

## **No Encounter, but a Cold blooded murder**

### **Preliminary Report of the Human Rights Forum on the "encounter killing" of Poonam Lingayya by Telangana Police**

Mr. Poonam Lingaya, an Adivasi belonging to Koya tribe hails from Rollagadda village of Gundala Mandal in Bhadradi Kothagudem district of Telangana state.

Lingayya was attracted to the communist revolutionary politics in or about 1995. He wanted to identify himself with the Communist Party which was organising the Adivasis of that area. For the last twenty three years he has been working as an activist in the Communist Party of India (Marxist- Leninist) New Democracy. He rose to the position of leading the armed self defence squads. He became a state level leader of the political party.

The squad belonging to the CPI (M-L) New Democracy which was being led by Lingayya was camping on a hillock, known as Pandigutta near Rollagadda village for two or three days prior to July 31, 2019. Somebody in the Rollagadda village noticed police footprints in the early hours of August 1, 2019 and alerted Lingayya squad. The six member Lingayya squad learnt that they were under the police dragnet and they have no other go except to escape. They decided to disperse. Three of them proceeded in one direction and three of them proceeded in a different direction. It appears one of the squad members was shot at by the police party. He was very badly wounded as a cartridge pierced through his right thigh. He was unable to move.

The police party that was posted at a distance of one kilometre from Pandigutta spotted two members of the squad and asked them to surrender. The duo put down the arms and raised their hands up.

The surrendered duo was taken into custody. A farmer was already in the custody of the police party. This Police Party spoke to someone through a device looking like a mobile phone informing about the taking into custody of two members of the squad. From the other end came directions to take the captured duo to the spot where an unidentified person was lying wounded to identify him as he was not disclosing his identity. The police party which took the duo into custody followed the directions and it took them to the spot where the wounded was lying. The police party let off the farmer.

Another Police Party, let us call them party "B", was posted at a distance of about one kilometre on another direction from Pandigutta. There were some five farmers scattered here and there, but in the vicinity of one another, spraying pesticides to their maize crop in their fields.

The police party "B" took a farmer into their custody and forced him to wear olive green trousers. This farmer's wife was going to the fields to give food to her husband. She noticed her husband from a distance along with the police party. She ran towards her husband raising a hue and cry and asked Police Party "B" as to why they were forcing her husband to wear olive green trousers. On confirming with other farmers that the person in their custody was the husband of the woman, the police allowed him to wear his usual plain clothes again. Did the police plan to do away with the life of the farmer? That is the only reasonable inference one can draw based on how these events transpired.

The former police party which took into custody the two members of the squad took the duo to the place where they were instructed to be taken. A police officer who appeared to be an officer of higher rank asked the duo to identify the wounded. When they hesitated, the officer threatened them that they too would have to meet the same fate as that of the wounded. The injured person was alive. He was groaning with pain. He looked at the duo with despair. The duo at the point of gun disclosed the name of the wounded as Lingayya and told the police that he was the head of the squad. The Officer spoke in the phone with somebody in a language not understood by the duo. Five minutes thereafter the Inspector ordered his subordinate to kill Lingayya. The subordinate discharged bullet into the forehead of Lingayya. Lingayya became a corpse within a few seconds.

The police then resorted to indiscriminate firing to enact a drama that firing took place spontaneously. Hearing this sound of firing the people of Rollagadda and other nearby villages who were alerted about the possible killing of Lingaiah squad began moving in groups to Pandigutta hillock. Somebody noticed a corpse being carried at a distance. The mob ran towards them. Some police personnel were walking ahead of the pall-bearers and two or three police officers were following. Two of the squad members and two farmers were the

pall-bearers. The villagers who are about 300 strong spontaneously rushed to the spot and began chasing the Police Party by pelting stones. The police went helter-skelter. In the melee the two members of the squad escaped from police custody and narrated what happened to their friends.

The police within half an hour recovered from the initial shock created by the people's spontaneous resentment and began firing into the air and by charging with their canes dispersed the mob and took away the corpse of Lingayya to Kothagudem district hospital and got a post mortem examination done. The police foisted a false case and created evidence in their favour and erased the evidence which would establish their complicity.

The Police created a story to the effect that they were compelled to shoot at Lingayya as he made an attempt to kill them. This ghastly incident reveals various violations of the guidelines issued by the Supreme Court in encounter killings:

1. Lingayya was lying wounded and was unable to move. In such a situation, providing medical aid is of paramount importance, the Supreme Court said. Instead, the police shot a bullet into his forehead. It is nothing but a clear case of cold blooded murder.

2. When a person is killed in an alleged encounter the police should immediately inform the kith and kin of the deceased. In the instant case the police did not inform the death of Lingayya to his wife and children, thus the police violated the Supreme Court guidelines.

3. The inquest is to be conducted on the body by a magistrate. But the police had shifted the body without getting any inquest done. This is another violation of the Apex Court guidelines.

4. Scene of offence panchnama is to be conducted. Police have to collect the blood stain samples of the deceased, blood soaked earth and "control earth" and preserve them. But the police did not do it. This is another violation of the Apex Court guidelines.

Killing a wounded who is in the custody of the police is neither part of official duty nor purported to be part of the official duty of the police.

This case is a clear case of culpable homicide amounting to murder. Therefore a case needs to be registered under section 302 IPC and investigated by an independent agency to bring to justice the police personnel who ordered the killing and the police officer who ordered to shoot Lingayya in his forehead and the police officer who in fact killed Lingayya. If the police claim that they had to kill Lingayya in exercise of their right of private defence, let the police prove it in a court of law while being prosecuted for murder and till then should be presumed to be guilty. In order to facilitate fair and impartial investigation and trial the police officers responsible for the murder of Lingayya must be suspended till they are absolved of the charge of murder of Lingayya.

Since Lingayya is a member of a scheduled tribe, various offences notified under section 3 of the SC and ST (prevention of atrocities) Act are to be invoked against the police officers who killed Lingayya and who abetted the killing.

There has to be an enquiry by the sitting judge of the High Court under the Provisions of Commissions Enquiry Act, 1952.

This is the minimum we expect the State to undertake to convince people that it does not tolerate any infringement of human rights by any organ of its apparatus.

*Note: names of the witnesses are withheld for security reasons.*

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