted before the Court as material object (MO) in 151 A form, numbered as item no. 353/18, dated 26.12.2018. Following standard procedure, the court forwarded the CD containing the moving image to the State Forensic Science Laboratory (FSL), Thiruvananthapuram, for comparison, which was received under the receipt number B2-12767/FSL/2019.

6. On 13.04.2022 as per letter No: B2-12767/FSL/2019 the FSL reported to the Court that the case is taken for examination while opening the MO's for examination, the standard CD was found to be in broken condition, rendering the comparison with the questioned visual impossible hence it is requested the Court that another copy of the standard CD to be produced. While checking it was found that there was no copy available with the crime branch. The moving image is crucial for comparing it with the video footage found on a digital device seized from the crime scene of Crime No. 536/16 (Karulai Encounter) of Edakkara P.S. This footage contains arms training videos of the 7th accused along with other accused, which is a significant piece of evidence in this case. The visual evidence linking the accused to the arms training can substantiate the charges and provide a clear demonstration of their involvement in prohibited activities.

7. In light of these circumstances, it is required that the Court may make a direction to summon the accused Danish Krishna, who is currently on

bail and facilitate taking/recording of new moving images of him which can then be sent for comparison with the video footage containing the arms training.

8. No objection filed by the accused. I have heard the Public Prosecutor and perused the records.

9. The investigating officer has reported that, in order to ensure the availability of crucial scientific evidence, it is necessary to record the new moving images of Danish Krishna, who is currently on bail. The learned Special Public Prosecutor submitted that recording of new moving images of above accused is highly necessary for further investigation of the case. As the accused is already on bail, he is to be called-up on to appear before the investigating officer.

10. On going through the petition and the case records and considering the facts and circumstances of the case, I am of the view that comparison of the moving image of the accused with the images recovered during investigation is highly necessary for a just and proper decision in this case. Hence the accused, Mr.Danish Krishana, S/o.Selvakumar, who is already on bail can be directed to be appeared before the investigating officer.

Hence, the petition is allowed. The accused, Mr.Danish Krishana, S/o.Selvakumar, who is already on bail shall appear in person before the investigating officer on any day between 10.00 am and 5.00 pm on or before

15-10-2024 and permit the investigating officer to record his moving images for the purpose of expert examination.

Dictated to the Confidential Asst., transcribed and typewritten by her, corrected and pronounced by me in open court on this the 30th day of September, 2024.

Sd/-
P. K. Mohandas
Judge, Special Court for NIA Cases

Appendix: Nil

Id/-
Judge, Special Court for NIA Cases
(By Order)

// True Copy//

Sd/-
Sheristadar