

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

WRIT PETITION (CRL.) NO. 129 OF 2005

SURAM CHAND

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln(s) for permission to implead States as respondents and office report)

WITH W.P(Crl.) No. 133 of 2005

(With appln(s) for permission to implead States as respondents and office report)

W.P(Crl.) No. 175 of 2005

(With appln(s) for permission to implead States as respondents and office report)

Date: 04/04/2006 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE A.K. MATHUR

For Petitioner(s)

Mr. Bhim Singh, Adv.

Mr. B.S. Billowria, Adv.

Mr. Manzoor Ali Khan, Adv.

Mr. Yomkesh Kumar, Adv.

Mr. P.V. Yogeswaran, Adv.

For Respondent(s)

Mr. Garvesh Kabra, Adv.

Mr. Anuvrat Sharma, Adv.

Mr. Sanjay Singh,Adv.

Mr. Anil K. Jha,Adv.

Mr. Anis Suhrawardy,Adv.

Mr. A. Sharan,ASG

Ms. Binu Tamta,Adv.

Ms. Sushma Suri,Adv.

Mr. Sanjay Jain,Adv.

Mr. Bimal Roy Jad,Adv.

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UPON hearing counsel the Court made the following

O R D E R

Heard learned counsel for the parties.

The Union of India has filed an affidavit in which it has been

stated that out of 25 persons, in relation to six persons, namely, Shri Mohd Shah S/o Mohd (S.No.1 in W.P.No.129/2005), Shri Mohd Umar S/o Mohd Bashir (S.No.4 in W.P.No.129/2005), Shri Habibulla Shah S/o Syed Nawab Shah Bukhari (S.No.6 in W.P.No.129/2005), Mohd. Fahad Alhaj S/o Faheem Qasim Alhaj of Lebanon (S.No.5 in W.P.No.175/2005), Baber Sayed Chowdahary Mohd. Ali (S.No.6 in W.P.No.175/2005) and Mohd. Rauf Khan (S.No.5 in W.P.No.133/2005), steps have already been taken for deportation.

The Union of India is directed to expedite the said matter. It has been

further stated in the affidavit of the Union of India in relation to the

remaining nineteen persons substantive cases are pending in different

Courts, namely, Jammu, Kupwara, Baramulla, Srinagar, Uri and Poonch,

within the State of Jammu and Kashmir. After great difficulty the State of

Jammu and Kashmir has filed an affidavit wherein details of cases have

been enumerated as under:

1. Mohd. Shafi Malik @ Abu Jindal S/o Imdad Ullah Malik - Facing trial in TADA Court Jammu in Case FIR Nos. 14,15,16 and 17 U/s 3/4 TADA P/S Charer-i-Sharief. Next date of hearing is 29.3.2006.

2. Umer Din S/o Kiyam Din - Facing trial before Judicial Magistrate Kupwara in case FIR No. 158/95 U/s 307 RPC 2/25 I.A. Act P/S Trehgam, Kupwara. Date of next hearing is 6.3.2006. Case FIR No. 12/03 U/s 2/3 E&IMCO in P/S CIK.

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3. Alam Khan S/o Behram Khan - Facing trial before Court of Law in Kupwara in case FIR No. 15/03, U/s 2/3 E&IMCO in P/S CIK. Next date of hearing is fixed on 18.04.2006.

4. Muzamil Ahmed Dhar @ Suhail S/o Gh. Mohd Dhar - Facing trial before Hon'ble Court Kupwara in case FIR No. 4/2004 U/a 2/3 of E&IMCO. Next date of hearing is fixed on 18.4.2004.

5. Nazir Ikram S/o Qazi Ikram-ul-Haq - Facing trial before Hon'ble Court Kupwara in case FIR No. 4/2004 U/a 2/3 of E&IMCO. Next date of hearing is fixed on 18.04.2004.

6. Saif-ul-Ullah Khalid S/o Sher Khan - Facing trial before Hon'ble Court Kupwara in case FIR No.4/2004 U/s 2/3 of E&IMCO. The next date of hearing is fixed on 18.4.2007.

7. Abdul Rashid Ansari S/o Liyaqat Ansari - Facing trial in Hon'ble Court Kupwara in case FIR No. 80/04 U/s 2/3 E&IMCO P/S CIK.

8. Sultan Mohd Mayana @ Abu Umer S/o Gh. Geelani - Facing trial before Chief Judicial Magistrate Kupwara in case FIR No. 9/04 U/s E&IMCO P/S CIK. Next date of hearing is fixed on 18.4.2006.

9. Syed Khalid Hussain Bukhari S/o Sayed Khadim Hussain Bukhari - Facing trial in Trial Court Kupwara in case FIR No. 10/2004 U/s 2/3 E&IMCO in P/S CIK. His next date of hearing is 18.4.2006.

10.Zafer Ali @ Ab. Rashid S/o Sabir Ali - The case is subjudice in the Court of Hon'ble Judicial Magistrate Kupwara in Case No. 302, 121, 121-A, 36 & 120B, 436, 364 RPC, 2/3 of E&IMCO 3, EAO, 3 OSA in P/S CIK. Next date of hearing is fixed on 18.4.2006.

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11.Nissar Ahmed Rajpur Code Waseem @ Tariq S/o Mohd. Zaman - Under trial in case FIR No. 14/91, 1/95, 3/04 P/S CIK. Next date of hearing in case FIR No.3/04 is fixed on 18.4.2006.

12.Sheikh Jamal ud Din @ Jamal Khan S/o Mohd. Sharief Khan - Case FIR No. 7/2004 P/S CIK. The case is fixed for next hearing on 25.4.2006 for production of accused person.

13.Muzaffar Hussain Bharti S/o Mohd. Ismail - Case FIR No. 219/03 P/S Garej U/s 7/25 IAA 2/3 E&IMCO Sub-Judice in District and Sessions Court, Baramulla.

14.Ab. Hayya Malik S/o Mohd. Ajmal Malik - FIR 177/96 U/S 307 RPC 7/25 IAA, 2/3 ESA P/S Maisuma. Challan of the case produced in Small Causes Court Srinagar.

15.Ab.Qadeer @ Qadeer S/o Fidha Mohd. Khwaja - Involved in case FIR No. 102/95 U/s 7/25 IAA P/S Pampore which is under Investigation, FIR 18/91 P/S CIK sanction is awaited from Govt. FIR 1/95 CIK under investigation.

16.Shabir Hussain S/o Gh. Hassan - Case FIR No. 16/99 P/S Uri Sub Judice in JM Court Uri.

17.Waqar Shah code Imran S/o Imam Shah - FIR No. 27/96 P/S Surankote Sub-Judice Session Court Poonch. Next date of hearing for recording statement of PW's on 28.2.2006. FIR 41/96 P/S Surankote Sub-Judice in Session Court Poonch.

Apart from the above cited cases, following cases are pending before the Court of Munsiff and Chief Judicial Magistrate at Jammu:

18.Zamir Ahmed Khan S/o Mohd. Ibrahim - Facing trial in case FIR No. 86/99 u/s 332, 336, 224, 511 RPC P/S Kana Chak, Jammu.

19.Nasar Ullah Mansoor Langrial S/o Mohd. Shafi r/o Moola Langrail

Gujrat, Pakistan - Case FIR No. 135/99 U/s 322, 336, 224, 511, 147 RPC and
 FIR No. 172/94 U/s 307, 332, 336, 147, 149, 334, 156, 174, 153, 511 RPC
 Sub-Judice in CJM Court Jammu.

We find that the aforesaid cases are pending before different Courts within the State of Jammu and Kashmir since last several years and for no fault of the accused persons, they have been detained for indefinite period. We are told that one case relating to accused Ab. Qadeer, pending at Pampore Police Station bearing F.I.R. No. 102/95 is still pending under investigation. It appears that in the absence of sanction, the charge sheet has not been submitted. The authorities are directed to consider the question of grant of sanction and thereafter final form will be submitted by the Police within a period of two months from today. We feel that the trial in all the aforesaid cases should be concluded within a time fixed by this Court. Accordingly, we direct the respective Courts to conclude the trial within a period of six months from today. The State counsel will see that necessary instructions are issued to all concerned. The concerned Sessions Judges will see that the trial is concluded within the time schedule.

Place the matter after six months.

[Alka Dudeja]

Court Master

[Om Prakash]

Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CRIMINAL ORIGINAL JURISDICTION

WRIT PETITION [CRIMINAL] NO. 129 OF 2005

Suram Chand

...Petitioner(s)

Versus

Union of India and Ors.

...Respondent(s)

WITH

WRIT PETITION [CRIMINAL] NO. 175 AND 133 OF 2005

O R D E R

Heard learned counsel for the parties.

.....J.

[B.N. AGRAWAL]

.....J.

[A.K. MATHUR]

New Delhi,

April 04, 2006.