

SESSIONS CASE NO 128 OF 2013
CNR-WBCS01-000139-2013
Present: Sri Soumendra Nath Das
J.O. CODE NO.WB01132
Chief Judge, City Sessions Court, Calcutta

Order no.202 dated 20.02.2025

Today is fixed for appearance of all the accused persons, production of the accused person namely **Puran Rai @ Puran Bahadur Rai** and framing of charge.

Today is also fixed for bringing updated order from the Hon'ble Supreme Court of India, if any.

Today is also fixed for appearance of the accused persons namely 13. Suraj Singh, 30. Binoy Tamang, 31. Col. Ramesh Aley, 36.Urmila Rumba, 37.Anita Lakhandri, 38. Kabita Dahal and 39.Babita Ganguly i.d. necessary order.

Today is also fixed for further hearing upon the petition dated 26.07.2024 filed by the victim party.

Today is also fixed for submission of report by the I.O. of this case with regard to the genuineness of the death certificate issued in the name of accused person namely Dinesh Theeng.

The accused person namely **Puran Rai @ Puran Bahadur Rai** is produced before this Court through virtual mode from the Presidency correctional home.

Hazira has been filed on behalf accused person **Puran Rai @ Puran Bahadur Rai** by the Ld. Counsel appointed from the panel of Legal Aid Defence Counsel office at Kolkata and also an assignment issued by the Office of Legal Aid Defence Counsel, Kolkata vide Assignment no. 932/LADCS-KOL/2025 dated 10.02.2025 in favour of Shri. Debtanu Dutta, Ld. Legal Aid Defence Counsel, Kolkata is present to represent this accused person during the trial.

Perused the same and let it be kept with the record.

One Vakalatnama has been filed by the Ld. Advocate on behalf of accused person **Puran Rai @ Puran Bahadur Rai** and the Ld. Advocate so appointed appears before this Court for the accused person.

As the accused person **Puran Rai @ Puran Bahadur Rai** has already engaged his Ld. Counsel to defend his case, the Ld. Counsel appointed from the Legal Aid Defence Counsel, Kolkata is hereby released from conducting this case.

The accused person **Puran Rai @ Puran Bahadur Rai** is asked by this Court as to whether he is able to hear and see the proceedings clearly to which he replied that he is able to see the proceedings clearly and this Court may proceed with the hearing of this case.

The accused persons namely 2.Prashant Chhetri @ Yogen Rai 3.Asish Tamang, 4.Sudesh Rai Majhi, 5. Sunil Rai, 7.Dipen Malay, 08. Arun Moktan, 09. Sanjay Tamang, 10. Bhanu Rai, 11. Kamal Singha, 12.Dawa Sangey Sherpa, 13.Suraj Singh, 14. Amol Lama, 15. Prabin Subba, 16.Goutam Tamang, 17. Ruden Sada Lepcha, 18. Edwin Sanchabir Subba, 19.Khagen Tamang, 20.Ranjit Rai, 21.Alok Kanta Mani Thulung @ Rai, 22.Kesav Raj Pokhrel, 23.Puran Thami, 24.Kismat Chhettri, 25. Dinesh Gurung @ Karate Kaila, 26.Tenzing Khambache, 27.Naresh Rai, 28.Nagendra Pradhan,

29.Kesar Rai, 30. Binoy Tamang 31.Col. Ramesh Aley, 33 Asha Gurung 34.Sushma Rai, 35.Sandhya Gurung, 36.Urmila Rumba, 37.Anita Lakhandri, 38. Kabita Dahal 39.Babita Ganguly, 40.Sona Sherpa, 41. Roshan Giri, 42) Jiten Tamang, 43) Pradeep @ Bhupendra Pradhan, 44. Harka Bahadur Chettri, 45. Rabin Subba, 46. Pemba Tshering @ Ola, 48. Devendra Sharma and Bimal Gurung on Court Bail are found absent in Court on calls.

Hazira has been filed on behalf of the De-facto Complainant.

Ld. Special P.P. for C.B.I. is present.

Ld. Counsel for the De-facto Complainant is present in virtual mode.

Ld. Advocates for the abovenamed accused persons have filed two separate petitions praying for condoning their absence with a further prayer to allow them to represent the accused persons u/s 317 of the Cr.P.C on the ground stated therein.

Heard both sides on the point of condoning absence of the above named accused persons.

Having heard the submissions of all sides, prayer for condoning their absence are considered and allowed with a direction upon them to remain present before this Court on the next date fixed positively.

Ld. Counsel for the Inspector General of Police, Intelligence Branch, West Bengal and the ADG (Crime), Criminal Investigation Department, Government of West Bengal is present by filing hazira.

Received one compliance report along with Annexures from Ramendra Dhiman, Inspector, CBI, SCB, Kolkata (Holding I.O.) in terms of order no.200 dated 29.01.2025 wherein it has been stated that the death certificate dated 13.01.2025 bearing certificate no.D/2025/0026419 in the name of accused person namely Dinesh Theeng (A-32) issued by the sub- Registrar (Birth and Death) of Gram panchyat Rangit- I has been verified and found genuine and therefore the Ld. Special P.P. for the C.B.I. prays for passing necessary order.

Perused the compliance report along with Annexures filed by Ramendra Dhiman, Inspector, CBI, SCB, Kolkata (Holding I.O.) including the death certificate of accused person namely **Dinesh Theeng** (A-32) issued by sub- Registrar (Birth and Death) of Gram panchyat Rangit- I

Let the same be kept with the record.

Heard the Ld. Spl. P.P of CBI.

In view of the above circumstances and the report so submitted by the holding I.O of CBI, the case against the accused person namely **Dinesh Theeng** (A-32) is **filed for ever**.

Ld. Counsels for all sides unanimously pray for fixing a date for framing of charge against all the accused persons.

Heard all sides.

On consent of all sides, fix **03.03.2025** for production of the accused person namely **Puran Rai @ Puran Bahadur Rai**, appearance of rest of the accused persons and framing of charge.

To-date i.e. on **03.03.2025** for bringing updated order from the Hon'ble Supreme Court of India, if any.

To-date i.e. on 03.03.2025 for production of the accused person namely **Puran Rai @ Puran Bahadur Rai** in physical mode.

All the accused persons on Court bail are directed to appear before this Court on the next date fixed positively without fail.

One written objection against the petition dated 26.07.2024 filed by the victim party has been filed today on behalf of the Inspector General of Police, Intelligence Branch, West Bengal and the ADG (Crime), Criminal Investigation Department, Government of West Bengal.

Perused the same and let the same be kept with the record.

Now, the record is taken up for further hearing upon the petition dated 26.07.2024 filed by the victim party together with the written objection dated 20.02.2025 filed by the Inspector General of Police, Intelligence Branch, West Bengal and the ADG (Crime), Criminal Investigation Department, Government of West Bengal.

Ld. Advocate for the widow of the deceased contended that due to tainted and shoddy investigation conducted by the CBI in the gruesome murder of the husband of the victim late Madan Tamang on May, 21, 2010 the petitioner approached the Hon'ble Supreme Court of India in Writ petition (CRL) NO 159 of 2012 for appropriate directions and orders. It is contended that despite tracing and transcribing the telephone calls immediately after the murder between the accused persons the investigating authority had deliberately withheld the same from producing before the Court. It is contended that vital evidence such as telephone transcripts leading to the complicity of the said leaders in the conspiracy to murder the husband of the petitioner had been deliberately withheld from the prosecution with a view to exclude those leaders from the array of the accused persons in the charge sheet.

Ld. Advocate for the widow of the deceased contended that the second supplementary charge sheet was filed by the CBI on 29.05.2015 in sessions case no. 128 of 2013 alongwith a status report in a sealed cover and it was taken on record by this Court. He further contended that the report had categorically stated that the original hard disk of the Intelligence Bureau which contained the original call records was cloned and sent to CSFL for examination and report.

Ld. Advocate for the widow of the deceased argued that according to the investigation on 21.05.2011 CSFL officials and CBI officials from New Delhi and experts visited the office of the Intelligence Branch, Siliguri and cloned the hard disk used for interception of calls of GJMM leaders and cadres during the relevant period. He contended that the clone copy of the hard disk was sent to New Delhi for analysis and extraction of the files containing intercepts of telephonic conversation of the abovenamed accused persons. He strenuously argued that it was established by CFSL, New Delhi that the mobile phones were under the interception by the DIB, Siliguri officials and an analysis of log files were made between 14th May, 2010 and 23.05.2010 and such exercise was carried out meticulously.

Ld. Advocate for the widow of the deceased also draws the attention of this Court to the reports filed by Inspector General of Police, Intelligence Branch, West Bengal and the ADG (Crime), Criminal Investigation Department, Government of West Bengal is totally vague and indicates that the

office of Inspector General of Police is trying to bypass the main issues by saying that the records are not available and information required by the CBI was furnished to the extent available with them.

In reply, Ld. Counsel for the Inspector General of Police, Intelligence Branch, West Bengal and the ADG (Crime), Criminal Investigation Department, Government of West Bengal submits that there is no such records of call transcripts lying with them at present and whatever they had was already furnished to the CBI authorities when the investigation was handed over to them.

Heard the Ld. Counsels at length in part.

This Court thinks it fit and proper to call for a fresh report from the Inspector General of Police, Intelligence Branch, West Bengal and the ADG (Crime), Criminal Investigation Department, Government of West Bengal and in such report to be filed before this Court the Inspector General of Police, Intelligence Branch, West Bengal and the ADG (Crime), Criminal Investigation Department, Government of West Bengal shall give the details as to the Officials who were posted at the office of DIB, Siliguri during the period from 14.05.2010 to 23.05.2010 and the Officials who were in charge of the Hard Disks used for interception of calls of the GJMM, leaders and cadres during the relevant period. The reports shall also indicate the names of the officials who had intercepted the telephone calls and had stored them in the hard disk of the office computers with regard to the voice recordings and call intercepts of the accused persons during the period from 20.05.2010 to 21.05.2010.

Inspector General of Police, Intelligence Branch, West Bengal and the ADG (Crime), Criminal Investigation Department, Government of West Bengal shall also furnish the names of the officials who were in charge of the computers which were used for recording the voice data and voice intercepts of the leaders of Gorkha Janmukta Morcha being the accused person in this case during the period from 20.05.2010 and 21.05.2010, the name of the operators of the computer in whose computers the call transcripts of the mobile phones which were intercepted was kept and preserved.

Inspector General of Police, Intelligence Branch, West Bengal and the ADG (Crime), Criminal Investigation Department, Government of West Bengal shall produce before this Court the hard disk of the computers used for interception of calls of the leaders of Gorkha Janmukta Morcha and cadres during the relevant period i.e. on 20.05.2010 and 21.05.2010 for unearthing the truth and for handing over the same to the CBI authority for the purpose of proper and just investigation of this case.

CBI authorities shall also furnish before this Court a comprehensive report as to the names of the officials who had visited the office of the Intelligence Branch, Siliguri on 21.05.2011 for obtaining the cloned hard disk used for interception of calls of GJMM leaders and cadres during the relevant period and the names of the Intelligence Branch officials at Siliguri whom they met while receiving the cloned hard disk used for interception of calls.

The CBI authorities shall indicate in its report the name of the DIB officials at Siliguri who were posted there at the relevant point of time and had handed over the cloned copies of hard disk for analysis of the log files between the period starting from 14.05.2020 and till 23.05.2020.

Ld. Counsel for the CBI and the Ld. Counsels for Inspector General of Police, Intelligence Branch, West Bengal and the ADG (Crime), Criminal Investigation Department, Government of West Bengal assures this Court that a comprehensive report shall be submitted in this regard on the next date

fixed for the purpose of removing the deficiency in the investigation of this case which is apparent from the face of the record.

To-date i.e. on **12.03.2025** for further hearing upon the petition dated 26.07.2024 filed by the victim party and submission of reports by the Inspector General of Police, Intelligence Branch, West Bengal and the ADG (Crime), Criminal Investigation Department, Government of West Bengal and the CBI.

Let a copy of this order be sent to the Inspector General of Police, Intelligence Branch, West Bengal and the ADG (Crime), Criminal Investigation Department, Government of West Bengal and also to the holding I.O Central Bureau of Investigation for information and necessary compliance.

D/C by me

Chief Judge
City Sessions Court, Calcutta

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