

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.3520 of 2014**

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Ram Nath Sharma @ Ram Nath Prasad Sharma Son of Sri Shiv Balak Sharma  
Resident of Village - Sultanpur, Police Station - Mokama, District - Patna

.... .... Petitioner/s

Versus

1. The State Of Bihar
2. The Inspector General (Prison), Bihar
3. The Jai Superintendent, Adarsh Kara Beuar, Patna

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Siyaram Sahi

For the Respondent/s : Mr. Ashutosh Kumar, AC to GA-11

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**CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL**

**ORAL JUDGMENT**

**Date: 22-09-2016**

Heard Mr. Sahi for the petitioner and Mr. Ashutosh Kumar for the State.

The petitioner claims compensation from the respondents-State for deliberately keeping him in jail custody beyond the period of sentence. It is stated that 26 days after the completion of the term of the sentence, he was released and permitted to go out of the jail. For this act of the respondents-State which according to the petitioner is in-explicable and wholly unjust and arbitrary, the petitioner is entitled to adequate compensation from the respondents-State.

The petitioner was tried and convicted for an offence punishable under Section 409, of the Indian Penal Code and 5(2)



read with Section 5(1)(C) and (D) of the Prevention of Corruption Act. The trial court vide judgment and order of conviction dated 26.09.1997 convicted the petitioner under Section 409 and sentenced him to undergo R.I. for two years. He was also convicted under the relevant penal provision of the Prevention of Corruption Act and sentenced to undergo R.I. for two years besides imposition of fine in the sum of Rs. 10,000/- with default clause. The conviction recorded against the petitioner was challenged in appeal vide Criminal Appeal No. 299 of 1997. A Bench of this Court vide judgment and order dated 17.02.2009 disposed of the appeal whereby while maintaining the conviction the sentence was reduced. Under Section 409, the petitioner was directed to undergo R.I. for six months. Under the penal provisions of the Prevention of Corruption Act, he was directed to undergo rigorous imprisonment for (06) months besides fine of Rs. 15,000/- with default clause. It is stated that the petitioner deposited the fine and surrendered on 17.04.2009 to serve the remainder period of sentence. It is stated that on 14.10.2009, the petitioner completed six months jail custody. However, he was released by the jail authorities on 10.11.2009. In these circumstances, it is stated that the petitioner remained in jail custody unauthorizedly for a period of 26 days due to the arbitrary action of the respondents-State.

The respondents-State has controverted the claim of the petitioner. The two criminal appeals were taken up together for consideration and disposal. In the Criminal Appeal of the petitioner, this Court in paragraph 26(iii) of the judgment held as under:

*“Appellant Ram Nath Sharma @ Ram Nath Prasad Sharma in CR.APP.(SJ) No. 299/1997 is sentenced to under R.I. for six months under Section 409 of the Indian Penal Code. No separate sentence is awarded under Section 120B of the Indian Penal Code. Further this appellant is sentenced to undergo R.I. for six months and a fine of Rs. 15,000/- under Section 5(1)(c) read with 5(2) of the P.C. Act. In case of default in payment of the fine he shall further undergo R.I. for two months.”*

In the connected appeal ( Cr.APP (SJ) No. 309/1997), the Court passed order as incorporated in paragraph 26(iv):

*“Appellant Ram Uday Singh in Cr.APP (SJ) No. 309/1997 is sentenced to undergo R.I. for four months under Section 120B read with 409 of the Indian Penal Code and is also imposed a fine of Rs. 5,000/-. In case of default in payment of fine so imposed he shall further undergo R.I. for one month. All the sentences imposed under varied provisions shall run concurrently.”*

As in the appeal of the petitioner, there was no direction that the sentence so imposed under the judgment and order of conviction would run concurrently, the petitioner had to file a clarificatory application in the said appeal which was considered and disposed of on 04.11.2009 (Annexure-4). The Court clarified that in the case of

the petitioner as well the conviction recorded under diverse penal provisions shall run concurrently. As soon as the judgment and order of conviction in his appeal was clarified, the respondents-State took steps for his release and ultimately upon completion of the formalities, the petitioner was permitted to go out of jail custody on 10.11.2009.

These facts have been noticed in order to show that the respondents-State did not act unauthorizedly or arbitrarily in the present matter. The judgment and order of this court was not clear and specific in the appeal of the petitioner, which ultimately prompted the petitioner to approach this Court seeking clarification of the order which was clarified on 04.11.2009 (Annexure-4), whereafter steps was taken and the petitioner was released from the jail custody. For an act of the Court, no party shall be allowed to suffer. It is not a case where the respondents-State in complete disregard of the statutory or constitutional provisions allowed the petitioner to incarcerate for a period beyond the sentence.

The application is dismissed.

**(Kishore Kumar Mandal, J)**

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