

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10632 of 2025

Arising Out of PS. Case No.-279 Year-2017 Thana- LAHERIMUHALLA District- Nalanda

Dinesh Kumar S/O Late Raghunanadan Prasad R/O Village- Sakatpur, P.O-
Barhog, P.S- Bind, Distt.- Nalanda, PIN Code- 803107 (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rambabu S/O Late Ram Naumi Ram R/O Village and P.O- Dighwaliya, P.S-
Raghunathpur, Distt.- Siwan (Bihar), Presently posted as Distt.- Manager,
State Food corporation, Distt.- Nalanda (Bihar).

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Anshul, Sr. Adv
	:	Mr. Uday Kumar, Adv
For the Opposite Party/s	:	Mr. Navin Kr. Pandey, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 25-06-2025

Heard learned senior counsel for the petitioner
and learned counsel for the respondent.

2. The present quashing petition has been preferred to quash the FIR along with entire proceeding with regard to the petitioner in Laheri P.S. Case No. 279 of 2017 registered on 05.07.2017 for the offence punishable under Sections 409 and 34 of the Indian Penal Code.

3. The case of prosecution in brief is that one Rambabu who is presently posted as District Manager, State



Food Corporation, District-Nalanda gave his written application vide Letter No. 958 dated 05.07.2017 to the Station House Officer, Laheri Police Station to the effect that in the light of Letter No. 4076 dated 28.06.2017 of the District Magistrate, Nalanda one enquiry was conducted by the State Food Corporation in the CMR Godown, Biharsharif and found that 59279.50 quintals of CMR instead of 76203.71 quintals was found and in this way 16768.50 quintals of Government rice appears short and also the quality of rice found sub-standard for which Ranjeet Kumar, Superintendent, State Food Corporation, Biharsharif and Abhay Kumar, Executive Assistant were prima-facie found and therefore, guilty in the light of Letter No. 957 dated 05.07.2017 present FIR was instituted.

4. Mr. Anshul learned senior counsel appearing for the petitioner submitted that present FIR was lodged only against two persons namely Ranjeet Kumar and Abhay Kumar, where the name of petitioner transpired on the basis of disclosure statement as made by co-accused Ranjeet Kumar who said that petitioner has wholesale shop of food



grain in Bazar Samiti, Bihar Sharif and is also owner of two Rice Mills who promised to supply the rice. It is submitted that with aforesaid allegations investigation of this case is pending since 2017 against petitioner. It is pointed out that name of petitioner transpired in the year 2018 and in last seven years the investigation for such allegation not concluded against petitioner. It is submitted that in view of same FIR lodged against petitioner is fit to be set aside and quashed.

5. In support of the submissions learned senior counsel relied upon the reports of Hon'ble Supreme Court, and Hon'ble Patna High Court which are as follows:-

(i) Biswanath Prasad Singh Vs. State of Bihar, [1994 Supp (3) SCC 97].

(ii) Santosh De Vs. Archana Guha & Others, [1994 Supp (3) SCC 735].

(iii) Pankaj Kumar Vs. State of Maharashtra & Ors., [(2008) 16 SCC 117].

(iv) R.K. Mandal & Others Vs. The State of Bihar, [1996 SCC OnLine Pat



546].

(v) Baidnath Prasad @ Baidyanath

Sah & Other Vs. The State of Bihar, [

1998 SCC OnLine Pat 445].

6. Learned APP, while opposing the prayer of quashing petition submitted that matter is under investigation, but he fairly conceded that investigation is still pending even after eight years against petitioner. It transpires from the counter affidavit as filed by SP, Newada also that investigation of this case is still pending against petitioner.

7. It would be apposite to reproduce the para no. 5 of the **Biswanath Prasad Case (supra)**, which reads as under:-

5. It is true that the charges against the appellant relate to misappropriation of public funds. In such a case, we should take a more stricter view as indicated in the Constitution Bench decision in *Abdul Rehman Antulay v. R.S. Nayak* [(1992) 1 SCC 225 : 1992 SCC (Cri) 93 : AIR 1992 SC 1701] . But there are certain circumstances in this case which induce us to interfere in the matter. The most glaring one is that even though the FIR was issued on 10-12-1977, the charge-sheet was filed only on 5-2-



1983, i.e., after a lapse of 5 years. No explanation is forthcoming for this extraordinary delay. Maybe, this being a case of misappropriation of public funds, the investigation may have taken a longer time but it cannot certainly take more than five years, having regard to the facts and circumstances of the case. Added to the said circumstance is the fact that even though there was no stay in this special leave petition/criminal appeal, the case has not progressed much as stated above. Moreover, the appellant has been dismissed from service on these very allegations. His provident fund and gratuity amounts have been forfeited and he has crossed the age of superannuation. Calling upon him now to enter upon defence, after 16 years, in all the facts and circumstances of the case, is bound to cause prejudice to him.

8. It would further be apposite to reproduce the para nos. 4, 6 and 18 of the **Santosh De Case (supra)**, which reads as under:-

4. A few relevant facts may be stated. The respondent was the Director of Mines, Government of Bihar. A raid was conducted on his premises and certain amount of cash and jewellery recovered. On 27-3-1978, a preliminary charge-sheet was filed under Section 5 of the Prevention of Corruption Act. The



substance of the charge was that the respondent was in possession of assets beyond the known sources of his income. On 15-12-1982, the Government of Bihar refused to grant sanction for prosecuting the respondent, which was required under the provisions of the Prevention of Corruption Act. For that reason — or any other, as the case may be — no final charge-sheet was filed. Yet the proceedings were kept pending. It is in these circumstances that the respondent approached the High Court by way of a writ petition which was allowed. We are also told that in the criminal appeal filed against the judgment of the High Court, this Court made an order on 23-11-1987 permitting the parties to lead evidence with the restriction that no further proceedings shall be taken in the matter. Taking advantage of the said interim order, it appears, sanction for prosecution was accorded by the State Government on 29-3-1990 but it is stated by the learned counsel for the respondent, no statements of witnesses were recorded in the case. Meanwhile, the respondent retired from service on 30-11-1991.

6. In the facts and circumstances of this case, it cannot be said that the delay in conduct of the case has been caused by the accused-respondent. From 1978 to 1986 and again from November 1987 till this day, there has been no progress in the case. Not a single witness has been examined so far. In these circumstances,



following the principles enunciated in *Abdul Rehman Antulay v.R.S. Nayak* [(1992) 1 SCC 225 : 1992 SCC (Cri) 93] , the judgment of the High Court is affirmed and the criminal appeal is dismissed.

18. While we appreciate that a serious criminal offence might have taken place at the hands of Respondents 1 to 9, we cannot be oblivious to the fact that almost 17 years have elapsed since the date of that occurrence and there are these several delays pointed out earlier which remain unexplained. We think that in the circumstances the rights of Respondents 1 to 9 to a speedy trial have been breached and no interference with the judgment under appeal is called for. The appeal is dismissed.

9. It would further be apposite to reproduce the para nos. 25 to 28 of the **Pankaj Kumar Case (supra)**, which reads as under:-

25. Though, it is true that the plea with regard to inordinate delay in investigations and trial has been raised before us for the first time but we feel that at this distant point of time, it would be unfair to the appellant to remit the matter back to the High Court for examining the said plea of the appellant. Apart from the fact that it would further protract the already delayed trial, no fruitful purpose would be served as learned counsel for the State very fairly stated before us



that he had no explanation to offer for the delay in investigations and the reason why the trial did not commence for eight long years. Nothing, whatsoever, could be pointed out, far from being established, to show that the delay was in any way attributable to the appellant.

26. Moreover, having regard to the nature of the accusations against the appellant, briefly referred to above, who was a young boy of about eighteen years of age in the year 1981, when the acts of omission and commission were allegedly committed by the concerns managed by his parents, who have since died, we feel that the extreme mental stress and strain of prolonged investigation by the Anti-Corruption Bureau and the sword of Damocles hanging perilously over his head for over fifteen years must have wrecked his entire career.

27. Be that as it may, the prosecution has failed to show any exceptional circumstance, which could possibly be taken into consideration for condoning the prolongation of investigation and the trial. The lackadaisical manner of investigation spread over a period of four years in a case of this type and inordinate delay of over eight years (excluding the period when the record of the trial court was in the High Court), is manifestly clear.

28. Thus, on facts in hand, we are convinced that



the appellant has been denied his valuable constitutional right to a speedy investigation and trial and, therefore, criminal proceedings initiated against him in the year 1987 and pending in the Court of the Special Judge, Latur, deserve to be quashed on this short ground alone.

10. It would further be apposite to reproduce the para nos. 15, 17, 19 and 20 of the **R.K. Mandal Case (supra)**, which reads as under:-

15. Undisputed facts are that on 6.6.1976 the Executive Engineer sent proposal for auction of iron scraps to the Superintending Engineer. On 19.11.1976, Shri Zoha, Superintending Engineer accepted the proposal and accorded approval for holding of auction. On 22.9.1978 the auction was held at Patna and Rs. 321/- per metric tonne was decided to be the rate for auction in favour of Ram Milan Singh. Petitioner no. 1 was the Executive Engineer. No specific role has been alleged as against petitioners no. 2 and 3. Petitioners no. 4 and 5 had merely submitted survey report on 14.10.1974 with respect to the auction. On 17.10.1978, the Executive Engineer constituted weighment Committee which included petitioners no. 2 to 5. The contractor was allowed to take the material by truck between 30.1.1978 to 20.12.1978. However, in 13th trip being taken on 22nd December, 1978,



it is alleged that the employee seized the truck and got the materials unloaded in a room. In March, 1979 materials were weighed and 42 Kgs. were found to be in excess out of 10 M.T. Thus, the difference was hardly 4%. The weighment was done by one tonne machine. Without rebuttal 14.136 M.T. was allegedly recovered in excess of seizure, the value of which is about Rs. 4,200/-. Thereafter, as already mentioned above, the F.I.R. was lodged on 19.9.79, charge sheet was submitted on 5.9.1986 and the cognizance was taken on 20.9.1986.

17. None of the aforementioned circumstances has been considered by the apex Court to be not to invoke the right to speedy trial flowing from Article 21 of the Constitution. The Supreme Court held that the proceeding taken by either party in good faith to vindicate their rights and interest, as perceived by them, is not to be treated as delaying tactics nor the time taken in pursuing such proceeding is to be counted towards delay. In the instant case, I find that the petitioners had approached this Court in the present writ petition on account of the law laid down by the Full Bench of this Court with respect to according sanction of such prosecution after lapse of seven years. Thereafter the matter went to the Supreme Court and the same was finally disposed of and decided by the apex Court on 10.12.1991 in the case of *A.R. Antuley* (supra)



which decision is reported in AIR 1992 S.C. 1701 : 1992 (1) PLJR (SC) 41.

19. In the case of *Santosh De v. Archana Guha* (AIR 1994 S.C. 1229) the Supreme Court following the principles laid down in *Antuley case* held that unexplained delay of eight years in commencement of the trial by itself infringes the right of the accused to speedy trial. The accused in the said case was a public servant alleged to have possessed disproportionate assets to the tune of Rs. 2,00,000/-. Delay was not attributed to the accused. As such, the proceeding quashed against the accused was upheld. In the case of *Biswanath Prasad Singh v. State of Bihar* (1994 Suppl. (3) SCC 97), the apex Court was dealing with a case relating to misappropriation of public fund for which F.I.R. was filed on 10.12.1977 and charge sheet was filed on 5.2.1983. The court framed the charges on 25.4.1989 but thereafter not much progress was made in the case. Appellant had already been dismissed from service. The Supreme Court, noticing that in such a case stricter view should be taken as indicated in the Constitution Bench decision in *Antuley's case* (supra), interfered in the matter mainly on the ground that even though F.I.R. was issued on 10.12.1977, the charge sheet was filed on 5.2.1983 i.e., after lapse of five years, no explanation was forthcoming for the extraordinary delay. The apex Court held that may be, this being a case of misappropriation of



public fund, the investigation may have taken a longer time but cannot certainly take five years, having regard to the facts and circumstances of the case. Accordingly, it was held that calling upon the accused to enter upon defence after 16 years, in all the facts and circumstances of the case, is bound to cause prejudice to him. In the present case, nothing has been pointed out by the learned State Counsel to justify the delay of seven years in completing the investigation, except the aforementioned plea taken in the counter affidavit.

20. In the present case which is also relating to alleged misappropriation of public funds, the investigation took seven years to be completed. The explanation aforementioned for the delay is virtually no explanation in the eye of law. In any view of the matter, it is now difficult to get over the facts that the prosecution against the petitioners has been pending for more than 17 years and petitioner no. 1 died during the pendency of the writ application in the year 1988 and the Superintending Engineer, who accorded the approval for the auction purchase, has not been sent up. Further, the petitioners have been exonerated of the charge in the departmental enquiry. It is, thus, impossible to arrange a fair trial after lapse of long time and, in my opinion, it would be sheer waste of public time and money, apart from causing harassment to the petitioners.



11. It would further be apposite to reproduce the para nos. 6 to 8 of the **Baidnath Prasad Case (supra)**, which reads as under:-

6. Learned counsel appearing on behalf of the petitioners assailed the impugned order as being illegal and contrary to the evidence on record. Learned counsel firstly submitted that for the offence under section 3 of the R.P.U.P. Act, the conviction is upto five years and this case is pending for more than 6-7 years and hence no charge can be framed on this ground alone. Learned counsel in support of his contention, relied upon the order passed by this Court in similar cases. The learned Magistrate in his order has taken notice of the receipts filed by the petitioners in support of the fact that he is *bonafide* auction purchasers from railway administration, but it held that the receipts cannot be considered at the time of framing of charge.

7. Admittedly, the criminal case was registered against the petitioners on the basis of report on 22.2.1991 and cognizance was taken on 31.1.1992 on the basis of the chargesheet submitted by the railway police force personal. It is also admitted fact that till date charge has not been framed although about 7 years have passed and the case is pending for the last seven years.



There is nothing on the record to show that the delay in proceeding with the case has been caused due to laches on the part of the petitioners. In such circumstance, in my opinion, for the ends of justice, the instant proceeding against the petitioners should not continue any further. In this connection reference may be made to a decision of the Supreme Court in *A.R. Antulay's case* ((1992) 1 SCC 225 : A.I.R. 1992 SC 1701 : 1992 (1) PLJR (SC) 41). Relevant portion of the observation of the Apex Court reads as under:

“(1) Fair, just and reasonable procedure implicit in Art. 21 of the Constitution creates a right in the accused to be tried speedily. Right to speedy trial is the right of the accused. The fact that a speedy, trial is also in public interest or that it serves the societal interest also, does not make it any the less the right of the accused. It is in the interest of all concerned that the guilt or innocence of the accused is determined as quickly as possible in the circumstances.

(2) Right to Speedy Trial flowing from Art. 21 encompasses all the stages, namely, the stage of investigation, inquiry, trial, appeal, revisions and retrial. That is how this Court has understood this right and there is no reason to take a restricted view.”

8. In another case of *Santosh De v. Archana Guha* 1994 Supp (3) SCC 735 : AIR 1994 SC 1229) the Supreme Court following the



principles laid down in *A.R. Antulay's case* (supra) held that this unexplained delay of 8 years in commencing the trial by itself infringes the right of the accused to speedy trial. The proceeding in that case against an accused, who was a public servant allegedly possessing disproportionate assets, was quashed. Similarly in another case of misappropriation of public fund, the Apex Court quashed the proceeding for the reason that there was inordinate delay in the trial of the case. Reference may be made to the case of *Bishwanath Prasad v. State of Bihar* (1994 Supp (3) SCC 97). A division Bench of this Court in the case of *R.K. Mandal v. State of Bihar* (1997 (1) BLJ 283 : 1997 (1) PLJR 354) has followed the principles laid down by the Supreme Court and quashed the criminal proceeding registered under the Prevention of Corruption Act on the ground of its pendency for more than seven years.

12. Considering the admitted position as investigation of this case not concluded even after seven years against petitioner, which appears contrary to the proposition laid down by Hon'ble Supreme Court as discussed above, therefore, for such inordinate delay in investigation, which prima-facie appears in violation of constitutional right of speedy trial of the accused/petitioner, this Court is of the



view that the prosecution against petitioner is liable to be quashed and set aside.

13. Accordingly, pending proceeding, *qua*, petitioner arising thereof as passed in Laheri P.S. Case No. 279 of 2017, pending before learned Chief Judicial Magistrate, Nalanda is hereby quashed and set aside with all consequential proceedings, if any.

14. Hence, this application stands allowed.

15. TCR (Trial Court Records), if any, be returned to the learned Trial Court alongwith the copy of this judgment.

(Chandra Shekhar Jha, J.)

S.Tripathi/-

AFR/NAFR	NAFR
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