

ITEM NO.301

COURT NO.7

SECTION PIL(W)

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

I.A. 9/2015 in Writ Petition(s) (Civil) No(s).250/2007

NANDINI SUNDAR & ORS.

Petitioner(s)

VERSUS

STATE OF CHATTISGARH

Respondent(s)

(for directions and office report)

Date : 15/12/2015 This application was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s) Mr. Ashok H. Desai, Sr. Adv.
Mr. Rahul Kripalani, Adv.
Ms. Ipsita Behura, Adv.
Mr. Ritesh Dhar Dubey, Adv.
Ms. Sumita Hazarika, AOR

For Respondent(s)
CBI

Mr. P.S. Patwalia, ASG
Mr. Rajiv Nanda, Adv.
Mr. Ajay Sharma, Adv.
Mr. B.V. Balaram Das, Adv.
Ms. Yogmaya Agnihotri, Adv.
Ms. Sunita Sharma, Adv.
Ms. Sushma Suri, Adv.

Mr. Arvind Kumar Sharma, AOR

Dr. Manish Singhvi, Adv.
Mr. Atul Jha, Adv.
Mr. Sandeep Jha, Adv.
Mr. Dharmendra Kumar Sinha, AOR

Mr. Naveen R. Nath, AOR

Ms. Anitha Shenoy, AOR

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

Status Report dated 5th October, 2015 filed by CBI

Pursuant to the orders passed by this Court, the Central Bureau of Investigation (CBI) has filed a status report on 5th October, 2015 in relation to five cases. These are mentioned hereinbelow:

1. RC 124 2011 - S - 0008

The above Regular Case (RC) pertains to an incident that occurred on 11th March, 2011 in village Morepalli, District Dantewada (now known as District Sukma).

The allegation is that an armed attack had taken place on a police party by some persons who are said to be naxalites and they had also torched the houses of villagers.

The status report of the CBI indicates that the investigation is more or less complete, but during the course of discussions some further points had come up for consideration and, therefore, some further investigation is required.

It is also stated that 74 witnesses have been examined in connection with this incident. It is further stated that several other allegations have surfaced during the course of investigation and these too are

being looked into by the CBI.

2. RC 124 2011 - S - 0009

The above RC pertains to an incident of 11th March, 2011 in village Morepalli, District Dantewada (now known as District Sukma).

The allegation is that about 30 to 40 houses of villagers were torched by persons said to be naxalites.

The CBI has clubbed this RC with RC 124 2011 - S - 0008. The witnesses that have been examined are, therefore, common in respect of both these RCs.

3. RC 124 2011 - S - 0010

The above RC pertains to an incident that occurred on 15/16th March, 2011 in village Tadmetla, District Dantewada (now known as District Sukma).

The allegation is of an armed attack on the police party and torching of the houses of villagers by persons who are allegedly naxalites.

The CBI has stated that the investigations in this RC are at an advanced stage. As many as 83 witnesses have been examined. During the course of the investigations, some other allegations have come up and they are also being looked into by the CBI.

4. RC 124 2011 - S - 0011

The above RC pertains to an incident of 13th March, 2011 in village Timmapuram in District Dantewada (now

known as District Sukma).

The allegation is that there was an armed attack on a police party which resulted in the death of three police personnel and injury to seven personnel. The police personnel had retaliated and as a result of that, one unidentified person believed to be a naxalite had died in the encounter.

It is stated that the investigations are at an advanced stage and as many as 174 witnesses have been examined.

During the course of investigations, several other allegations have come to the fore and these too are being looked into by the CBI.

5. RC 124 2011 - S - 0012

The above RC pertains to an incident of 26th March, 2011 near the Sukma barrier of Dornapal, District Dantewada (now known as District Sukma).

The allegation is that while Swami Agnivesh and a journalist, Milind Kumar, were proceeding to provide humanitarian aid in village Morepalli, village Tadmetla and village Timmapuram, they were attacked by some persons who were protesting against their visit. During the incident, three security vehicles were damaged in stone pelting by the persons who were protesting against the visit.

It is stated that the investigations into this incident are at an advanced stage and as many as 149 witnesses have been examined.

Status Report dated 14.12.2015 filed by the CBI

In this status report, it is stated by the CBI that it had gone for investigations at Chintalnar from 3rd November, 2015 to 5th November, 2015 for the purposes of completing the examination of the remaining witnesses. It was also decided to make a visit to related villages from 6th November, 2015 to 9th November, 2015.

It is stated that unfortunately the purpose for which the CBI team had gone could not be achieved since credible information was received that the team was likely to be attacked/ambushed at four or five places on the way. As a result of this, the CBI team was advised to return back, which they did. There is a brief mention of some incidents of misconduct by some police personnel, but that is not relevant for the time being.

It is further stated that the CBI team will now be visiting Chintalnar on 9th December, 2015 till 12th December, 2015 for the purpose of taking the investigation forward by examining the relevant witnesses from the related villages. It is further stated that the State Government/police has assured that all care will be taken to ensure the security and safety of the CBI team.

It is further stated in the status report that with respect to one officer, disciplinary action had been initiated and on 3rd October, 2015, it had been decided to repatriate him to his parent cadre and it was proposed to issue a warning memo. However, no action was taken in this regard in view of the order of this Court dated 27th November, 2015 wherein we had recorded the submissions of learned counsel for the petitioner that the investigating team ought not to be changed so that there is continuity in the investigation. Apparently, acting on this submission, the CBI appears to have maintained *status quo* with regard to the repatriation of that officer.

In view of the fact that the decision to repatriate the officer was taken well before 27th November, 2015 and for disciplinary reasons, we make it clear that the CBI may take necessary steps to have him repatriated to his parent cadre.

List the matter on 8th January, 2016 by which date the CBI should file an affidavit categorically stating whether the incidents that have been mentioned in the status report of 5th October, 2015 are directly relatable to the events and integral to the incidents in respect of the RCs and also the dates of the additional incidents.

(SANJAY KUMAR-I)
AR-CUM-PS

(JASWINDER KAUR)
COURT MASTER