

India challenges Italy's move to take Marines case to international tribunal

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Hamburg (Germany): India today challenged Italy's move to take the case of two of its marines, accused of killing two Indian fishermen off Kerala's coast, to an international tribunal saying Italy's contentions were "short" and "misleading" and it was "insensitive" towards the victims.

In its submission before the International Tribunal on Law of the Sea (ITLOS) here, India said the story told by Italy is as "short and straightforward as it is misleading" as the incident took place in India's Exclusive Economic Zone, thus it has full jurisdiction over the case.

"Marines used automatic weapons without warning and shot in head and stomach of the two fishermen...This case is not covered by Article 97 of the United Nations Convention on the Law of the Sea but rather a double murder at sea," India's representative submitted before the Tribunal which opened its two-day hearing today.

New Delhi said it has conducted an in-depth investigation and is prepared to exercise its criminal jurisdiction over the two marines, provided the independent judicial chamber confirms that it has such jurisdiction.

Marines Massimiliano Latorre and Salvatore Girone, who were on board ship 'Enrica Lexie', are accused of killing two Indian fishermen on February 15, 2012.

Challenging Italy's contention that Sergeant Girone has been kept in India as a "hostage", India said such description is highly inappropriate and offensive and belies the fact that both marines were twice allowed to travel to Italy at the same time.

Moreover, the restrictions to his freedom of movement are a very lenient treatment for an individual who, it cannot be contested, shot and killed unarmed fishermen, it said.

"Most importantly well being and humanitarian considerations in favour of persons accused of a serious crime have to be balanced with that of the victims of the crime.

It is surprising that Italy is insensitive to the interests and plight of victims of crime and is adopting a discriminatory attitude," India said in its submission.

New Delhi said the inconveniences of Latorre and Girone are pale in comparison to the murder of the two innocent fishermen and the pain and suffering inflicted on their families.

India said Italian accounts overlook the crucial fact that the delays Italy complains of are due to Italy's own delaying tactics as it was trying to pass the blame on India.

Even the Supreme Court targeted Italy for its endless efforts to delay the proceedings and not India, it said.

"India requests the International Tribunal for the Law of the Sea to reject the submissions made by Italy in its request for prescription of provisional measures and to refuse prescription of any provisional measure in the present case," it said.

In its submission, Italy asked the tribunal to order that India put on hold its case against two Italian marines.

Italy alleged Girone has been detained in India without charge since the incident, while Latorre was allowed to travel to his home country for medical treatment in September after suffering a stroke.

"Frustration, stress and deteriorating medical conditions affecting directly and indirectly the people involved threaten great prejudice to Italy's rights and mean that there is the need to address urgently this situation," Italy submitted before the Tribunal.

ITLOS is an independent judicial body established by the United Nations Convention on the Law of the Sea to adjudicate disputes arising out of the interpretation and application of the Convention.

The tribunal comprises 21 independent members, elected from among persons enjoying the highest reputation for fairness and integrity and of recognised competence in the field of the law of the sea.

Earlier, during hearing in the Supreme Court on July 13, Italy had made a plea saying it has invoked international arbitration challenging India's jurisdiction to try two of its marines accused of killing two Indian fishermen off the coast of Kerala three years ago.

Alain Pellet and R Bundy have been hired by India to represent its case before the ITLOS.

Pellet is a French expert in international law and former president of the UN International Law Commission while Bundy has 30 years of experience as counsel and advocate in many public international law litigations.

An Indian team, comprising Additional Solicitor General P L Narasimha, officials from ministries of External Affairs and Home, are also in Germany to assist the two hired lawyers.

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