

ITEM NO.1

COURT NO.11

SECTION X

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(s). 310 OF 2005

BHIM SINGH

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(with appln.(s) for permission to intervene in the writ petition and c/delay in filing detailed affidavit in pursuance to the [direction of this Hon'ble Court] dated 20.4.2007 and modification of Court's order and modification/clarification and c/delay in filing counter affidavit and clarification/[modification of Court's order and] permission for seeking the transfer case and office report)

WITH

W.P(CRL.) NO. 82 of 2010

W.P(CRL.) NO. 94 of 2008

(With appln.(s) for recalling the Court's order and office report)

Date: 13/10/2011 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA

HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR

Counsel for the parties

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2

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3

State of Punjab Mr. Kuldip Singh, Adv.
Mr. R.K. Pandey, Adv.
Mr. H.S. Sandhu, Adv.
Mr. K.K. Pandey, Adv.
Mr. Mohit Mudgil, Adv.

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

On September 6, 2011, the Bench deferred the orders in relation to case No. 274/1998 (P.S. Kupwara) and Case No. 146/1998 (P.S. Handwara).

We have heard Mr. Bhim Singh - petitioner and Mr. M.I. Qadiri, learned Advocate General for Jammu & Kashmir

S. No. 4 - Case No. 274/1998 (P.S. Kupwara) : From the chart that is placed on record, it transpires that in this criminal case in all there are six accused persons : one of them being a foreign national and the other five local people.

In so far as the foreign national is concerned, he is presently lodged in Central Jail, Jodhpur and the trial is being held at Sessions Court, Jodhpur.

In the trial four

prosecution witnesses have been examined and six are yet to be examined by the prosecution.

However, the other five accused are reported to be absconding for more than 11 years. Against them warrants have been issued, but they have not been executed and the proceedings initiated under Section 512 of the Jammu &

Kashmir Criminal Procedure Code could not be taken to logical conclusion.

In our view, since substantial progress in the trial has taken place in so far as the foreign national is concerned and the other accused are absconding, interest of justice will be sub-served if the trial continues in the Sessions Court, Jodhpur. We, accordingly, find no justification for transfer of this case.

S. No. 14 - Case No. 146/1998 (P.S. Handwara) : In this criminal case, it appears from the chart that in all there are four persons who are arrayed as accused.

One of them

is a foreign national and other three are local persons.

One of the local accused, namely, Mohd. Sadiq s/o Mir Baz Khan, is reported to be dead. Obviously as against him the trial has abated. From the chart, it is further revealed that prosecution has examined four witnesses and other four witnesses remain to be examined.

The other two accused persons who are accused in the case are reported to be absconding for more than a decade and proceedings under Section 512 of the Jammu & Kashmir Criminal Procedure Code have been initiated against them.

Having regard to these facts, we are satisfied that interest of justice would be served if the trial continues at Sessions Court, Jodhpur. We, accordingly, decline to transfer trial of this case as well.

The Sessions Court, Jodhpur, is expected to complete the trial in the above two matters as early as possible and preferably before June 30, 2012.

Mr. Prarag P. Tripathi, learned Additional Solicitor General, prays for some time for filing an additional affidavit indicating present status of foreign nationals remaining to be repatriated and updating the statement made in the additional affidavit dated August 2, 2011.

Stand over for four weeks.

W.P(CRL.) NO. 94 of 2008

Mr. M.I. Qadiri, learned Advocate General for Jammu & Kashmir, orally stated that the petitioner in this Writ Petition has been deported in the month of February 2011 and nothing remains in this Writ Petition. However, he prays for some time to state this fact on affidavit.

Stand over for four weeks.

W.P(CRL.) NO. 82 of 2010

Stand over for four weeks.

(Rajesh Dham)
Court Master

(Renu Diwan)
Court Master