



India: da indiscrezioni di stampa, emerge il rischio della pena di morte per i due maro' italiani

New Delhi, 28 novembre 2013 - La polizia indiana Nia ha presentato un rapporto in cui accusa i maro' in base a una legge che prevede la pena di morte. Lo scrive "The Hindustan Times" per cui gli investigatori avrebbero presentato lunedì scorso al ministero degli Interni un rapporto in cui si chiede di perseguire i due militari in base al 'Sua Act' che reprime la pirateria marittima con la pena di morte. La polizia ha però risposto con un 'no comment' ad una richiesta chiarificatrice fatta da un giornalista.

Hindustan Times del 27 novembre 2013

The National Investigation Agency (NIA), probing the case against two Italian Marines for killing two Kerala fishermen, has recommended that they be charged under an Act that mandates the death penalty.

The NIA sent a report seeking sanction for prosecution to the union ministry of home affairs (MHA) on Monday despite repeated entreaties from the ministry of external affairs (MEA) seeking a lesser charge. The MHA, NIA and the MEA confirmed to HT that the report seeking sanction for prosecution was received on Monday evening. Earlier Salman Khurshid, the minister for external affairs had assured the Italian government that the two marines would not be charged with death penalty. Khurshid made this commitment after the marines went home on bail and the refused to return to India.

Two Italian marines, serving as security guards on an Italian-flagged oil tanker Enrica Lexie had shot dead two Indian fishermen about 20 nautical miles off Kerala in February last year.

The lawyers of the marines, Massimiliano Latorre and, say their clients mistook the fishermen for pirates and fired warning shots into the water. The two marines do not admit killing anyone or aiming directly at the fishing boat.

At the heart of the furious debate between the two ministries is a specific law that was passed in 2002. The 'Suppression of Unlawful Acts Against Safety of Maritime Navigation and Fixed Platforms on Continental Shelf' Act (SUA) is clear that if anyone causes death, then they will be awarded with a death penalty. This is stated in clause 3 (g) (i) of the Act which states: "causes death to any person shall be punished with death."

The MEA is keen to resolve the issue and ensure that the marines are not prosecuted under the Act because the courts may award them death penalty.

This would be a violation of the commitment made by Khurshid, which they state, is as good as a sovereign guarantee.

But the NIA and the MHA differ and in the files that have gone back and forth, they state that the prerogative to decide the marines' fate is left to the Indian courts.

"There is also a legal tangle here because the killing of the Kerala fishermen occurred at sea, just beyond India's territorial claims which extend up to 12 nautical miles (NM)," a senior MHA official familiar with the issue told HT on the condition of anonymity.

India's exclusive economic zone extends from 12 NM to 200 NM and the SU Act 2002 applies to this area. "Our logic is that by killing the fishermen, the marines committed an act that jeopardised navigation. Since this was death, they are liable to be charged with an Act that also mandates the death penalty," an NIA official dealing with the case told HT.

Incidentally, the SUA Act also conforms to the UN conventions and laws of the sea. Sources in the NIA and MHA confirmed to HT that they will stand by their position on prosecuting the Italian marines under this Act.

After the report seeking sanction for prosecution was sent by NIA to the home ministry, the MEA has taken the position that they will "carefully take into account the legal position before taking any decision."