

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. 25/2004

NILAM KATARA

Petitioner (s)

VERSUS

STATE OF U.P. & ORS.
(With Appln(s). for directions, intervention)

Respondent (s)

Date : 26/03/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN
HON'BLE MR. JUSTICE B.N. SRIKRISHNA

For Petitioner (s)

Ms. Kamini Jaiswal,Adv.

For Respondent (s) Mr. Altaf Ahmed,ASG

Mr. A.S. Bhasme,Adv.

Mrs Anil Katiyar,Adv.

Mr. R.P. Mehrotra,Adv.

Mr. Garvesh Kabra,Adv.

For IntervenorM/s. P.Janardhan,K.N.Balgopal,G.K.Bharthi and
Dr. Sushil Balwada,Adv.

UPON hearing counsel the Court made the following
O R D E R

Respondent No.3 is a unnecessary party. His name
is deleted.

The Writ Petition is disposed of in terms of order.

(Y.P. Dhamija)

(Veera Verma)

AR-cum-PS

Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CRIMINAL ORIGINAL JURISDICTION

WRIT PETITION(CRL) No. 25/2004

Nilam Katara

.....Petitioner

Vs.

State of U.P. & Ors. Respondents

O R D E R

In the Sessions Case No.78/2002, on the file of Shir J.M. Malik, Sessions Court of Patiala House, Shri S.K. Saxena was appointed by the U.P. Government as a Special Prosecutor. This case was originally pending before the Sessions Court at Ghaziabad. By order of this Court, the trial of the case was transferred to the jurisdiction of a Sessions Court in Delhi. Thereafter, Shri Saxena was appointed as a Special Prosecutor to conduct the prosecution. By an order dt. 28.1.2004, Shri Saxena was removed from the post of a Special Prosecutor. That order is challenged by the de-facto complainant before us.

We heard the counsel for the petitioner who is the defacto complainant and also the counsel for the State of U.P., Delhi and also the counsel for the accused who appeared as an intervener.

The counsel for the petitioner submitted that the trial of the Sessions Case was almost complete and removal of the Special Prosecutor at this stage would seriously affect the fair and proper trial of the case and the impugned order dt. 28.1.2004 is liable to be quashed. Shri Saxena, the Special Prosecutor has not challenged the impugned order and it seems that he is not willing to continue as a Special Prosecutor. Therefore, we do not want to set aside the order dt. 28.1.2004 at the instance of the petitioner as the case could be handled by any other able prosecutor. The counsel for the Delhi Government submitted that as the Sessions Case is being tried by the Sessions Judge at Patiala House, Special Prosecutor could be appointed by the Delhi Government. The Government of Delhi is having a panel of names, and among these one Shri K.K. Singh, senior Prosecutor is available for conducting the case as a Special Prosecutor. The counsel for the accused submitted that accused may not have any objection if Shri K.K. Singh being appointed as a Special Prosecutor. The State of Delhi shall fix the remuneration payable to the Special Prosecutor Shri K.K. Singh and the same shall be paid by the State of U.P. The trial is to be expedited and be completed at the earliest.

Respondent No.3 is a unnecessary party. His name is deleted.
The Writ Petition is disposed of.

.....J.
(K.G. BALAKRISHNAN)

.....J.
(B.N. SRIKRISHNA)
New Delhi,
March 26, 2004.