

IN THE HIGH COURT OF MANIPUR
AT IMPHAL

PIL No.38 of 2020

In re: Monitoring of Criminal cases against MPs & MLAs

..... Petitioner

- Versus -

The State of Manipur & ors.

.... Respondents

BEFORE
HON'BLE THE CHIEF JUSTICE MR. RAMALINGAM SUDHAKAR
HON'BLE MR.JUSTICE A.BIMOL SINGH

ORDER (ORAL)

01.10.2020

Ramalingam Sudhakar, C.J.

[1] Mr.N.Kumarjit, learned Advocate General, Manipur appears for the respondents No.1, 2 and 3. Mr. R.K.Umakanta, learned Public Prosecutor, High Court represents respondents No. 4, 5 and 6.

[2] Notice to respondents No. 7 and 8, returnable by 15.10.2020.

[3] The Hon'ble Supreme Court in the case of **Ashwini Kumar Upadhyay & ors. vs. Union of India & ors.; WP(Civil) No. 699 of 2016** has issued several directions/suggestions and guidelines to be followed in relation to the cases registered against sitting and former MPs and MLAs and has indicated that these cases should be investigated without undue delay and wherever charge-sheet has not been filed, it should be filed in time and the Special Courts dealing with these cases should expedite the trial on priority basis and that there should not be any scope for delay. The Hon'ble Supreme Court has referred to the decision of the **Asian Resurfacing of Road Agency Pvt. Ltd. vs. CBI** reported in **2018 (16) SCC 299**.

[4] The respondents are directed to peruse the directions and suggestions of the Hon'ble Supreme Court passed on 10.9.2020 and 16.9.2020 in the case of **Ashwini Kumar Upadhyay & ors. vs. Union of India & ors.; WP(Civil) No. 699 of 2016** and the learned Advocate General will forward the entire papers of the case with his comment to the respondents No.1, 2 and 3 for appropriate and timely action in relation to both pending FIRs and in case where charge-sheet has been filed. Similarly, learned Public Prosecutor appearing for the respondents No.4, 5 and 6 will ensure that the police will cooperate with the trial Courts on day-to-day proceedings of the Criminal cases, more particularly, the direction relating to production of accused, execution of non-bailable warrants, service of summons to witnesses, prioritization of FSL reports, etc. The State Government will also ensure that they cooperate and take initiative in the establishment of **"safe and secure witness examination room"** and the provision for **"Video Conferencing"** in these Courts to aid and assist in the early and speedy conduct of the trials.

[5] The Registrar (Judl.) will inform the Special Courts dealing with the cases registered against sitting and former MPs/MLAs to send monthly status reports of the case pending before the Court to the Registrar (Judl.) and the same will be placed before the Hon'ble Chief Justice. The Special Court where trial is going on, are directed to conduct the case on day-to-day basis. In any event, no adjournment beyond 7(seven) days should be granted and that too, for reasons to be recorded. If any authority is not co-operating in the day-to-day hearing of the case, the name and designation of the officer to be informed to the superior authority and to this Court also without fail. These directions should strictly be followed by the Trial Courts.

[6] The Director, Forensic Science Laboratory is directed to submit any report pending with them immediately to the trial Court, to the Secretary (Home) and

also to the learned Public Prosecutor so as to enable them to submit compliance before this Court as and when the case is listed.

[6.1] DIRECTIONS TO GOVT. OF MANIPUR (R-1, 2 & 3)

1. In the manner suggested by the Hon'ble Supreme Court in **Ashwini Kumar Upadhyay & ors. vs. Union of India & ors.; WP(Civil) No. 699 of 2016**, considering the nature and number of cases against former and sitting MPs/MLAs in Manipur, State Government is directed to create two exclusive Special Courts to conduct trials of cases against former and sitting legislators (i.e.) MPs/MLAs at Imphal at the Sessions and Magisterial levels having jurisdiction over whole of Manipur to be known as (i) Special Court (MP/MLA) No.1, Manipur [Sessions Court to be manned by MJS Grade-I] & (ii) Special Court (MP/MLA) No.2, Manipur [Magisterial Court to be manned by MJS Grade-II].

2. As a corollary, the State Government is directed to create two cadre posts of Manipur Judicial Services in Grade-I & II (i.e.) MJS Grade-I : 1 post, MJS Grade-II : 1 post along with 2 posts of Special Public Prosecutor. The other Special Court will also require the following staff and has to be sanctioned :-

SPECIAL COURT (MP/MLA) NO. 1, MANIPUR			
Sl. No.	Section	Designation	No. of Post
1.	Personal	Stenographer	1
		Bench Reader Grade – I	1
		LDA	1
		Peon	1
		Driver	1
2.	Establishment	Sr. Seristadar	1
		UDA	1

		LDA	1
		Peon	1
		Chowkidar-cum-Sweeper	1
3.	Case Section	Bench Reader Grade – I	1
		UDA	1
		LDA	2
		Process Server	1
		Peon	2
4.	Accounts	Nazir-cum-Superintendent	1
		LDA	1
		Peon	1
		TOTAL =	20

SPECIAL COURT (MP/MLA) NO. 2, MANIPUR			
Sl. No.	Section	Designation	No. of Post
1.		Stenographer	1
		Bench Reader Grade – II	1
		LDA	3
		Driver	1
		Process Server	1
		Peon	2
		Chowkidar	1
		TOTAL =	10

3. State Government is directed to sanction funds for creating the infrastructure for the two proposed Special Courts, staff, etc.

4. For the present till the two Special Courts mentioned at Sl. No.1 are created, the State Government is directed to designate the Courts of (i) Additional District & Sessions Judge (FTC), Manipur West and (ii) Chief Judicial Magistrate, Imphal East as Special Courts No.1 & No.2, Manipur respectively to deal with Criminal cases relating to sitting and former MPs/MLAs.

5. The Special Courts should be empowered to conduct trials of cases relating to offences under Indian Penal Code as well as Special Acts also.

6. State Government shall provide adequate facilities for video conferencing in the Special Courts for recording of evidence and for proper conduct of trial.

[6.2] DIRECTIONS TO DIRECTOR GENERAL OF POLICE (R-4)

1. A Nodal Prosecution Officer not below the rank of Additional Superintendent of Police shall be designated to ensure production of accused persons before the respective Special Courts and execution of NBWs issued by the Courts. The Officer shall also be responsible for service of summons to the witnesses and their appearance and deposition in the courts. Any lapse on the part of the Nodal Prosecution Officer will make him/her liable to disciplinary proceedings apart from initiation of contempt of court proceedings.

2. In the suo motu PIL, the Director General of Police shall designate a senior Police Officer of the rank not below Inspector General of Police who shall be present in the Court in each hearing to collect and provide requisite information to the Court as and when the case is listed for hearing.

3. The Director General of Police, State of Manipur shall direct all Investigating Officers to complete the investigations in respect of criminal cases filed against former and sitting MPs/MLAs and submit reports under Section 173 CrPC without any further delay.

[6.3] DIRECTIONS TO DIRECTOR OF PROSECUTION (R-5)

1. The Director of Prosecution shall ensure that the reports submitted by the I.O.s under Section 173 CrPC shall be processed on priority basis and submitted to the concerned Special Courts immediately. Any delay on the part

of the Director of Prosecution will be viewed as disobeying the order of this Court.

2. The Director will ensure without fail that all pending NBWs, summons, etc. issued by the Special Courts shall be executed on time. A compliance report be submitted to this Court through the Public Prosecutor. The appearance of the accused, witnesses and experts shall be ensured in the day-to-day trial.

[6.4] DIRECTIONS TO DIRECTOR OF FSL (R-6)

1. The Director, FSL, Manipur shall ensure that test reports in connection with criminal cases against former and sitting MPs/MLAs be completed on priority basis and shall be forwarded to the Investigation Agency and/or the Special Courts, as the case may be without any further delay. All pending reports to be processed and reported.

2. Video Conferencing facility should be available in the FSL itself so that the same may be used at the time of trial.

[6.5] DIRECTIONS TO SPECIAL AGENCIES (R-7 & 8)

The Special Agencies such as CBI, NIA, etc. shall ensure that pending investigations of criminal cases against former and sitting MPs/MLAs shall be completed as soon as possible and submit the reports under Section 173 CrPC promptly. They will complete all required formalities for speeding up the trial on day-to-day basis.

[7] A copy of the entire petition along with annexure and this order will be issued to all the respondents as well as to the Courts dealing with these cases through the Registrar (Judl.).

[8] Shri Y. Nirmolchand Singh, learned senior counsel is appointed as Amicus Curiae to assist the Hon'ble Court in the present case. A copy of the entire petition and this order will be served on the learned Amicus Curiae so as to enable him to assist the Court for effective monitoring of the cases against the MPs and MLAs. As and when any report, affidavit, petition is filed by the parties, a copy of it shall be served to the learned Amicus Curiae.

[9] List again on 15.10.2020 for compliance of this order. Issue copy immediately.

JUDGE

CHIEF JUSTICE

FR/NFR

Opendro(rt)