

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION
WRIT PETITION (CrI.) No. of 2009
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF :-

HIMANSHU KUMAR AND ORS.

PETITIONERS

VERSUS

STATE OF CHHATTISGARH AND ORS.

RESPONDENTS

PAPER BOOK

WITH

CRL.M.P. No. _____ of 2009: An application for exemption from filing
official translation.

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ADVOCATE FOR THE PETITIONERS: MS. JYOTI MENDIRATTA

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CRIMINAL ORIGINAL JURISDICTION
WRIT PETITION (Crl.) No. of 2009
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LISTING PROFORMA
IN THE SUPREME COURT OF INDIA

1.	Nature of the matter	Criminal	
2.	Name(s) of Petitioner(s) / Appellant(s)	Shri Himanshu and Ors.	
3.	Name(s) of Respondent(s)	State of Chhattisgarh and Ors.	
4.	Number of case	WP(Crl.) No._____/2009	
5.	Advocate(s) for Petitioner(s).	Jyoti Mendiratta	
6.	Advocate(s) for Respondent(s)	-	
7.	Section dealing with the matter		
8.	Date of the Impugned Order/Judgment		NA
8A	Name of the Hon'ble Judges:		NA
8B	In Land Acquisition Matters: -		
	i) Notification / Govt. Order No. (u/s 4.6)		
	Dated issued by Center/State of		NA
	ii) Exact purpose of acquisition & village involved		NA
8C	In Civil Matters:		NA
	i) Suit No. Name of Lower Court		
	Date of Judgment		
8D	In Writ Petition: -		NA
	'Catchword' of other similar matters		
8E	In case of Motor Vehicle Accident Matters Vehicle No.		NA
8F	In service Matters		
	(i) Relevant service rule, if any		NA
	(ii) G.O./Circular Notification,		NA
	if applicable or in question		
8G	In Labour Industrial Disputes Matters		NA
	I.D. Reference /Award No, if applicable		
9.	Nature of urgency		
10.	In case it is a Tax matter: -		
	a) Tax amount involved in the matter		NA
	b) Whether a reference/statement of the		
	Case was called for or rejected		NA
	c) Whether similar tax matters of same parties		
	Filed earlier (may be for earlier/other		
	Assessment year)?		NA
	d) Exemption Notification/Circular No		NA
11.	Valuation of the matter		NA

12. Classification of the matter
(Please fill up the number and name of relevant
Category with sub category as per the list circulated)
No. of Subject Category with full name
Matter
No. of sub-category with full name
13. Title of the Act involved (Center /State):
14. a) Sub-classification (indicate section/Article of the statutes)
- c) Sub section involved
- c) Title of the Rules involved
(Center/State)
- d) Sub-classification (indicate Rule/Sub-rule/State)
15. Point of law and question of law raised in the case
Whether it is a fit case for the Hon'ble Supreme Court to issue a writ of mandamus or/and any other appropriate writ to have the CBI take over the investigation and prosecution with respect to the complaints made by the petitioners and others with respect to the mass massacres that took place on 17.9.09 and 01.10.09 in the villages mentioned in the present petition in the District of Dantewada Chhattisgarh?
16. Whether matter is not to be listed before any Hon'ble Judge? **NA**
Mention the name of the Hon'ble Judge
17. Particulars of identical/similar cases, if any
- a. Pending cases **NA**
- b. Decided cases with citation **NA**
- 17A Was S.L.P. / Appeal / Writ filed against it impugned Judgment / Order earlier? If yes, particulars
NA
18. Whether the petition is against Interlocutory/final order/decreed in the case.
19. If it is a fresh matter, please state the name of the High Court and the Coram in the impugned Judgment / Order **NA**
20. If the matter was already listed in this Court
- a. When was it listed?
- b. What was the Coram? **NA**

- c. What was the direction of the Court **NA**
21. Whether a date has already been fixed either by Court or on being mentioned for the hearing of matter? If so, Please indicate the date fixed **NA**
22. Is there a caveator? If so, whether a notice Has been issued to him? **NA**
23. Whether date entered in the Computer? **NA**
24. If it is a criminal matter please state:
- a. Whether accused has surrendered **No**
 - b. Nature of Offence i.e. Convicted under Section with Act **No**
 - c. Sentenced awarded **No**
 - d. Sentence already undergone by the accused **NA**
 - e. FIR/RC/etc

**Registered Complaints dated 13.10.09 and
18.10.09**

- f. Date of Registration of FIR etc.
- g. Name and place of the Police Station
 - (i) Name and place of Trial Court
 - (ii) Case No. In Trial Court and Date of Judgment
 - (iii) Name and Place of 1st Appellate Court
 - (iv) Case No. in 1st Appellate Court and date of Judgment

Date: __.10.2009

(Jyoti Mendiratta)
Advocate for Petitioner

SYNOPSIS AND LIST OF DATES

1. Petitioners 2 to 12 are family members of persons who had their tongues and other body parts such as hands cut off by the security forces and saw their relatives including infants killed in cold blood by the Chhattisgarh police, Special Police Officers (SPOs) appointed by the Chhattisgarh Government, activists of the Salwa Judum (group of vigilantes sponsored by the Chhattisgarh Government and others) and the Central Paramilitary forces consisting of the CRPF and the CoBRA Battalion, in two attacks on 17.9.09 and 1.10.09.
2. Even a 70 year tribal woman had her breasts cut off and she was stabbed to death. A 2-year old infant was brutally murdered. A blind man of 70 years was similarly executed. Houses were burnt. Money and properties were looted. The son of one of the petitioners had his head crushed with a stone.
3. Petitioners seek directions to the effect that the investigation into the extra judicial executions as outlined below be done by the CBI as the state of Chhattisgarh and the Chhattisgarh police have shown no inclination whatsoever to investigate with respect to the killings particularly because their own persons will be accused in the proceedings. Even though the eyewitnesses in their complaints to the police have identified the accused persons in some cases, no action has been taken by the police at all.
4. Petitioners point out that in two similar massacres of innocent civilians which took place on 8.1.09 at Singaram Village, Tehsil Konta, District Dantewada where 19 people were killed by the abovementioned forces (excluding CoBRA) and on 18.3.08 at Matwada, Salwa Judum Camp, District Bijapur where 3 tribals were killed inside the Salwa Judum Camp by the Chhattisgarh police and SPOs with respect of which the NHRC has given an adverse report, the statements of the accused persons were either not recorded or recorded incorrectly and deliberately so,

charge sheets were not filed and no person was arrested despite the passage of many months. In view of the conduct of the police in this particular matter as well as the general disinclination of the police to investigate crimes engaged in by the law enforcement agencies abovementioned, the petitioners have no hope that justice will be done to them unless an independent agency like the CBI is directed to take over both the investigation and the prosecution. Hence this petition.

5. The relationship between the petitioners and the deceased are as follows:

Petitioner No.	Relation with the deceased	Village of the deceased	Name of deceased	Date of Killings
2 Soyam Rama	Paternal Uncle	Gompad	Madvi Bazaar	01/10/09
	Paternal Aunt	Gompad	Madvi	01/10/09
	Niece	Gompad	Subi	01/10/09
	Niece	Gompad	Ku. Madvi	
			Mutti	01/10/09
			Smt Kartam	
3 Shri Kunjam Hidma	Son	Belpocha	Kunjam	01/10/09
			Hurra	
4 Shri Madavi Hidma	Brother	Gachhanpalli	Madvi Hadma	17/09/09
5 Shri Madavi	Son	Gachhanpalli	Madvi Deva	17/09/09

Sukda				
6 Shri Madavi Pojsa	Aunt	Gachhanpalli	Dudhi Moye	17/09/09
7 Shri Soyam Dulla	Son	Gompad	Soyam Subba	01/10/09
8 Smt. Muchaki Sukdi	Husband	Nulkatong	Muchaki Mukka	01/10/09
9 Madavi Hurre	Sister	Gachhanpalli	Dudhi Moye	17/09/09
10 Shri Madavi Raja	Father	Gachhanpalli	Madvi Dora	17/09/09
11 Smt. Madkam Muke	Husband	Gachhanpalli	Madkam Chula	17/09/09
12 Shri Kowasi Kosa	Father	Gachhanpalli	Kowasi Ganga	17/09/09
13 Sodhi Sambo	himself	Gompad	Petitioner Himself (injured for shooting)	01.10.09

6. The details of the killings are given below:

17th September 2009

- 1. Gachanpalli murders:** In the early hours of 17th September, 6 villagers were murdered by security forces in this village. Dudhi Muye (70 yrs) who could hardly walk was murdered after her breasts were cut off. Family members who had fled the scene on seeing the security forces, found her lying dead in a pool of blood. Similarly, Kawasi Ganga (70 yrs) who could barely see was stabbed and murdered in his bed. He too was found by his family members who had fled from the house and had taken shelter in the forest. Madvi Deva (25 yrs) was tied to a tree and shot at three times and then beheaded. His grandfather who was accompanying him back to the village was a witness to this. The family hasn't found his body. Three other villagers, Madvi Joga (60 yrs), Madvi Hadma (35 yrs) and Madkam Sulla were stabbed and murdered. The last two were killed in front of one witness, the wife of Madkam Sulla. Madvi Joga was killed after being stripped naked while ploughing his little plot of land. All the houses were ransacked, broken and burnt down. Family members are either living in sheds in the forests or have taken shelter with relatives. Many others have also taken similar shelter as their houses were burnt down by the security forces.
- 2. The case of Madvi Deva:** This young man was a resident of Singanpalli village and had gone out in the morning of 17th for some family work. When he did

not return his family searched for him. Two days later, a Patel from another village informed the family that he had been shot and killed by the security forces and his body was buried in the compound of Chintagufa PS. The Patel was asked to supervise the burial in the PS.

- 3. Burnt in hot oil:** Muchaki Deva (60 yrs) of Ondherpara was grazing cattle on the morning of 17th September. He was caught, beaten and dragged into the village by security forces. He was hanged upside down from a tree and a pot of hot oil was lit below and he was dropped into it. He was then pulled out and poured over with water. As a result, the upper part of his body is severely burnt and he has developed maggots in his wounds. He is still gravely ill and has no access to medical aid. Needless to say, he is afraid to leave his village.
- 4. Tied and paraded:** 6 villagers, including 3 women were tied and paraded through Gachanpalli and other villages where the security forces went. Fortunately, they escaped as timely rains made it possible for them to flee.
- 5. Forced displacement and terror:** families of those who were murdered by security forces and those whose houses have been burnt down vengefully, have fled the village and are living in make shift sheds in the forest. The condition of the others is no better

as the entire village has been terrorized by security forces.

1st October 2009

- 1. Gompada 'encounter':** SP Dantewada described the operations in Gompada village on 1st October as an 'encounter'. An encounter with a difference: while 9 villagers were killed by the security forces in the village and their bodies were left there, no casualties were inflicted on the security forces. This too the SP confirmed. 4 members of one family, Madvi Bajar, his wife, Madvi Subbi, their married daughter, Kartan Kunni and their young daughter, Madvi Mutti were stabbed and killed inside the house. So too were two other villagers from Bhadrapadar, Muchaki Handa and Markam Deva, who were staying the night over at Madvi Bajar's house on their way home from Andhra Pradesh where they had been working. Another couple, Soyam Subba and Soyam Jogi were stabbed and killed inside their house. Yet another villager, Madvi Enka was stabbed inside the house and then dragged all over the village. Before leaving the village, the security forces shot him and left his body. All 9 deaths, like the ones on 17th September, were preceded by stabbing and the bodies were left in the village. When the team asked the SP about recovery

of bodies from the encounter site, the SP stated that Naxalites 'take them away'.

- 2. More killings:** In Chintagufa, a 45yr old man, Tomra Mutta was stabbed and shot inside his house. On seeing the sudden arrival of the security forces, Tomra Mutta ran to protect his family. He was shot in the process. *The team confirmed 10 murders that had taken place that day but there is apprehension that the total number of killings may be much higher as many villages could not be contacted or accessed.* The SP confirmed that two sets of raid parties set off that day comprising of Cobras and local police. Hence, the details with the team do not give the entire and exact picture of how many villages were attacked and targeted.
- 3. Travails of a 2yr old:** Madvi Bajar's grandson was not spared. He is all of two and yet the security forces beat him, cut four of his fingers, broke his teeth and cut off part of his tongue.
- 4. 8 arrested and 2 missing:** Ten young men between 18-32 years were beaten and picked up by security forces from Mukudtong and Jinitong villages on 1st October. Eight have been shown as arrested in case that was registered on 3/10 at Konta PS under various sections of IPC, Arms Act and Explosives Act. They are currently lodged in Dantewada jail. However, two still remain missing. Female relatives who went in search of those missing at the Konta PS

were harassed, made to affix their thumb impression on blank documents and driven away. When they returned two days later, they were abused, told not to return and informed that the men had been taken to an unknown place.

- 5. Looting and Burning of property and houses:** As many as 9 instances of looting and burning by security forces were reported to the team. Unlike the 17th September killings which were followed by arson and burning of the houses of those murdered, security forces on 1st October *looted* homes. They took away paddy, pulses, brass pots and poultry from many homes. Money, ranging from 300/- to 10,000/- was stolen from these houses. Destruction of property, particularly burning down of houses was carried out in as many as seven instances.
- 6. Harassment and torture:** Witnesses reported several instances of harassment at the hands of the security forces. In Gompada, one villager was caught and interrogated and then shot at in his leg. He managed to run away but still has the bullet injury and has had no medical treatment. In Chintagufa, security forces tied another man and made him walk to Injaram PS. They severely beat him and also attacked him on his toe with a knife. He was finally let off in the evening.
- 7. Presence of SPOs and Salwa Judum leader with security forces:** Residents of Mukudtong village

confirmed that the 'raid' party was accompanied by known Salwa Judum leader, Bhoddu Raja of Injaram camp. Residents of Gompada village were able to recognize SPOs Pande Soma of Phandeguda village and Ganga of Asarguda village.

8. Forced displacement and terror: Several families are living in makeshift sheds in the forest area as their houses have been burnt down. Those who are unable to run and flee are living in terror in the villages and residents and relatives have helped them to repair their houses and have given them other support.

7. After the extra judicial executions by the security forces the petitioners were in a state of abject fear. They were forced to hide in the jungles fearing that the security forces would kill them all. The petitioner No. 1 then visited villages from 11.10.09 onwards and began contacting the people so as to give them confidence to provide details of the suffering that they had gone through so that the legal machinery could be put in motion. After collecting the information from the victims families on 15.10.09 and thereafter the complaints of the petitioners were handed over the Superintendent of Police. The petitioners could not dare to go to the police station fearing further assaults.

8. Petitioner No. 2 Soyam Rama, in his complaint, inter alia, stated:

"Today on 01/10/09, Thursday, at about 6-7 O'Clock in morning S.P.O, Police and other Security Forces from Injaram Camp came to our village Gompad and entered the home of the above mentioned deceased and stabbed them

with knife to death. In the field my elder brother Madvi Enka s/o Madvi Hirma was stabbed with knife and shot dead with bullet by the S.P.O, Police and Security Forces. Thereafter robbed my house in which Rs.40,000/- (Forty Thousand Rupees Only) cash, golden necklace worth about Rs.10,000/- (Ten Thousand Rupees), golden earring worth about Rs.2000/- (Two Thousand), and silver anklet worth about Rs.5000/- (Five Thousand Rupees) were taken away. The security force chopped of the tongue and both hands of a two year old son of Smt. Kartam Kanni, who was later on taken for medical treatment to Bhadrachalam by his father Kartam Dulla.

Sir, my paternal uncle Madvi Bazaar, paternal aunt Smt. Madvi Subbi, niece Ku.Madvi Mutti, niece Smt. Kartam Kanni and nephew Madvi Enka were killed by the Injaram Security Forces without any reason and without any offence. Inhuman life threatening attack was also committed against Two year old son of Smt. Kartam Kanni.

Therefore it is requested to you to register FIR and take legal action against the Security Personnel of Injaram who killed my paternal uncle Madvi Bazaar, paternal aunt Smt. Madvi Subbi, niece Ku.Madvi Mutti, niece Smt. Kartam Kanni and nephew Madvi Enka.”

9. Petitioner No. 3 Kunjam Hidma:

“At about 9-10 am in the morning, S.P.O.s, police and other security forces reached my village. My son Kunjam Hurra was returning home from the fields and the S.P.Os, police and other security forces caught hold of

him near my house and took him to Village Dhodhra. After that they shot him and took his dead body to Police Station Konta. Because we fear the police, we did not go to get back the dead body.

Sir, the S.P.O.s, police and other security forces have killed my son Kunjam Hurra, without any reason and without his committing any crime.”

10. Petitioner No. 4, Madavi Hidma:

“One month ago from now on 17/09/09, Thursday, at about 5-6 O’Clock in morning was caught by S.P.O., Police and other Security Force who came from Bhejji Thana, while he was going to the field and tied his hands and brought back to the village and took to a place where 8 villagers were already caught and kept, and then shot dead my brother Madvi Hadma s/o Madvi Kosa with bullet and burned the house. Entire house and other household things got totally burned which was worth about Rs.60,000 and looted Rs.1,500/-.”

11. Petitioner No. 5, Madavi Sukada:

“One month ago from now on 17/09/09, Thursday, on their way at village Kankerlanka both were caught by S.P.O., Police and other Security Forces, and after interrogating they threatened Kalmum Hunga resident of Phoolbhagdi to flee away, and then tied my son Madvi Deva with his own towel to a tree and then shot him dead thereafter chopped off his head from neck and took the dead body with them. The

information about this incident was given to us by Kalmum Hunga who was there.

Sir, my son Madvi Deva s/o Madvi Sukda was killed by the S.P.O., Police and other Security Forces without any reason and without any offence.”

12. Petitioner No. 6, Madavi Hidma:

“One month ago from now on 17/09/09, Thursday, at about 5-6 O’Clock in morning was caught by S.P.O., Police and other Security Force who came from Bhejji Thana, while he was going to the field and tied his hands and brought back to the village and took to a place where 8 villagers were already caught and kept, and then shot dead my brother Madvi Hadma s/o Madvi Kosa with bullet and burned the house. Entire house and other household things got totally burned which was worth about Rs.60,000 and looted Rs.1,500/-.

Sir, my brother Madvi Hidma s/o Madvi Kosa was killed in house by the S.P.O., Police and other Security Forces without any reason and offence and damage of about Rs.60,000/- was caused and also looted Rs.1500/- cash.”

13. Petitioner No. 7, Madavi Pojja:

“On 17/09/09, Thursday, at about 5-6 O’Clock in morning, my Aunt Smt. Dudhi Moye w/o Dudhi Nanda, aged about 70 years, resident of village- Gacchanpalli was caught by S.P.O., Police and other Security Forces from Bhejji Thana, they surrounded my house and in my front beat my Aunt Smt. Dudhi Moye with the butt of the gun, cut her breast

with knife and stabbed with knife to death, and burned the house. My house and every household thing got burned with amounted to about Rs.50,000/- and also looted Rs.5,000/- kept in house.

Sir, my Aunt Smt. Dudhi Moye was killed in house by the S.P.O., Police and other Security Forces without any reason and without any offence and damage of about Rs.50,000/- was caused and also Rs.5,000/- were looted by them.”

14. Petitioner No. 8, Soyam Dulla

“My son Soyam Subba and my daughter-in-law Soyam Jogi aged about 18 years, two weeks back from today on 01/10/09, Thursday at morning about 6-7 O’Clock, S.P.O., Police and other Security Forces, who came from Injaram Camp, surrounded my home, and in home itself in front of my wife Smt. Soyam Kanni killed my son Soyam Subba and my daughter-in-law Soyam Jogi by stabbing with knife and then shot dead with bullet, thereafter robbed my house in which Rs.40,000/- (Forty Thousand Rupees Only) cash, golden necklace worth about Rs.10,000/- (Ten Thousand Rupees), golden earring worth about Rs.2000/- (Two Thousand), and silver anklet worth about Rs.5000/- (Five Thousand Rupees) were taken away.

Sir the S.P.O., Police and other Security Forces killed my son Soyam Subba and my daughter-in-law Soyam Jogi without any reason and without any offence and also about Rs.40,000/- cash and other commodities were looted by them.”

15. Petitioner No. 9, Muchaki Sukdi

"My husband is Muchaki Muka s/o (late) Muchaki Bhima, aged about 35 years. About 2 weeks ago, on Thursday, 01.10.2009, at about 8-9 am in the morning, S.P.O.s, police and other security forces surrounded my house and looted Rs. 500 in cash and dragged out my husband Muchaki Muka s/o (late) Muchaki Bhima and took him with them, killed him on the way, and after killing him took his dead body to the Police Station Konta.

Sir, the S.P.O.s, police and other security forces have killed my husband Muchai Muka, without any reason and without his committing any crime."

16. Petitioner No. 10, Madavi Raja:

"My father Madvi Joga s/o Madvi Dora, aged about 60 years, resident of village – Gacchanpalli was caught one month ago from now, on 17/09/09, Thursday at about 5-6 O'Clock in morning by S.P.O., Police and other Security Forces who came from Bhejji Thana and surrounded my house, they also caught my mother Madvi Gangi and tied them in house, thereafter took my mother Madvi Gangi to some far place, thereafter killed my father Madvi Joga s/o Madvi Dora by stabbing with knife and by shooting bullet and burned the house. Entire house and other household things got totally burned which was worth about Rs.60,000.

Sir, my father Madvi Joga s/o Madvi Dora was killed in house by the S.P.O., Police and other Security Forces without any reason and without any offence and damage of about Rs.60,000/- was caused."

17. Petitioner No. 11, Madkam Muke

"On 17/9/09, Thursday at about 5-6 O'Clock in morning, was caught by S.P.O., Police and other Security Forces who came from Bhejji Thana, and tied my and my husband's hand and broke the door of house and took all the clothes and burned them, and looted Rs.1,200/- kept in house, thereafter they took both of us to a place in village where already seven villagers namely 1. Smt. Madvi Jogi, 2. Smt. Madvi Gangi, 3. Smt. Sodi Kosi, 4. Smt. Kowasi Pojji, 5. Ku. Kowasi Bhime, 6. Madvi Mada, 7. Madvi Hadma, were caught and kept. There my husband Madkam Chula s/o Madkam Hadma and Madvi Hadma s/o Madvi Kosa, were shot dead in front of my eyes, and then took others to Kolaiguda village, where it started to rain heavily. To find shelter everybody started running here and there, and during this I and six other people escaped and came back to our village."

18. Petitioner No. 12, Kowasi Kosa

"On 17/09/09, Thursday at about 5-6 O'Clock in morning by S.P.O., Police and other Security Forces who came from Bhejji Thana and surrounded my house, and killed my father Kowasi Ganga by stabbing with knife and by shooting bullet and burned the house. Entire house and other household things got totally burned which was worth about Rs.50,000 and also looted Rs.2,000 cash from house.

Sir, my father Kowasi Ganga s/o Kowasi Moda was killed in house by the S.P.O., Police and other Security Forces

without any reason and without any offence and damage of about Rs.60,000/- was caused and looted Rs.2000/- cash.”

19. Petitioner No. 13, Sodhi Shambo:

"On Thursday, 01.10.2009, at about 6-7 am in the morning, S.P.O.s, police and other security forces who had come from the Injaram, Konta Camp - among whom I recognize Madvi Buccha s/o Madvi Subba, S.P.O, presently residing in Konta - surrounded my house and took me, along with my two children 1. Sodi Raju, aged about 3 years 2. Kumari Sodi Nago, aged about 5 years to my neighbour Soyam Sensa's house, where Soyam Sensa's wife Soyam Bali was there with her infant baby. The security forces had trained their rifles against her to shoot her, but they did not kill her because some other security forces, seeing the small children, stopped them from firing. I had also been made to stand nearby with both my children. I was shot in the foot, after which I fell to the ground. Immediately both my children threw themselves on me and began to cry, after which, on being stopped by the other security forces, they left me."

20. Another complainant, Madavi Hunga stated as under:

"On 17/9/09, Thursday at about 7-8 O'Clock in morning, was caught near a *Nala* by S.P.O., Police and other Security Forces who came from Chintagupha Thana, while he went out in bicycle to Kedbad para to bring *Salphi* for some of the guest and was returning back to home. He was shot dead with bullet and his head was crushed with stone and thereafter his dead body was taken to Chintagupha Thana where they hid his body by burring it and destroyed the bicycle. The information of this incident was given to be me

by one Sodi Muka and four other people of neighbouring village Tumalpad.

Sir, my son Madvi Deva s/o Madvi Hunga was killed by the S.P.O., Police and other Security Forces without any reason and offence and destroyed the bicycle.”

21. Apart from the information set out above it appears that many other persons have also been injured or killed and have had their houses looted in a similar manner. The people of the area are terrified. Some are hiding in the jungles even today.
22. For example, it was disclosed by the villagers of Village Onderpara, Tehsil Konta, District Dantewada that on 17.9.09 Shri Muchaki Deva aged 65, was taken by above security forces to the Injaram Salwa Judum Camp where he was put in the kadai and burnt with hot oil.
23. After the above-mentioned complaints were submitted to the Superintendent of Police Dantewada with a request that an FIR be registered in all cases, no action was taken by the police. No one was arrested even though the petitioners and other eyewitnesses could identify some of the accused. No investigation was done. Not a single eyewitness has been called to record their statement.
24. Petitioner now refers to the mass massacre done by the above police and security forces of 19 innocent tribals of 5 villages who were killed in cold blood on 8.1.09. 5 eyewitnesses saw the brutal murder of the innocent tribals. The media in Chhattisgarh covered the incident. Complaints were made to the SP by the families of the victim but no action was taken. The statement of the eyewitness and the families of the victims were not recorded by the police. A magisterial enquiry was ordered by the Chhattisgarh government to be done by the SDM, Dantewada. The victims' families had no faith in the SDM because he came to record their statements in the Ashram of petitioner no. 1 and brought with him the SPOs and police

personnel who were involved in the massacre. Further he forcibly recorded the statements of 4 persons at that time and even these statements were recorded incorrectly. Apart from these statements no other statements of the eyewitnesses were recorded. No investigation was done. No charge sheet has been filed. No arrest has been made. Even to this date there is a reign of terror by the police and security forces. In this regard 2 Writ Petitions were filed in the Chhattisgarh High Court and although placed for final hearing are not likely to reach until next year as the assignment is such that the Hon'ble Judge hears such matters for only 2 hours in the day and the backlog of pending cases is huge. As a result almost a year after the incident even the initiation of criminal investigation has not begun.

25. The petitioner now refers to the Matwada massacre which took place on 18.3.08 where the police and SPOs killed 3 tribals inside the Salwa Judum Camp in the presence of their wives. After so killing the tribals the police issued a press release saying that the naxalites had killed the tribals. On 27.3.08, the widows of the deceased tribals met the petitioner No. 1, told him about the whole incident and then wrote complaint letters to the SP putting on record the facts of the extra judicial executions by the police and the SPOs and requesting the SP to lodge an FIR against the accused persons. The SP Bijapur reacted to this complaint on 29.3.08 by calling the widows to the Dantewada SP's office and by keeping the widows in a closed room forcibly took their thumb impression on papers written in his own handwriting. The widows repeatedly requested the SP Bijapur to allow them to take their children away from the Salwa Judum Camp, Matwada. But the SP replied saying that unless their mothers enter the camp again the children would not be released. It was only on 1.4.08 when the media took up the issue that the children were ultimately released. Repeated requests were made to the police to register the FIR but the SP replied saying that since the police had registered an FIR against the unknown naxalites a second FIR could not be registered. Compensation was not paid to the families of the victims. Petitioner no. 1 wrote a letter to the

Chief Minister requesting compensation but nothing was done. Ultimately Writ Petition no. 2111 of 2008 was filed in the Chhattisgarh High Court and is pending final hearing but in view of the backlog and the fact that the Judge is able to allocate only 2 hours in a day to such final hearings, it is not likely that this petition will be heard this year. Thus no FIR has been registered, no investigation has commenced and no one has been arrested. In the meanwhile the NHRC conducted an enquiry and reported as under:

“In some instances, however, the security forces and SPOs seem to be prima facie responsible for extra judicial killings. Such instances need to be enquired into, for those acting on behalf of the State must act within the boundaries of law (howsoever grave the provocation) and be accountable.”...“For example, recently in the camp at Matwada, three tribals were killed by the SPOs deployed in the same camp. Though Case No. FIR 64/08 P.S. Jangla has been registered in connection with this incident, the enquiry team found that efforts are being made to hide the actual sequence of events.”

26. Thus even in respect of this Writ Petition the eventual result is that for a massacre that took place March 2008 and widely reported by the media and although the massacre was vigorously protested in the State Assembly and the NHRC made an adverse report, nevertheless 1 ½ year later the investigation has not commenced.

DATES	EVENTS
18.3.08	Matwada Massacre took place where the Police and SPOs killed 3 tribals inside the Salwa Judum camp
8.1.09	Singram Village massacre
17.9.09	
1.10.09	

11.10.09	Visit by the Petitioner 1
13.10.09	Complaints made
15.10.09	Complaints received by the SP

**IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION**

WRIT PETITION (Crl.) No. of 2009

(UNDER ARTICLE 32 OF THE CONSATITUTION OF INDIA)

1. Shri Himanshu
 S/o. Shri Prakash Bai
 Vanvasi Chetna Ashram
 Kawalnar, S. B. Dantewada
 Chhattisgarh

Petitioner No. 1

2. Shri Soyam Rama
 S/o Soyam Kanna,
 Village – Gompad,
 Thana – Konta,
 District – S.B. Dantewada,
 Chhattisgarh

Petitioner No. 2

3. Shri Kunjam Hidma
 S/o Kunjam Kosa
 Village- Belpocha
 Thana – Konta,
 District – S.B. Dantewada,
 Chhattisgarh

Petitioner No. 3

4. Shri Madavi Hidma
 S/o Madvi Kosa
 Village Gachhanpalli
 Thana- Golapalli
 District – S.B. Dantewada,
 Chhattisgarh

Petitioner No. 4

5. Shri Madavi Sukda
 S/o Madvi Kosa
 Village Gachhanpalli
 Thana- Golapalli
 District – S.B. Dantewada,
 Chhattisgarh

Petitioner No. 5

6. Shri Madavi Pojja
 S/o Madavi Hurra
 Village Gachhanpalli
 Thana- Golapalli
 District – S.B. Dantewada,
 Chhattisgarh

Petitioner No. 6

7. Shri Soyam Dulla
 S/o Soyam Dulla

- Village- Gompad
Thana- Konta
District – S.B. Dantewada,
Chhattisgarh
- Petitioner No. 7
8. Smt. Muchaki Sukdi
W/o Muchaki Muka
Village- Nulkatong
Thana- Konta
District – S.B. Dantewada,
Chhattisgarh
- Petitioner No. 8
9. Smt. Madavi Hurre
Madvi Hurra
Village – Gacchanpalli,
Thana – Golapalli
District – S.B. Dantewada,
Chhattisgarh
- Petitioner No. 9
10. Shri Madavi Raja
S/o Madavi Joga
Village Gachhanpalli
Thana- Golapalli
District – S.B. Dantewada,
Chhattisgarh
- Petitioner No. 10
11. Smt. Madkam Muke
W/o Mudkam Chula
Village Gachhanpalli
Thana- Golapalli
District – S.B. Dantewada,
Chhattisgarh
- Petitioner No. 11
12. Shri Kowasi Kosa
S/o Late Kowasi Ganga
Village Gachhanpalli
Thana- Golapalli
District – S.B. Dantewada,
Chhattisgarh
- Petitioner No. 12
13. Smt. Sodhi Sambo
S/o Sodhi Badra
Village- Gompad
Thana- Konta
District – S.B. Dantewada,
Chhattisgarh
- Petitioner No. 13

Versus

1. State of Chhattisgarh
Through Secretary Home Department,

- | | | |
|----|--|------------------|
| | D. K. S. Bhawan, Raipur, Chhattisgarh | Respondent No. 1 |
| 2. | Central Bureau of Investigation
Through its Director,
CGO Complex,
Lodhi Road, New Delhi - 110003 | Respondent No. 2 |
| 3. | Union of India
Through its Secretary, Home Department
New Delhi | Respondent No. 3 |

TO:

**THE HON'BLE THE CHIEF JUSTICE OF INDIA AND HIS
COMPANION JUSTICES OF THE HON'BLE SUPREME COURT OF
INDIA.**

**THE HUMBLE PETITION OF
THE PETITIONER ABOVE NAMED**

MOST RESPECTFULLY SHEWETH:

1. The Petitioners above named most respectfully submits the present Writ petition under Article 32 of the Constitution of India seeking intervention of the Hon'ble Court through a writ of mandamus or any other Writ and/or direction to have the CBI take over the investigation and prosecution with respect to the complaints made by the petitioners herein and others with respect to the massacres that took place on 17.09.09 and 1.10.2009 in the villages of Gachhanpalli, Gompad and Belpocha in the District of Dantewada Chhattisgarh by the Chhattisgarh Police, Special Police Officers (SPOs), activists of Salwa Judum (group of vigilantes sponsored the Chhattisgarh Government) and the Paramilitary Forces consisting of CRPF and the CoBRA Batalians. Petitioners also seek an order

directing the payment of compensation to the victims for the extra judicial executions, for the looting of properties, the burning of their houses and other losses suffered by the victims on account of unlawful activities of the respondents and their agents.

2. Petitioner No. 1, Shri Himanshu Kumar is the Director of Vanvasi Chetna Ashram, Kanwalnar- Dantewada Chhattisgarh, which is an NGO working for the development of tribals in Bastar region and is rendering help to petitioners herein and other tribal of Dantewada District of Chhattisgarh. On 11.10.09, Petitioner No. 1 visited the concerned villages where the massacres took place and gave them support to approach appropriate legal machinery for seeking justice. He helped the terrified tribals to give complaints with respect to the mass killing on 17.09.09 and 01.10.09.

Petitioners 2 to 12 are family members of persons who had their tongues and other body parts such as hands cut off by the security forces and saw their relatives including infants killed in cold blood by the Chhattisgarh police, Special Police Officers (SPOs) appointed by the Chhattisgarh Government, activists of the Salwa Judum (group of vigilantes sponsored by the Chhattisgarh Government and others) and the Central Paramilitary forces consisting of the CRPF and the CoBRA Battalion, in two attacks on 17.9.09 and 1.10.09. Even a 70 year tribal woman had her breasts cut off and she was stabbed to death. A 2-year old infant was brutally murdered. A blind man of 70 years was similarly executed. Houses were burnt. Money and properties were looted. The son of one of the petitioners had his head crushed with a stone.

3. Respondent No. 1 is the State of Chhattisgarh. State of Chhattisgarh has employed/sponsored the perpetrators of mass massacres that took place on 17.09.09 and 1.10.2009 in abovementioned villages of Dantewada District; they are Chhattisgarh Police, Special Police Officers (SPOs), activists of Salwa Judum (group of vigilantes sponsored the Chhattisgarh Government) and the Paramilitary Forces consisting of CRPF and the CoBRA Batalians. Respondent No. 2 is Central Bureau of Investigation (CBI). The Petitioners above named has by the present Writ Petition under Article 32 sought the intervention of the Hon'ble Court for a Writ of mandamus or any other writ or/and order directing the CBI to take over the investigation and prosecution with respect to the complaints made by the petitioners herein and others with respect to the massacres that took place on 17.09.09 and 1.10.2009 in the abovementioned villages of the District of Dantewada, Chhattisgarh. Respondent No. 3 is Union of India, the Department of Home that has control and supervision over Respondent No. 2 of the present Writ Petition.

3. Petitioners seek directions to the effect that the investigation into the extra judicial executions as outlined below be done by the CBI as the state of Chhattisgarh and the Chhattisgarh police have shown no inclination whatsoever to investigate with respect to the killings particularly because their own persons will be accused in the proceedings. Even though the eyewitnesses in their complaints to the police have identified the accused persons in some cases, no action has been taken by the police at all.

4. Petitioners point out that in two similar massacres of innocent civilians which took place on 8.1.09 at Singaram Village, Tehsil Konta, District Dantewada where 19 people were killed by the abovementioned forces (excluding CoBRA) and on 18.3.08 at Matwada, Salwa Judum Camp, District Bijapur where 3 tribals were killed inside the Salwa Judum Camp by the Chhattisgarh police and SPOs with respect of which the NHRC has given an adverse report, the statements of the accused persons were either not recorded or recorded incorrectly and deliberately so, charge sheets were not filed and no person was arrested despite the passage of many months. In view of the conduct of the police in this particular matter as well as the general disinclination of the police to investigate crimes engaged in by the law enforcement agencies abovementioned, the petitioners have no hope that justice will be done to them unless an independent agency like the CBI is directed to take over both the investigation and the prosecution. Hence this petition.
5. The relationship between the petitioners and the deceased are as follows:

Petitioner No.	Relation with the deceased	Village of the deceased	Name of deceased	Date of Killings
2 Soyam Rama	Paternal Uncle	Gompad	Madvi Bazaar	01/10/09
	Paternal Aunt	Gompad	Madvi	01/10/09
	Niece	Gompad	Subi	01/10/09
	Niece	Gompad	Mutti	01/10/09
			Smt Kartam	
	Nephew	Gompad	Kunni Madvi Enka	01/10/09
3 Shri	Son	Belpocha	Kunjam Hurra	01/10/09

Kunjam Hidma				
4 Shri Madavi Hidma	Brother	Gachhanpalli	Madvi Hadma	17/09/09
5 Shri Madavi Sukda	Son	Gachhanpalli	Madvi Deva	17/09/09
6 Shri Madavi Pojsa	Aunt	Gachhanpalli	Dudhi Moye	17/09/09
7 Shri Soyam Dulla	Son	Gompad	Soyam Subba	01/10/09
8 Smt. Muchaki Sukdi	Husband	Nulkatong	Muchaki Mukka	01/10/09
9 Madavi Hurre	Sister	Gachhanpalli	Dudhi Moye	17/09/09
10 Shri Madavi Raja	Father	Gachhanpalli	Madvi Dora	17/09/09
11 Smt. Madkam Muke	Husband	Gachhanpalli	Madkam Chula	17/09/09
12 Shri Kowasi Kosa	Father	Gachhanpalli	Kowasi Ganga	17/09/09

13 Sodhi Sambo	himself	Gompad	Petitioner Himself (injured for shooting)	01.10.09
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6. The details of the killings are given below:

17th September 2009

Gachanpalli murders: In the early hours of 17th September, 6 villagers were murdered by security forces in this village. Dudhi Muye (70 yrs) who could hardly walk was murdered after her breasts were cut off. Family members who had fled the scene on seeing the security forces, found her lying dead in a pool of blood. Similarly, Kawasi Ganga (70 yrs) who could barely see was stabbed and murdered in his bed. He too was found by his family members who had fled from the house and had taken shelter in the forest. Madvi Deva (25 yrs) was tied to a tree and shot at three times and then beheaded. His grandfather who was accompanying him back to the village was a witness to this. The family hasn't found his body. Three other villagers, Madvi Joga (60 yrs), Madvi Hadma (35 yrs) and Madkam Sulla were stabbed and murdered. The last two were killed in front of one witness, the wife of Madkam Sulla. Madvi

Joga was killed after being stripped naked while ploughing his little plot of land. All the houses were ransacked, broken and burnt down. Family members are either living in sheds in the forests or have taken shelter with relatives. Many others have also taken similar shelter as their houses were burnt down by the security forces.

The case of Madvi Deva: This young man was a resident of Singanpalli village and had gone out in the morning of 17th for some family work. When he did not return his family searched for him. Two days later, a Patel from another village informed the family that he had been shot and killed by the security forces and his body was buried in the compound of Chintagufa PS. The Patel was asked to supervise the burial in the PS.

Burnt in hot oil: Muchaki Deva (60 yrs) of Ondherpara was grazing cattle on the morning of 17th September. He was caught, beaten and dragged into the village by security forces. He was hanged upside down from a tree and a pot of hot oil was lit below and he was dropped into it. He was then pulled out and poured over with water. As a result, the upper part of his body is severely burnt and he has developed maggots in his wounds. He is still gravely ill and has no access to medical aid. Needless to say, he is afraid to leave his village.

Tied and paraded: 6 villagers, including 3 women were tied and paraded through Gachanpalli and other villages where the security forces went. Fortunately, they escaped as timely rains made it possible for them to flee.

Forced displacement and terror: families of those who were murdered by security forces and those whose houses have been burnt down vengefully, have fled the village and are living in make shift sheds in the forest. The condition of the others is no better as the entire village has been terrorized by security forces.

1st October 2009

Gompada 'encounter': SP Dantewada described the operations in Gompada village on 1st October as an 'encounter'. An encounter with a difference: while 9 villagers were killed by the security forces in the village and their bodies were left there, no casualties were inflicted on the security forces. This too the SP confirmed. 4 members of one family, Madvi Bajar, his wife, Madvi Subbi, their married daughter, Kartan Kunni and their young daughter, Madvi Mutti were stabbed and killed inside the house. So too were two other villagers from Bhadrapadar, Muchaki Handa and Markam Deva, who were staying the night over at Madvi Bajar's house on their way home from Andhra

Pradesh where they had been working. Another couple, Soyam Subba and Soyam Jogi were stabbed and killed inside their house. Yet another villager, Madvi Enka was stabbed inside the house and then dragged all over the village. Before leaving the village, the security forces shot him and left his body. All 9 deaths, like the ones on 17th September, were preceded by stabbing and the bodies were left in the village. When the team asked the SP about recovery of bodies from the encounter site, the SP stated that Naxalites 'take them away'.

More killings: In Chintagufa, a 45yr old man, Tomra Mutta was stabbed and shot inside his house. On seeing the sudden arrival of the security forces, Tomra Mutta ran to protect his family. He was shot in the process. *The team confirmed 10 murders that had taken place that day but there is apprehension that the total number of killings may be much higher as many villages could not be contacted or accessed.* The SP confirmed that two sets of raid parties set off that day comprising of Cobras and local police. Hence, the details with the team do not give the entire and exact picture of how many villages were attacked and targeted.

Travails of a 2yr old: Madvi Bajar's grandson was not spared. He is all of two and yet the security forces beat him, cut four of his fingers, broke his teeth and cut off part of his tongue.

8 arrested and 2 missing: Ten young men between 18-32 years were beaten and picked up by security forces from Mukudtong and Jinitong villages on 1st October. Eight have been shown as arrested in case that was registered on 3/10 at Konta PS under various sections of IPC, Arms Act and Explosives Act. They are currently lodged in Dantewada jail. However, two still remain missing. Female relatives who went in search of those missing at the Konta PS were harassed, made to affix their thumb impression on blank documents and driven away. When they returned two days later, they were abused, told not to return and informed that the men had been taken to an unknown place.

Looting and Burning of property and houses: As many as 9 instances of looting and burning by security forces were reported to the team. Unlike the 17th September killings which were followed by arson and burning of the houses of those murdered, security forces on 1st October *looted* homes. They took away paddy, pulses, brass pots and poultry from many homes. Money, ranging from 300/- to 10,000/- was stolen from these houses. Destruction of property, particularly burning down of houses was carried out in as many as seven instances.

Harassment and torture: Witnesses reported several instances of harassment at the hands of the security forces. In Gompada, one villager was caught

and interrogated and then shot at in his leg. He managed to run away but still has the bullet injury and has had no medical treatment. In Chintagufa, security forces tied another man and made him walk to Injaram PS. They severely beat him and also attacked him on his toe with a knife. He was finally let off in the evening.

Presence of SPOs and Salwa Judum leader with security forces: Residents of Mukudtong village confirmed that the 'raid' party was accompanied by known Salwa Judum leader, Bhoddu Raja of Injaram camp. Residents of Gompada village were able to recognize SPOs Pande Soma of Phandeguda village and Ganga of Asarguda village.

Forced displacement and terror: Several families are living in makeshift sheds in the forest area as their houses have been burnt down. Those who are unable to run and flee are living in terror in the villages and residents and relatives have helped them to repair their houses and have given them other support.

7. After the extra judicial executions by the security forces the petitioners were in a state of abject fear. They were forced to hide in the jungles fearing that the security forces would kill them all. The petitioner No. 1 then visited villages from 11.10.09 onwards and began contacting the people so as to give them confidence to provide details of the suffering that they had gone through so that the legal machinery could be put in motion. After collecting the information from the victims families on 15.10.09 and thereafter

the complaints of the petitioners were handed over the Superintendent of Police. The petitioners could not dare to go to the police station fearing further assaults.

8. Petitioner No. 2 Soyam Rama, in his complaint, inter alia, stated:

“Today on 01/10/09, Thursday, at about 6-7 O’Clock in morning S.P.O, Police and other Security Forces from Injaram Camp came to our village Gompad and entered the home of the above mentioned deceased and stabbed them with knife to death. In the field my elder brother Madvi Enka s/o Madvi Hirma was stabbed with knife and shot dead with bullet by the S.P.O, Police and Security Forces. Thereafter robbed my house in which Rs.40,000/- (Forty Thousand Rupees Only) cash, golden necklace worth about Rs.10,000/- (Ten Thousand Rupees), golden earring worth about Rs.2000/- (Two Thousand), and silver anklet worth about Rs.5000/- (Five Thousand Rupees) were taken away. The security force chopped of the tongue and both hands of a two year old son of Smt. Kartam Kanni, who was later on taken for medical treatment to Bhadrachalam by his father Kartam Dulla.

Sir, my paternal uncle Madvi Bazaar, paternal aunt Smt. Madvi Subbi, niece Ku.Madvi Mutti, niece Smt. Kartam Kanni and nephew Madvi Enka were killed by the Injaram Security Forces without any reason and without any offence. Inhuman life threatening attack was also committed against Two year old son of Smt. Kartam Kanni.

Therefore it is requested to you to register FIR and take legal action against the Security Personnel of Injaram who killed my paternal uncle Madvi Bazaar, paternal aunt Smt.

Madvi Subbi, niece Ku.Madvi Mutti, niece Smt. Kartam Kanni and nephew Madvi Enka.”

9. Petitioner No. 3 Kunjam Hidma stated that:

“At about 9-10 am in the morning, S.P.O.s, police and other security forces reached my village. My son Kunjam Hurra was returning home from the fields and the S.P.Os, police and other security forces caught hold of him near my house and took him to Village Dhodhra. After that they shot him and took his dead body to Police Station Konta. Because we fear the police, we did not go to get back the dead body.

Sir, the S.P.O.s, police and other security forces have killed my son Kunjam Hurra, without any reason and without his committing any crime.”

10. Petitioner No. 4, Madavi Hidma stated that:

“One month ago from now on 17/09/09, Thursday, at about 5-6 O’Clock in morning was caught by S.P.O., Police and other Security Force who came from Bhejji Thana, while he was going to the field and tied his hands and brought back to the village and took to a place where 8 villagers were already caught and kept, and then shot dead my brother Madvi Hadma s/o Madvi Kosa with bullet and burned the house. Entire house and other household things got totally burned which was worth about Rs.60,000 and looted Rs.1,500/-.”

11. Petitioner No. 5, Madavi Sukada:

"One month ago from now on 17/09/09, Thursday, on their way at village Kankerlanka both were caught by S.P.O., Police and other Security Forces, and after interrogating they threatened Kalmum Hunga resident of Phoolbhagdi to flee away, and then tied my son Madvi Deva with his own towel to a tree and then shot him dead thereafter chopped of his head from neck and took the dead body with them. The information about this incident was given to us by Kalmum Hunga who was there.

Sir, my son Madvi Deva s/o Madvi Sukda was killed by the S.P.O., Police and other Security Forces without any reason and without any offence."

12. Petitioner No. 6, Madavi Pojja stated that :

"One month ago from now on 17/09/09, Thursday, at about 5-6 O'Clock in morning was caught by S.P.O., Police and other Security Force who came from Bhejji Thana, while he was going to the field and tied his hands and brought back to the village and took to a place where 8 villagers were already caught and kept, and then shot dead my brother Madvi Hadma s/o Madvi Kosa with bullet and burned the house. Entire house and other household things got totally burned which was worth about Rs.60,000 and looted Rs.1,500/-.

Sir, my brother Madvi Hidma s/o Madvi Kosa was killed in house by the S.P.O., Police and other Security Forces without any reason and offence and damage of about Rs.60,000/- was caused and also looted Rs.1500/- cash."

13. Petitioner No. 7, Madavi Pojja stated that:

"On 17/09/09, Thursday, at about 5-6 O'Clock in morning, my Aunt Smt. Dudhi Moye w/o Dudhi Nanda, aged about 70 years, resident of village- Gacchanpalli was caught by S.P.O., Police and other Security Forces from Bhejji Thana, they surrounded my house and in my front beat my Aunt Smt. Dudhi Moye with the butt of the gun, cut her breast with knife and stabbed with knife to death, and burned the house. My house and every household thing got burned with amounted to about Rs.50,000/- and also looted Rs.5,000/- kept in house.

Sir, my Aunt Smt. Dudhi Moye was killed in house by the S.P.O., Police and other Security Forces without any reason and without any offence and damage of about Rs.50,000/- was caused and also Rs.5,000/- were looted by them."

14. Petitioner No. 8, Soyam Dulla stated that:

"My son Soyam Subba and my daughter-in-law Soyam Jogi aged about 18 years, two weeks back from today on 01/10/09, Thursday at morning about 6-7 O'Clock, S.P.O., Police and other Security Forces, who came from Injaram Camp, surrounded my home, and in home itself in front of my wife Smt. Soyam Kanni killed my son Soyam Subba and my daughter-in-law Soyam Jogi by stabbing with knife and then shot dead with bullet, thereafter robbed my house in which Rs.40,000/- (Forty Thousand Rupees Only) cash, golden necklace worth about Rs.10,000/- (Ten Thousand Rupees), golden earring worth about Rs.2000/- (Two

Thousand), and silver anklet worth about Rs.5000/- (Five Thousand Rupees) were taken away.

Sir the S.P.O., Police and other Security Forces killed my son Soyam Subba and my daughter-in-law Soyam Jogi without any reason and without any offence and also about Rs.40,000/- cash and other commodities were looted by them.”

15. Petitioner No. 9, Muchaki Sukdi stated that:

“My husband is Muchaki Muka s/o (late) Muchaki Bhima, aged about 35 years. About 2 weeks ago, on Thursday, 01.10.2009, at about 8-9 am in the morning, S.P.O.s, police and other security forces surrounded my house and looted Rs. 500 in cash and dragged out my husband Muchaki Muka s/o (late) Muchaki Bhima and took him with them, killed him on the way, and after killing him took his dead body to the Police Station Konta.

Sir, the S.P.O.s, police and other security forces have killed my husband Muchai Muka, without any reason and without his committing any crime.”

16. Petitioner No. 10, Madavi Raja stated that:

“My father Madvi Joga s/o Madvi Dora, aged about 60 years, resident of village – Gacchanpalli was caught one month ago from now, on 17/09/09, Thursday at about 5-6 O’Clock in morning by S.P.O., Police and other Security Forces who came from Bhejji Thana and surrounded my house, they also caught my mother Madvi Gangi and tied them in house, thereafter took my mother Madvi Gangi to some far place,

thereafter killed my father Madvi Joga s/o Madvi Dora by stabbing with knife and by shooting bullet and burned the house. Entire house and other household things got totally burned which was worth about Rs.60,000.

Sir, my father Madvi Joga s/o Madvi Dora was killed in house by the S.P.O., Police and other Security Forces without any reason and without any offence and damage of about Rs.60,000/- was caused."

17. Petitioner No. 11, Madkam Muke stated that:

"On 17/9/09, Thursday at about 5-6 O'Clock in morning, was caught by S.P.O., Police and other Security Forces who came from Bhejji Thana, and tied my and my husband's hand and broke the door of house and took all the clothes and burned them, and looted Rs.1,200/- kept in house, thereafter they took both of us to a place in village where already seven villagers namely 1. Smt. Madvi Jogi, 2. Smt. Madvi Gangi, 3. Smt. Sodi Kosi, 4. Smt. Kowasi Pojji, 5. Ku. Kowasi Bhime, 6. Madvi Mada, 7. Madvi Hadma, were caught and kept. There my husband Madkam Chula s/o Madkam Hadma and Madvi Hadma s/o Madvi Kosa, were shot dead in front of my eyes, and then took others to Kolaiguda village, where it started to rain heavily. To find shelter everybody started running here and there, and during this I and six other people escaped and came back to our village."

18. Petitioner No. 12, Kowasi Kosa stated that:

"On 17/09/09, Thursday at about 5-6 O'Clock in morning by S.P.O., Police and other Security Forces who came from

Bhejji Thana and surrounded my house, and killed my father Kowasi Ganga by stabbing with knife and by shooting bullet and burned the house. Entire house and other household things got totally burned which was worth about Rs.50,000 and also looted Rs.2,000 cash from house.

Sir, my father Kowasi Ganga s/o Kowasi Moda was killed in house by the S.P.O., Police and other Security Forces without any reason and without any offence and damage of about Rs.60,000/- was caused and looted Rs.2000/- cash.”

19. Petitioner No. 13, Sodhi Shambo stated that:

“On Thursday, 01.10.2009, at about 6-7 am in the morning, S.P.O.s, police and other security forces who had come from the Injaram, Konta Camp - among whom I recognize Madvi Buccha s/o Madvi Subba, S.P.O, presently residing in Konta - surrounded my house and took me, along with my two children 1. Sodi Raju, aged about 3 years 2. Kumari Sodi Nago, aged about 5 years to my neighbour Soyam Sensa’s house, where Soyam Sensa’s wife Soyam Bali was there with her infant baby. The security forces had trained their rifles against her to shoot her, but they did not kill her because some other security forces, seeing the small children, stopped them from firing. I had also been made to stand nearby with both my children. I was shot in the foot, after which I fell to the ground. Immediately both my children threw themselves on me and began to cry, after which, on being stopped by the other security forces, they left me.”

20. Another complainant, Madavi Hunga stated as under:

“On 17/9/09, Thursday at about 7-8 O’Clock in morning, was caught near a *Nala* by S.P.O., Police and other Security Forces who came from Chintagupha Thana, while he went out in bicycle to Kedbad para to bring *Salphi* for some of the guest and was returning back to home. He was shot dead with bullet and his head was crushed with stone and thereafter his dead body was taken to Chintagupha Thana where they hid his body by burring it and destroyed the bicycle. The information of this incident was given to be me by one Sodi Muka and four other people of neighbouring village Tumalpad.

Sir, my son Madvi Deva s/o Madvi Hunga was killed by the S.P.O., Police and other Security Forces without any reason and offence and destroyed the bicycle.”

The True Translated Copies of the Complaints made by Petitioner No. 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12 to the SP Dantewada dated 13.10. 09 are herein annexed and marked as **Annexure P-1** (Colly)

And

The True Translated Copies of the Complaints made by the Petitioner No. 3 and 13 to the SP Dantewada dated 18.10.09 are herein annexed and marked as **Annexure P-2** (Colly)

21. Apart from the information set out above it appears that many other persons have also been injured or killed and have had their houses looted in a similar manner. The people of the area are terrified. Some are hiding in the jungles even today.

22. For example, it was disclosed by the villagers of Village Onderpara, Tehsil Konta, District Dantewada that on 17.9.09 Shri Muchaki Deva aged 65, was taken by above security forces to the Injaram Salwa Judum Camp where he was put in the kadai and burnt with hot oil.

23. After the above-mentioned complaints were submitted to the Superintendent of Police Dantewada with a request that an FIR be registered in all cases, no action was taken by the police. No one was arrested even though the petitioners and other eyewitnesses could identify some of the accused. No investigation was done. Not a single eyewitness has been called to record their statement.
24. Petitioner now refers to the mass massacre done by the above police and security forces of 19 innocent tribals of 5 villages who were killed in cold blood on 8.1.09. 5 eyewitnesses saw the brutal murder of the innocent tribals. The media in Chhattisgarh covered the incident. Complaints were made to the SP by the families of the victim but no action was taken. The statement of the eyewitness and the families of the victims were not recorded by the police. A magisterial enquiry was ordered by the Chhattisgarh government to be done by the SDM, Dantewada. The victims' families had no faith in the SDM because he came to record their statements in the Ashram of petitioner no. 1 and brought with him the SPOs and police personnel who were involved in the massacre. Further he forcibly recorded the statements of 4 persons at that time and even these statements were recorded incorrectly. Apart from these statements no other statements of the eyewitnesses were recorded. No investigation was done. No charge sheet has been filed. No arrest has been made. Even to this date there is a reign of terror by the police and security forces. In this regard 2 Writ Petitions were filed in the Chhattisgarh High Court and although placed for final hearing are not likely to reach until next year as the assignment is such that the Hon'ble Judge hears such matters for only 2 hours in the day and the backlog of pending cases is huge. As a result almost a year after the incident even the initiation of criminal investigation has not begun.
25. The petitioner now refers to the Matwada massacre which took place on 18.3.08 where the police and SPOs killed 3 tribals inside the Salwa Judum Camp in the presence of their wives. After so killing the tribals the police issued a press release saying that the naxalites had killed the tribals. On 27.3.08, the widows of the

deceased tribals met the petitioner No. 1, told him about the whole incident and then wrote complaint letters to the SP putting on record the facts of the extra judicial executions by the police and the SPOs and requesting the SP to lodge an FIR against the accused persons. The SP Bijapur reacted to this complaint on 29.3.08 by calling the widows to the Dantewada SP's office and by keeping the widows in a closed room forcibly took their thumb impression on papers written in his own handwriting. The widows repeatedly requested the SP Bijapur to allow them to take their children away from the Salwa Judum Camp, Matwada. But the SP replied saying that unless their mothers enter the camp again the children would not be released. It was only on 1.4.08 when the media took up the issue that the children were ultimately released. Repeated requests were made to the police to register the FIR but the SP replied saying that since the police had registered an FIR against the unknown naxalites a second FIR could not be registered. Compensation was not paid to the families of the victims. Petitioner no. 1 wrote a letter to the Chief Minister requesting compensation but nothing was done. Ultimately Writ Petition no. 2111 of 2008 was filed in the Chhattisgarh High Court and is pending final hearing but in view of the backlog and the fact that the Judge is able to allocate only 2 hours in a day to such final hearings, it is not likely that this petition will be heard this year. Thus no FIR has been registered, no investigation has commenced and no one has been arrested. In the meanwhile the NHRC conducted an enquiry and reported as under:

"In some instances, however, the security forces and SPOs seem to be prima facie responsible for extra judicial killings. Such instances need to be enquired into, for those acting on behalf of the State must act within the boundaries of law (howsoever grave the provocation) and be accountable."..."For example, recently in the camp at Matwada, three tribals were killed by the SPOs deployed in the same camp. Though Case No. FIR 64/08 P.S. Jangla has been registered in connection with this incident, the enquiry

team found that efforts are being made to hide the actual sequence of events.”

26. Thus even in respect of this Writ Petition the eventual result is that for a massacre that took place March 2008 and widely reported by the media and although the massacre was vigorously protested in the State Assembly and the NHRC made an adverse report, nevertheless 1 ½ year later the investigation has not commenced.

PRAYER

That in the premises set forth hereinabove the Petitioner most respectfully prays that this Hon'ble Court be graciously pleased to:

- a) Issue a writ of mandamus or any other appropriate writ, order or direction to the respondents to have the CBI take over the investigation and prosecution with respect to the complaints made by the petitioners and others with respect to the massacres that took place on 17.9.09 and 1.10.09 as set out in this petition;
- b) Pass an order directing the payment of compensation to the victims and their families for the extra judicial executions, for the looting of their properties, the burning of their houses, and other losses suffered by the victims on account of the unlawful activities of the respondents and their agents.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER AS IN DUTY BOUND SHALL EVER BE GRATEFUL.

JYOTI MENDIRATTA

(Advocate for the Petitioner)

Place: New Delhi

Drawn by:

Drawn on: , 2009

Filed on: , 2009

