

[29 NOVEMBER 1999]

RAJYA SABHA

since 5th November, 1999 and is advised convalescence for four to six weeks after discharge and therefore is unable to attend the House from 29th November to 23rd December, 1999. Shri Roy Chowdhury has, accordingly, requested for grant of Leave of Absence from 29th November to 23rd December, 1999. Does he has the permission of the House for remaining absent from the sittings of the House from 29th November to 23rd December, 1999.

(No Hon. Member dissented)

SPECIAL MENTIONS

Deletion of the Name of Late Shri Rajiv Gandhi from the Bofors Chargesheet

THE LEADER OF THE OPPOSITION (DR. MANMOHAN SINGH):
Mr. Chairman, Sir, I am, with your permission, speaking on behalf of crores of Congressmen and Congresswomen and the public in general all over the country who are agitated at the wholly unjust decision of this Government to include the name of late Shri Rajiv Gandhi in column 2 of the chargesheet of Bofors case filed by this Government. Sir, I wish to make it clear that the Congress Party wants the guilty in the Bofors case to be brought to trial at the earliest. We demand that the investigative process be taken to its logical conclusions in a speedy, professional and just manner. The Congress President, Shrimati Sonia Gandhi, has repeatedly called for the truth to be revealed *(Interruptions)* Sir, there is absolutely no evidence to name Shri Rajiv Gandhi as an accused. Yet this Government has done so. We cannot accept the name of an innocent dead person in the chargesheet. We are convinced that this has been done to malign him deliberately and to continue the campaign of calumny against him and the Congress Party in general. This slanderous campaign is a part of the overall design of political vendetta. The fact that the Government has filed the chargesheet without waiting for the receipt of all the documents relating to the 6th account, as would have been reasonably expected, reveals the evil designs of the ruling coalition against the Congress Party. Sir, our departed leader cannot defend himself. He cannot be represented through counsels. The Government is aware of this fact; yet it has gone ahead to include his name in the chargesheet. It is clear that all this effort is witch-hunting of the worst type. Sir, it is in this background that in the last session we requested the Government to reconsider this matter and the hon. Shri

Jaswant Singh, the Leader of the House, had assured us that our sentiments in this matter would be conveyed to the Government at its highest level. Now, Sir, it is the time for the hon. Leader of the House to tell us if the Government has done that rethinking. If so, what is the outcome?

THE LEADER OF THE HOUSE (SHRI JASWANT SINGH): Mr. Chairman, Sir, I can understand the sentiments of the Leader of the Opposition. But let me take this opportunity to disabuse him in regard to the allegations that he has made and whatever the Government has done in the matter of Bofors investigation of filing a chargesheet. He used many adjectives. I do not wish to repeat them because they are so uncharacteristic of him and his personality. Naturally, he has to take recourse to a written statement. But I do wish to state, categorically, that there is no ill on the part of the Government. I have stated so here. Of course, political differences separated late Shri Rajiv Gandhi and me. But those political differences never descended to the level of personally maligning anybody. I do believe and I wish to restate that when he was taken away from our midst in a very tragic circumstance, I felt that a person in the prime of his life was taken away, who had much more to contribute to Indian politics. That is why I wish to state, categorically, again and on a bigger scale that there is no political ill-will, there is no design to malign, and there is certainly no design to take any action which is beyond the pale of law. The hon. Leader of the Opposition is entirely right. During the last Session of Parliament, the main Opposition Party had demanded that the Government should drop the name of late Shri Rajiv Gandhi from the Central Bureau of Investigation's chargesheet in the Bofors Case. And he is right again that, while responding to their demand, on behalf of the Government, I had said that in view of the strong sentiments of the main Opposition on the issue, the matter would be brought to the notice of the Prime Minister. I did so and, accordingly, the Government then sought the opinion of the learned Attorney General of India on the demand that the name of late Shri Rajiv Gandhi should be deleted from Column II of the chargesheet filed by the C.B.I.

The learned Attorney-General has said, "My opinion is sought on two questions. Firstly, whether it is permissible for the Government to accede to the aforesaid demand with regard to the deletion of the name of late Shri Rajiv Gandhi from the chargesheet as filed by the C.B.I. Secondly, whether the Government should initiate any action or proceedings under Section 321

of the Criminal Procedure Code in this behalf. In my opinion, Section 321 of the Criminal Procedure Code does not come into the picture, for the simple reason that no charge has been framed, nor has any prosecution been launched against late Shri Rajiv Gandhi. Consequently, the demand that the Government should suggest to the public prosecutor that he may withdraw from prosecution or that there should be withdrawal of the prosecution of late Shri Rajiv Gandhi, under Section 321 of the Cr.P.C. is entirely misconceived..." - He further said - "...The question about the competence and permissibility of the executive Government giving directions to the enforcement agencies in the matter of investigation in prosecution of offences has come up before the Supreme Court in a number of cases..." -He goes on to opine - "...In my opinion, having regard to the well-settled legal position, as declared by the Supreme Court, it would not be open to the Government to direct or seek from the investigating agency deletion of the name of one of the accused named in Column II in the chargesheet as filed by the agency... Any such direction or action by the Government tantamounts to interference in the course of investigation and prosecution, and would be impermissible in law. Sir, with your permission, I am ready to place the opinion of the learned Attorney-General, in its entirety, on the Table of the House. As for allegations that some people are being spared in the Bofors case these are entirely unfounded. I had clarified it when a discussion took place last time. Investigations are in progress and the CBI has the freedom to file supplementary chargesheets as and when documentary evidence against other persons, mentioned in the FIR, is received. Therefore, the question of sparing anybody in this matter by the Government does not arise. In conclusion, let me once again, with candour, share with the hon. Leader of Opposition that there is no political motive in this. Just as you are persuaded by a desire to finally put an end to this chapter, we too are persuaded by the same desire, without maligning anybody. Permitting the law of the land to come to a final conclusion about this sorry episode should be a collective endeavour of the entire House. That is all that I have to say.

श्री सुरेश पचौरी (मध्य प्रदेश) : सभापति महोदय, मैं आपके माध्यम से जानना चाहता हूँ कि बगैर स्विस् उकाउंट डोल्यूमेंट प्राप्त किए यह चार्जशीट इतनी जल्दबाजी में सबमिट करने की आवश्यकता क्या थी ? सरकार ने यह वक्तव्य दिया था कि जब तक स्विस् अथारिटी से सारे पेपर नहीं आएंगे तब तक चार्जशीट सबमिट नहीं की जाएगी लेकिन स्विस्

अकाउंट के एविडेंस और डोक्यूमेंट प्राप्त किए बगैर यह चार्जशीट प्रस्तुत करने में इन्होंने इतनी जल्दबाजी की और मैं सोचता हूँ कि इसका जो राजनीतिक कारण है वह यह है कि जब श्रीमती सोनिया गांधी कांग्रेस पार्लियामेंट्री पार्टी की चेयरपर्सन बनी तो इन्होंने राजनितिक द्वेषभावना से प्रेरित होकर कांग्रेस पार्टी को लज्जित करने की दृष्टि से यह चार्जशीट पेश करने में जल्दबाजी की। कोई डोक्यूमेंट, खुद सी.बी.आई. ने जो प्रस्तुत किया है, कोई ऐसा डोक्यूमेंट, कोई ऐसा तथ्य, कोई ऐसा साक्ष्य उस चार्जशीट में नहीं है कि राजीव गांधी जी ने सीधा पैसा लिया है। उस चार्जशीट में इस बात का जिक्र नहीं है, फिर भी इन्होंने उनका नाम कॉलम-2 में जोड़ा है। तेरह वर्षों से यह बात चल रही है। हर साल चुनाव के समय यह मुद्दा उठाया जाता था। विश्वनाथ प्रताप सिंह जी ने 1989 में चुनाव के वक्त यह कहा कि वे पंद्रह दिन में बता देंगे कि किस-किस का अकाउंट है और किस-किस ने पैसा लिया है। ग्यारह महीने वह सरकार चली किंतु वह यह साबित नहीं कर पाए कि राजीव गांधी और उनके परिवार का कोई व्यक्ति किसी भी प्रकार से पैसे के लेन-देन में शामिल है। जब कहीं भी उनका नाम नहीं है तो आखिर वक्त बगैर पास किए उनका नाम चार्जशीट में जोड़ा जाना और ऐसी स्थिति में जब वे अपना पक्ष प्रस्तुत करने की स्थिति में आज इस दुनिया में नहीं हैं तो निश्चित रूप से यह राजनीति की भावना से प्रेरित होकर लिया गया कदम है। इससे पहले इन्होंने कहा था कि बोफोर्स गन सबस्टैण्डर्ड गन है। इन्होंने कहा था कि राजीव गांधी ने देश की सिक्क्योरिटी के साथ सौदा किया है। कारगिल में यह बात साबित हो गई कि बोफोर्स गन स्टैण्डर्ड वाली गन है। इनके मुंह से एक बार भी यह नहीं निकला कि जिस बोफोर्स गन का सौदा किया गया था वह देश के काम आई है और स्टैण्डर्ड वाली गन है। इसलिए मैं कहना चाहूंगा कि यज जो इन्होंने नाम जोड़ा और एकाएक चार्जशीट प्रस्तुत कर राजीव गांधी जी का नाम जोड़ा, यह राजनीति की भावना से प्रेरित होकर किया गया है। कांग्रेस पार्टी की छवि धूमिल करने के लिए किया गया है। हम खुद चाहते हैं कि जो दोषी हो, भ्रष्ट हो उसके खिलाफ कार्रवाई हो। कांग्रेस की अध्यक्ष श्रीमती सोनिया गांधी खुद मांग करती रही हैं, हम इस बात से पीछे नहीं हटना चाहते लेकिन जिस भावना से राजीव जी का नाम जोड़ा गया है, जबकि यह खुद कह रहे हैं कि उनके खिलाफ कोई कार्रवाई नहीं हो सकती, अटार्नी जनरल का यह व्यू है, तो फिर उनका नाम किस पद से जोड़ा गया है, हम यह जानना चाहते हैं और हम इसका सख्त विरोध करते हैं।

MR. CHAIRMAN: Next is Mr. Malkani...(Interruptions)...

SHRI VAYALAR RAVI (Kerala) : Sir, I had been the Home Minister of Kerala. I disagree with the Attorney-General. The Government has every right to direct the prosecution, or, even withdraw or drop the name at the

time of trial. It is a practice here in Delhi as well as in Kerala or any other State. They can issue orders even to withdraw a case or a prosecution with the consent of the concerned judge or for dropping a name. I issued orders to withdraw cases or drop names. ...*(Interruptions)*... I have some experience. ...*(Interruptions)*... No, I cannot agree with the Attorney-General. He says that it cannot be done...*(Interruptions)*...

SHRI M. VENKAIAH NAIDU (Karnataka) : Mr. Chairman, Sir, are you allowing a debate? ... *(Interruptions)*...

SHRI VAYALAR RAVI : We are not debating. Your Minister said ... *(Interruptions)*...

SHRI M. VENKAIAH NAIDU : Sir, it is not fair. Can we question the Attorney-General's opinion, without a debate? He is unnecessarily making a pointless speech to take political advantage. This House is not for that. It is a forum for discussion. Shri Manmohan Singh has raised the issue and the Leader of the House has replied. That should be the end of the issue. But now making comments on the Attorney-General's opinion, giving our own comments and then giving sweeping advice is not fair. ...*(Interruptions)*... Let us now come to the end of the discussion. ...*(Interruptions)*... There is legal aid outside. ...*(Interruptions)*... They are making pointless speeches, with ulterior motives.

SHRI VAYALAR RAVI : Sir, the Government has every right to issue directions ... *(Interruptions)*...

श्री संजय निरुपम (महाराष्ट्र): हर सेशन में राजीव गांधी और बोफर्स का मुद्दा आ जाता है ।*(व्यवधान)*

SHRI M. VENKAIAH NAIDU : Sir, we want a debate. We are for a debate. We are for a discussion. The Government is willing for a debate.

SHRI VAYALAR RAVI : Sir, we do not agree. *(Interruptions)*. . I am speaking from my own experience. I am speaking from what I did in Kerala. If I can do it, then, why can't you do it ...*(Interruptions)*... The Government has every right to do it. ...*(Interruptions)*...

श्री सुरेश पचौरी: प्रधानमंत्री जी ने सार्वजनिक तौर पर यह कहा है कि उनका नाम नहीं हटाया जाएगा । *(व्यवधान)*

MR. CHAIRMAN : Okay, now, the Leader of the Opposition. ...
(Interruptions)...

श्री सुरेश पचौरी : चुनाव के दौरान, चुनाव परिणामों के दौरान सरकार...(व्यवधान)

DR. MANMOHAN SINGH : Mr. Chairman, Sir, I have listened with great respect to what the Leader of the House has said. Sir, I must confess that I am ...(Interruptions)...

MR. CHAIRMAN : Your Leader is speaking. ...(Interruptions)...

कुमारी सरोज खापर्डे (महाराष्ट्र): सर यह क्या बात हुई। सर, इस तरह की भाषा का इस्तेमाल हुआ है।

श्री संजय निरुपम ने कहा कि बड़ी सफाई से घोटाला किया है। एक मरे हुए आदमी के खिलाफ इस तरह बोलना, यह क्या तरीका है।...(व्यवधान)

श्री संजय निरुपम: इस देश के सामने और भी प्रश्न हैं।...(व्यवधान)... सदन का यह पहला दिन है। मेरी चिंता सिर्फ यह है कि देश के सामने और भी प्रश्न चर्चा के लिए (व्यवधान)...

DR. MANMOHAN SINGH: Mr. Chairman, Sir, I was saying that I listened with great respect to what the Leader of the House, hon. Jaswant Singh, had said. It has pained us enormously that on subject which was raised in both the Houses of Parliament and on which the Government had given an assurance that it would reconsider this matter, without taking the House into confidence, the hon. Prime Minister has made a public statement and has given a Press interview that nothing was going to change. This is not the way to treat the officially recognised Opposition. If the Government feels that it can have its way on all matters because it has majority, well, it is free to think so. But, in the light of what has happened, I think, it is the most deplorable way of handling a matter which upsets and hurts the sentiments of millions and millions of Congressmen and Congresswomen in this country.

Sir, with all sincerity, I must say that we are not satisfied with the reply that has been read out. I respect the Attorney General. The Attorney General says that Shri Rajiv Gandhi is not being prosecuted and that he is not an accused. Then, I ask of the Government: what purpose is being

served by putting his name therein? This is a misuse, I think, of the language, and we are thoroughly dissatisfied with this sort of attitude.

As a mark of protest, our party will stage a walkout on this issue.

[At this stage some hon. Members left the Chamber.]

SHRI JASWANT SINGH: Because the hon. Leader of the Opposition has stated something, for the sake of factually correcting the situation, I just wish to state that yesterday, in response to a question from the Press, the Prime Minister said that the law would take its course. All that we have done in the Government is indeed to obtain the legal views of the Principal Legal Officer of the Government and shared his views with them. We too are disappointed that the Leader of the Opposition has found it necessary to walk out with his party.

MR. CHAIRMAN : Mr. Malkani.

SHRI SWARAJ KAUSHAL (Haryana): Sir, I would like to intervene on this.

SHRI K.R. MALKANI (Delhi): Sir, are you allowing him or me?

MR. CHAIRMAN: I have called you.

SHRI SWARAJ KAUSHAL: May I have your permission to make a mention, Sir ?

MR. CHAIRMAN: For what ?

SHRI SWARAJ KAUSHAL: I have to make a statement here.

MR. CHAIRMAN: Statement on what ?

SHRI SWARAJ KAUSHAL: I want to say something about the statement that the Leader of the House has made on the Attorney General's opinion.

Mr. Chairman, the Attorney General's opinion is totally wrong. It is not correct that the Government cannot withdraw the prosecution just because the charge has not been framed. This statement of the Attorney General to that effect is incorrect, is totally wrong. I have seen numerous cases where the Government, having the intention, has withdrawn the prosecution.

My prayer to the Government is that it should show some grace and it should show some magnanimity. The man is dead. Do not prosecute the man if he is dead and gone. He is not in a position to defend himself.

I would not like to join the Congress Members in their walkout.

Thank you.

SHRI GURUDAS DAS GUPTA (West Bengal): He joins in the demand of the Congress but not in the walkout.

Setting up of F.B.I. Liaison Office in India by United States

SHRI K.R. MALKANI (Delhi) : Mr. Chairman, Sir, I rise to draw the attention of this august House to a disturbing piece of news. On the 15th of November, the Observer of Business and Politics carried a front-page lead story. It says:

"FBI set to open office in India to keep tab on Islamic Ultras."

The report further goes on to say that from '94 to '96, when there was Mr. Rao's Government in the country, an unofficial office of the FBI was running in this country. Subsequently, the report says, when Mr. Deve Gowda became Prime Minister, he asked them to go. The F.B.I. now not only wants to come back unofficially, but officially and set up an office here. ...(*Interruption*)... The F.B.I. is the Federal Bureau of Investigation. It is the equivalent of our Intelligence Bureau, the C.B.I. and many such agencies put together.

SHRI NILOTPAL BASU (West Bengal) : To open an office for espionage is not advisable.

SHRI M. VENKAIAH NAIDU (Karnataka) : Of course, setting up of offices by all these secret investigative agencies in foreign countries is not advisable. (*Interruptions*)

SHRI K.R. MALKANI: Sir, the report says that the FBI wants to set up its shop in India to monitor the activities of Islamic fundamentalism. We are all opposed to fundamentalism of all kinds, whether Islamic or any other, but it is the job of the Government of India to monitor these activities in India just as it is the job of the FBI to monitor their activities in America. USA can share their information with us and we can share our information