

## **The judgment on the Burkapal Maoist attack**

### **Why in news?**

A National Investigating Agency (NIA) court in Dantewada, acquitted 121 tribals, including a woman, who were arrested in connection with a 2017 Maoist attack.

### **What led to the arrest?**

- On April 24, 2017, a combined patrolling party — comprising 72 jawans from the Central Reserve Police Force (CRPF)'s 74th battalion and district police — were guarding a road cum bridge construction in Sukma's Burkapal when they were ambushed by a large group of 200-250 alleged Maoists.
- The attackers fired and hurled explosives at the jawans following which 25 of the security personnel were killed and seven others injured.
- This was the second deadliest Naxalite attack in terms of casualties. Some of the Maoists were also killed in the crossfire when the security forces retaliated.

### **What was the alleged role of the arrested tribals?**

- The investigators alleged that the arrested villagers were members of the banned CPI (Maoist) Party.
- According to the Union Home Ministry, CPI (Maoist) came into existence in 2004, following a merger between the People's War Group (PWG), and the Maoist Communist Centre of India (MCCI).
- The prosecution also submitted that they had been in possession of weapons.
- In short, it was alleged that the arrested tribals had planned the conspiracy of the attack and had taken part in it armed with sophisticated firearms and improvised explosive devices and grenades.
- Apart from killing the security personnel, the attackers had also allegedly indulged in dacoit by taking away arms, ammunition and other equipment from the security personnel during the attack.
- All 121 accused were charged with Sections including rioting, unlawful assembly, murder, dacoit, robbery, armed with deadly weapon, criminal

conspiracy of the Indian Penal Code, 1860.

- They were also charged with provisions of the Chhattisgarh Special Public Security Act (CSPSA), 2005 and Unlawful Activities (Prevention) Act (UAPA), 1967.
- These acts prohibit taking membership of an unlawful organisation and indulging in any unlawful activity for it.
- Apart from this, provisions of the Arms Act, 1959, and Explosives Act, 1908 were also slapped.

### **How were charges brought against the accused?**

- The prosecution relied on the 'testimonies' of the witnesses, including that of the accused.
- It also relied on purported seizures from the arrested men and recoveries from the spot of the crime.
- These included empty bullet shells, grenade shells, detonators, bows, arrows and clothes the Chhattisgarh Police claimed the alleged attackers were wearing when they ambushed the police party.
- Twenty-six prosecution witnesses were also examined.
- Represented by nearly half a dozen lawyers, the defence denied all the charges and said that all the proceedings by the prosecution/police had been done "sitting in the police station" where the case had been registered.

### **What does the judgment say?**

- The order issued by Special Judge (NIA Act/Scheduled Crimes registered in Sukma and Bijapur in Dantewada) says that the statement of the investigating officer has not been supported by police witnesses and independent witnesses of the prosecution.
- Seizure of deadly weapons and firearms has not been proved to be made from the accused.
- It adds that 22 (of the 25) prosecution witnesses were neither aware of the incident nor did they know the accused.
- Even after those witnesses were declared hostile by the prosecution and subjected to direct questions, no fact about the incident had emerged while they were being examined.
- Thus the prosecution has not been able to prove its case beyond doubt.

### **How has the case played out?**

- The sheer number of accused in this case garnered media attention.

- Otherwise, in most cases registered under the stringent CSPA or UAPA, it's almost impossible to get bail.
- It took four years for the prosecution to bring the case to trial.
- Further, the accused were lodged in the Jagdalpur Jail and family members, with little resources, did not have the means to travel from their poorly connected villages to Jagdalpur, or even their district headquarters.
- Accessing legal help is a challenge in these parts due to a lack of awareness and even communication facilities.
- The NIA court was also decentralised in this period and the proceedings were moved from Jagdalpur to Dantewada in the last one year, which made it even more difficult to produce them in court.

### **What is the way forward?**

- The acquitted now have the option of approaching a higher court to claim damages.
- However, if activists are to be believed there has hardly been any instance of a successful petition.
- Additionally, the legal hassles involved may dissuade them and the prosecution could challenge said acquittal in a higher court.

### **Reference**

1. <https://www.thehindu.com/news/national/explained-the-judgment-on-the-burkapal-maoist-attack/article65658922.ece?homepage=true>