

US Court Reserves Decision To Re-Instate The Case Against Kamal Nath

New York: (April 18, 2012)

On April 18, US Federal Judge Robert Sweet heard on submission a motion filed by November 1984 Victims' requesting the court to vacate its earlier order dismissing the case against Kamal Nath and re-instating the same.

The victims motion to reinstate the case argues that survivors of November 1984 Sikh Genocide, as a matter of law, has a right to conduct jurisdictional discovery to uncover Kamal Nath's contacts with New York to establish court's personal jurisdiction in this class action lawsuit filed under Alien Tort Claims Act (ATCA) and Torture Victim Protection Act (TVPA). The case against Minister Nath was filed by "Sikhs For Justice" (SFJ) a US based human rights group for his role in leading an armed mob which attacked Gurdawara Rakab Ganj Delhi on November 01, 1984 in which many Sikhs were burnt alive.

On March 06, Judge Sweet dismissed the complaint against Congress Leader Kamal Nath on the grounds that summons were not properly served upon Minister Nath and that plaintiffs failed to show that Minister Nath had "minimum contacts" with New York sufficient to support court's personal jurisdiction over the case.

The SFJ's' motion to reinstate the case against Kamal Nath is based on the evidence that Minister Nath entered into a book deal with New York City publishing giant McGraw-Hill Inc. which published Nath's book "India's Century" in the United States in 2007. Additionally motion also points to news reports about Nath publically acknowledged the receipt of summons on April 06, 2010 while he was in New York to attend a construction conference organized by McGraw Hill Inc. The motion contends that the court abused its discretion by ordering dismissal of complaint against Nath without first affording victims of November 1984 a jurisdictional discovery and an evidentiary hearing in order to prove the court that personal jurisdiction exists over Minister Nath.

In opposition to plaintiffs' motion, Kamal Nath through his attorney David Lindley, states that plaintiffs have "failed to state a *prima facie* case for personal jurisdiction, such as might warrant jurisdictional discovery, particularly considering Minister Nath's multiple immunity defenses."

According to Gurpatwant Singh Pannun, legal advisor to SFJ, since service of summons and personal jurisdiction are issues in this case, plaintiffs will again serve Kamal Nath in India through the procedure provided under "Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters" (Hague Service Convention 1965"). The Hague Service Convention is a multilateral treaty which allows service of process of judicial documents from one signatory state to another without use of consular and diplomatic channels. India signed the Hague Service Convention on November 23, 2006 and established a Central Authority for receiving and serving judicial documents from courts in foreign countries, added attorney Pannun.

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Sikhs for Justice (SFJ) a US based human rights organization, believes and adheres to Universal Declaration of Human Rights. SFJ endeavors to create an environment in which minorities - regardless of race, religion, language, gender, or ethnicity - can freely exercise their right to "self determination" as enshrined in the Universal Declaration of Human Rights and United Nations Covenant on Civil and Political Rights. SFJ is also striving to collect and disseminate information, statistics, figures and data regarding the Genocide of Sikhs (1984-1998) that took place in India with particular emphasis on the genocidal events of November 1984.