

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

WRIT PETITION (CRL.) NO.310 OF 2005

BHIM SINGH

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln(s) for c/delay in filing counter affidavit, c/delay for filing detailed affidavit in pursuance to the direction of this Hon'ble Court Order dated 20.4.2007, modification of Court's order and office report)

With W.P. (Crl.) No.15 of 2007
(With office report)
[For Final Disposal]

Date: 10/11/2008 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL
HON'BLE MR. JUSTICE G.S. SINGHVI

For Petitioner(s)
in WP 310/2005:

In-person

Mr. P.V. Yogeswaran,Adv.
Dr. Beem Pratap Singh,Adv.
Mr. B.S. Billowaria,Adv.
Mr. Manjur Alam,Adv.

In WP 15/2007:

Mr. Anil Kumar Mittal,Adv.(A.C.)

For Respondent(s)

Ms. Jayashree Anand,AAG.
Mr. K.K. Mahalik,Adv.
Mr. Kuldip Singh,Adv.
for Mr. Arun Kumar Sinha,Adv.

Mr. Anil K. Jha,Adv.

Mr. Gopal Subramaniam,ASG.
Mr. Devansh A. Mohta,Adv.
Ms. Binu Tamta,Adv.
Mr. S.N. Terdal,Adv.
Ms. Sushma Suri,Adv.
Mr. S. Wasim A. Qadri,Adv.
Ms. Anil Katiyar, Adv.

Mr. S.N. Terdal,Adv.

...2/-

-2-

Mr. Vikas Sharma,Adv.
Mr. D.S. Mahra,Adv.

Mr. Anis Suhrawardy,Adv.

Ms. Shamama Anis,Adv.
Mr. Mehdi Imam,Adv.
Mr. Tabrez,Adv.

Mr. Pramod Swarup,Adv.
Ms. Pareena Swarup,Adv.
Mr. Harvendra Singh,Adv.
Mr. Praveen Swarup,Adv.

Mr. Ankur Mittal, Adv.
 Mr. Javed Mahmud Rao, Adv.
 Mr. Shahid Ali Rao, Adv.
 Mr. Sandeep Singh, Adv.

Mr. Ratan Kumar Choudhuri, Adv.
 Mr. Binod K. Upadhyay, Adv.

Mr. S.G. Hasnain, Sr. Adv.
 Mr. S.N. Pandey, Adv.
 Mr. C.P. Pandey, Adv.
 Mr. Ashwani Garg, Adv.

UPON hearing counsel the Court made the following
 ORDER

Heard the petitioner, who has appeared in-person in
 Writ Petition (Crl.) No.310 of 2005, Shri Gopal
 Subramaniam, learned Additional Solicitor General for
 Union of India and learned counsel for the State.

In view of the changed situation our order dated 8th
 December, 2007, is modified thus--

Following cases are transferred from different courts,
 pending within the State of Jammu and Kashmir, as
 enumerated in Column [II], to the courts outside the State of
 Jammu and Kashmir, as enumerated in Column [V]:-

...3/-

-3-

Sl. No.	Name of under-trial prisoner	Station and designation of the court in which case is pending	Case No. in which under-trial is being tried	Names of the District and State in which the jail is situated where the under-trial prisoner has been detained	Designation, Station and State of the Court where the case is being transferred
	[1]	[2]	[3]	[4]	[5]
1	Hamid Numain Bhat S/o Mohd. Iqbal Bhat	Sessions Judge, Srinagar	Sessions Case arising out of F.I.R. No. 110/2002 P.S. Rajbagh, Srinagar	District Jail, Sangroor, State of Punjab	Sessions Judge, Sangroor within the State of Punjab
2	Mohd. Abdullah code Abu Talaha S/o Hassan Bakshi	1st Additional Sessions Judge, Jammu	Sessions Case arising out of F.I.R. No. 134/2002, PS Bahufort Jammu	District Jail, Sangroor, State of Punjab	Sessions Judge, Sangroor within the State of Punjab
3	Shahnawaz Malik @ Fouji Kamadar Malik	Sessions S/O Judge, Kupwara	Sessions Case arising out of F.I.R. No. 146/1998 P.S. Handwara	Central Jail, Jodhpur, State of Rajasthan	Sessions Judge, Jodhpur, within the State of Rajasthan
4	Mohd. Yousuf	Sessions	Sessions	Central	Sessions

Sl. No.	Name of under-trial prisoner	Station and designation of the court in which case is pending	Case No. in which under-trial is being tried	Names of the District and State in which the jail is situated where the under-trial prisoner has been detained	Designation, Station and State of the Court where the case is being transferred
	Khaja S/o Mohd. Ayoub	Judge, Kupwara	Case arising out of F.I.R. No. 158/1995 P.S. Trehgam	Jail, Agra, within the State of Uttar Pradesh	Judge, Agra, within the State of Uttar Pradesh
5	Buland Khan S/o Atta Khan	Sessions Judge, Kupwara	Sessions Case arising out of F.I.R. No.267/2003 P.S. Kupwara	Central Jail, Jodhpur, within the State of Rajasthan	Sessions Judge, Jodhpur, within the State of Rajasthan
6	Dilawar Sain S/o Hassan Sain	Chief Judicial Magistrate, Kupwara	Case arising out of F.I.R. No.274/1998 P.S. Kupwara	Central Jail, Jodhpur, within the State of Rajasthan	Sessions Judge, Jodhpur, within the State of Rajasthan
7	Mohd. Suhail @ Aamir S/o Mohd. Anwar	Sessions Judge, Anantnag	Sessions Case arising out of F.I.R. No.4/2000 P.S. Kokernag	Central Jail, Tihar, N.C.T., Delhi	Sessions Judge, Tis Hazari Courts, Delhi
8	Waseem Ahmed @ Abu Mohammad S/o Mohammad Hussain	Sessions Judge, Kathua	Sessions Case arising out of F.I.R. No.85/2000 P.S. Anantnag	Central Jail, Tihar, N.C.T., Delhi	Sessions Judge, Tis Hazari Courts, Delhi
9	Mohd. Imran Khan code Iqbal S/o Mohd. Muzaffar	Sessions Judge, Srinagar	Sessions Case arising out of F.I.R. No. 174/2003 P.S. Ram Munshibagh	Central Jail, Jodhpur, within the State of Rajasthan	Sessions Judge, Jodhpur, within the State of Rajasthan
10	Qamar Ayoub S/o Mohd. Ayoub	Sessions Judge, Jammu	Sessions Case arising out of F.I.R. No. 222/2001 P.S.	District Jail, Sangroor, within the State of Punjab	Sessions Judge, Sangroor, within the State of Punjab

11	Zulfikar ali Rama Sessions @ Abu Jhan S/o Judge, Mohd. Yasim Jammu	Nowabad Sessions Case arising out of F.I.R. No. 102/2002 P.S. Pacadanga	District Jail, Sangroor, within the State of Punjab	Sessions Judge, Sangroor, within the State of Punjab	
12	Ghulam Abbas @ Sessions Jassar @ Hamza Judge, S/o Manzoor Jammu Hussain	Nowabad Sessions Case arising out of F.I.R. No. 1/1998 P.S. Nowabad	Central Jail, Varanasi, within the State of Uttar Pradesh	Sessions Judge, Varanasi, within the State of Uttar Pradesh	
13	Syed Sajad Ali Sessions Bukhari S/o Syed Judge, Shahpal Srinagar	Parimpora Sessions Case arising out of F.I.R. No. 136/1995 P.S. Parimpora	Central Jail, Varanasi, within the State of Uttar Pradesh	Sessions Judge, Varanasi, within the State of Uttar Pradesh	
14	Assadullah Qadri Sessions S/o Syed Ullah Judge, Anantnag	Anantnag Sessions Case arising out of F.I.R. No. 123/1996 P.S. Anantnag	Central Jail, Naini, within the State of Uttar Pradesh	Sessions Judge, Allahabad, within the State of Uttar Pradesh	
Sl. No.	Name of under- trial prisoner	Station and designation of the court in which case is pending	Case No. in which under-trial is being tried	Names of the District and State in which the jail is situated where the under- trial prisoner has been detained	Designation, Station and State of the Court where the case is being transferred
15	Rahil Ahmed TADA Court, Hashmi S/o Srinagar Mushtaz Ahmed	Parimpora Case arising out of F.I.R. No.21/1995 P.S. Parimpora	District Jail, Sangroor, within the State of Punjab	Sessions Judge, Sangroor, within the State of Punjab	
16	Zaffarul Haq Sessions Jamali S/o Habib- Judge, ul-Rehman Poonch	Mendhar Sessions Case arising out of F.I.R. No. 1/2004 P.S. Mendhar	Central Jail, Tihar, Delhi	Sessions Judge, Tis Hazari Courts, Delhi	
17	Mohd. Mubasir Sessions code Ali Badar S/o Judge, Mohd. Tahir Kathua	Hiranagar Sessions Case arising out of F.I.R. No. 11/1998 P.S. Hiranagar	Central Jail, Jodhpur, within the State of Rajasthan	Sessions Judge, Jodhpur, within the State of Rajasthan	
18	Akram Asif S/o Sessions Mohd. Asif Judge, Pulwama	Gharoota, Sessions Case arising out of F.I.R. No. 70/2006 P.S. Gharoota, Jammu	Central Jail, Tihar, Delhi	Sessions Judge, Tis Hazari Courts, Delhi	

19	Mohd. Hamza Khan S/o Thok Mohd Kupwara	Sessions Judge, Kupwara	Sessions Case arising out of F.I.R. No.187/199 7 P.S. Trehgam	Central Jail, Jodhpur, within the State of Rajasthan	Sessions Judge, Jodhpur, within the State of Rajasthan
Sl. No.	Name of under- trial prisoner	Station and designation of the court in which case is pending	Case No. in which under-trial is being tried	Names of the District and State in which the jail is situated where the under- trial prisoner has been detained	Designation, Station and State of the Court where the case is being transferred
20	Khairdin S/o Haji Khan	Khan Sessions Salam Judge, Kupwara	Sessions Case arising out of F.I.R. No. 187/1997 P.S. Trehgam	District Jail, Sangroor, within the State of Punjab	Sessions Judge, Sangroor, within the State of Punjab
21	Taza Sarbaz Mirza Ahmed	S/o Session Judge, Kupwara	Sessions Case arising out of F.I.R. No. 187/1997 P.S. Trehgam	Central Jail, Tihar, Delhi	Sessions Judge, Tis Hazari Courts, Delhi
22	Abdul Gair Abdul Gani	S/o Sessions Judge, Kupwara	Sessions Case arising out of F.I.R. No. 187/1997 P.S. Trehgam	Central Jail, Tihar, Delhi	Sessions Judge, Tis Hazari Courts, Delhi
23	Baaz Mohmad Mohd. Azim	S/o Sessions Judge, Kupwara	Sessions Case arising out of F.I.R. No. 187/1997 P.S. Trehgam	Central Jail, Tihar, Delhi	Sessions Judge, Tis Hazari Courts, Delhi
24	Ab. Hamid Khan S/o Mohd. Rahim Khan	Sessions Judge, Kupwara	Sessions Case arising out of F.I.R. No. 187/1997 P.S. Trehgam	Central Jail, Jodhpur, within the State of Rajasthan	Sessions Judge, Jodhpur, within the State of Rajasthan
Sl. No.	Name of under- trial prisoner	Station and designation of the court in which case is pending	Case No. in which under-trial is being tried	Names of the District and State in which the jail is situated where the under- trial prisoner has been detained	Designation, Station and State of the Court where the case is being transferred
25	Mohd. Ayoub Khan S/o Ab.	Sessions Judge,	Sessions Case arising	Central Jail,	Sessions Judge,

Qadir Khan	Kupwara	out of F.I.R. No. 187/1997 P.S. Trehgam	Jodhpur, within the State of Rajasthan	Jodhpur, within the State of Rajasthan
------------	---------	---	---	---

2. It is directed that the aforesaid cases, upon transfer, shall be tried either by the concerned Sessions Judge himself or made over for trial to any other court of competent jurisdiction. All the courts are directed to see that the trial is concluded within a period of one year from the date of receipt of copy of this order and the original records of the concerned sessions case. All concerned shall co-operate the courts in deciding cases within the time schedule. The courts concerned, before whom the cases are pending within the State of Jammu and Kashmir, the same having not been transferred outside the State, shall also dispose of the same within said time. The Courts in whose courts cases are pending are directed to transmit the original records to the courts where the cases have been transferred so as to reach the said courts within a period of one month from the date of receipt/production of copy of this order.

...9/-

-9-

3. It has been stated that so far as accused Sonallah Ranjay @ Bansilal S/o Ishaq Hussain is concerned, three cases namely, F.I.R. Nos.124/1994, 141/1994 and 146/1994 are pending against him since 1994 and charge-sheets have not been submitted therein as yet. Let the State of Jammu and Kashmir file response within four weeks as to why prosecution in these cases be not quashed on this ground alone.

4. So far as Murtaza Aquib code Abu Zahid S/o Mohd. Mustafa is concerned, it has been stated that charge-sheet has not been submitted in F.I.R. No.319 of 2001. Let the State file response within the same time as to why the prosecution be not quashed on this ground alone.

5. So far as Mohd. Nawaz code Ab. Hazarrat S/o Rehmat Ali, Shahzad Gull S/o Lt. Rana Mohd. Ibrahim and Shahid Latief S/o Ab. Latief, who have been lodged in Varanasi Central Jail, are concerned, it appears that the cases bearing Nos.03/05 P.S. J IC Jammu were registered against them in 2005 but the police has not submitted charge-sheets as yet. Let the State show cause why investigation has remained pending for such a long time and in case, no satisfactory cause is shown, it would be open to this court to quash the prosecution. Response may be filed within the same time in this regard.

6. So far as Sher Khan @ Sheru S/o Abdul Qayoom Khan is concerned, it has been stated that he has been already acquitted in Sessions Case arising out of F.I.R. No.82/2002. It has not been stated that any appeal has been preferred against the order of acquittal. In case no appeal has been filed, the State of Jammu and Kashmir is required to recommend

....10/-

- 10 -

his case to the Central Government for deportation. Let the State file response in this regard within the same time.

7. It appears that accused Shahid Jan @ Qasim S/o Bismillah Jan, Fazal Din Code Akbar S/o Mohd. Sarwar and Mohd. Farooq Janbaz S/o Mohd. Yaqoob were recommended for deportation by the State of Jammu and Kashmir but no steps have been taken by the Central Government in this regard. Let the Union of India file its response within four weeks.

8. So far as Sohrab Khan S/o Mohd. Zahir Khan is

concerned, it has not been stated in which jail he has been lodged though it has been stated in the affidavit that the trial against him is pending in the court of Principal Sessions Judge, Kupwara, within the State of Jammu and Kashmir in Sessions Case arising out of F.I.R. No.187/1997, P.S. Trehgam. Within the same time State should furnish name of the jail.

9. Place the matter on 15.12.2008 under the heading "Completed After Notice Matters".

10. Let copies of this order be sent to Director of Prosecution, Jammu and Kashmir, who will see that the records are transmitted to the concerned courts within the aforesaid time schedule and appropriate steps are taken before the transferee Court by the prosecution. Copies of this order may be also communicated to the Director of Prosecution, the States of Punjab, Rajasthan and Uttar Pradesh besides National Capital Territory, Delhi for the needful. Copies of this order be sent to the Registrar General, High Courts of Jammu and Kashmir, Punjab and Haryana, Rajasthan, Allahabad and Delhi for giving suitable directions

...11/-

- 11 -

to the concerned Courts within their respective limits for compliance of this Order. Copies of this Order may also be made over to the petitioner, who is appearing in person, Shri Gopal Subramaniam, learned Additional Solicitor General representing the Union of India and Shri Anis Suhrawardy, learned counsel appearing on behalf of the State of Jammu & Kashmir.

[T.I. Rajput]
A.R.-cum-P.S.

[Savita Sainani]
Court Master