

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62048 of 2023

Arising Out of PS. Case No.-112 Year-2005 Thana- SAHARSA SADAR District- Saharsa

Robert LalchungnungaChongthu @ R L Chongthu, Son of Late Rokunga Chougthu, Resident of Village-Rosalina Nongrimbah Road, Laitumkharh, Shilong, Meghalaya and presently residing at S-3 Raj Bhawan Officers Flat-Bailey Road, Near Patna Zoo, Gate No. 1, P.S.- Shastri Nagar, Dist- Patna Bihar.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Mrigank Mauli, Senior Advocate

Mr.Venkatesh Kirti, Advocate

For the Opposite Party/s : Mr. Ram Bilash Roy Raman, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
CAV JUDGMENT

Date : 09-05-2025

Heard Mr. Mrigank Mauli, learned senior counsel appearing on behalf of the petitioner and Mr. Ram Bilash Roy Raman, learned APP appearing on behalf of the State.

PRAYER:-

2. The present petition preferred by the petitioner for quashing of cognizance order dated 01.06.2022 passed by learned Chief Judicial Magistrate, Saharsa in connection with Saharsa Sadar P.S. Case No.112 of 2005 dated 24.04.2005 whereby the learned Jurisdictional Magistrate has taken



cognizance of the offences punishable under Sections 109, 419, 420, 467, 468, 471 and 120-B of the Indian Penal Code (in short 'IPC') as well as Section 30 of the Arms Act and for quashing the supplementary charge-sheet No.834 of 2020 dated 31.08.2020 submitted under Sections 109, 419, 420, 467, 468, 471 and 120-B of the IPC and Sections 30 of the Arms Act, as the same is based on no fresh materials having been found since the filing of the original charge-sheet No.124 of 2005 dated 09.07.2002 as well as 1st supplementary charge-sheet No.118 of 2006 dated 13.04.2006, where the allegation was not found true. Further, for quashing of the sanction order dated 27.04.2022 granted by the State Government under Section 197 of the Code of Criminal Procedure, 1973 (in short 'CrPC') for the prosecution of the petitioner in connection with Saharsa P.S. Case No.112 of 2005 dated 24.04.2005, as the same is not in conformity with the judgment of Hon'ble Supreme Court.

CASE HISTORY:

3. The case of prosecution, in short, is based upon self-statement of informant, namely, Anil Kumar Yadbandhu,



S.H.O., Saharsa Sadar, that in compliance of Letter No.11026/76/2004 (Arms) dated 29.10.2014, Ministry of Home, Government of Bihar, one A.S.I., namely, Bal Krishna Jha collected the list of Arms License holders for verification and during the verification, it was found that seven arms license holders were unverified. It is alleged that the then licensing authority has issued the license without police verification. However, in Section 13(2), it is clearly mentioned that after getting the verification report from the nearest police station and after verifying that the applicant is residing for last three years at the address given in forms, license could not be granted and it is also mentioned therein that the then licensing authority without following the legal provisions for wrongful gain and corrupt practices issued the license. On the aforementioned statements, the present FIR was registered against the petitioner and other persons and an investigation started.

4. After investigation of the case, the police submitted its first charge-sheet No.124/2005 dated 09.07.2005 under Sections 109, 419, 420, 467, 468, 471



and 120-B of the IPC only against one Om Prakash Tiwary. Thereafter, the police further submitted Supplementary Charge-sheet No.118 of 2006 dated 13.04.2006 under Sections 109, 419, 420, 467, 468, 471 and 120-B of the IPC against 14 persons. Since the police did not find accusations against the petitioner, the case was closed against him.

5. Thereafter, the learned Chief Judicial Magistrate, after submission of the charge-sheet vide order dated 20.05.2006 issued notice to the informant of the case. On 20.05.2006, the informant appeared before the learned trial court and filed a petition stating that he is satisfied with the final report, i.e. charge-sheet submitted by the police and he has no objection if the court accept the police report.

6. Thereafter, the Sub Divisional Police Officer vide its letter No.3056 dated 26.11.2007 made a prayer to the trial court for re-investigation in the light of “*Gyapanak*” 3547/CR dated 24.11.2007, in which it was contended that the petitioner was involved in issuing arms license to unverified person namely, Abishek Tripathi. Again, the S.D.P.O. vide its letter No.1773 dated 05.10.2008 made a



prayer before the trial court for re-investigation of the case on the same ground. The learned Chief Judicial Magistrate vide order dated 19.05.2009 gave permission to the police for further investigation of the case and to submit its report under Section 173(8) of the CrPC.

7. Pursuant to Saharsa Sadar P.S. Case No.112 of 2005, the State intended to initiate departmental proceedings against the petitioner for which the petitioner was asked to reply to the show cause regarding the issuance of an Arms License in favour of the named accused in Saharsa P.S. Case No.112 of 2005. It was alleged that said license had been issued without obtaining a report from the police. The petitioner has submitted his explanation on 25.06.2008 stating therein that when he was posted as Licensing Authority and District Magistrate, Saharsa, a verification was called for from the nearest police station but, no report was submitted by the police. Thereafter, a reminder was also sent for the report but due to the absence of a police report, the petitioner was under the authority to make such an order without waiting for the report.



8. Further, the petitioner in reply to General Administration's Letter No.17049 dated 10.12.2015 gave his explanation concerning the allegation relating to irregularity in the issuance of arms license vide its letter dated 23.12.2015 stating that under Section 13 of the Arms Act, 1959, where the nearest police station does not send a report on application within the prescribed time, the licensing authority may if deem fit, make such order after the expiry of prescribed time without waiting for the police report. It is further stated that the license issued is not irreversible and the licenses issued by the petitioner were revoked and that there was nothing on record showing that the license issued was misused by the said applicants.

9. Given of the aforesaid explanation, the General Administration Department, Government of Bihar accepted the explanation of the petitioner and discharged him from all the charges levelled against the petitioner vide order dated 25.02.2016.

10. Under to the order of further investigation by the Court, the police submitted Charge-sheet No.834 of 2020



dated 31.08.2020 finding the accusation true against the petitioner for offences punishable under Sections 109, 419, 420, 467, 468, 471 and 120-B of the IPC.

11. After submission of charge-sheet, the Law Department, Government of Bihar, vide its order dated 27.04.2022 granted sanction under Section 197 of the CrPC to prosecute the petitioner in connection with Saharsa P.S. Case No.112 of 2005 dated 26.04.2006.

ARGUMENT ON BEHALF OF THE PETITIONER:

12. Mr. Mrigank Mauli, learned senior counsel appearing on behalf of the petitioner submitted that the State Government has issued sanction under Section 197 of the CrPC against the petitioner without giving any reason. The petitioner was well within the law in granting the Arms License and did not act against the law. It is further submitted that the State Government earlier exonerated the petitioner from such charges and dropped the departmental proceedings against him concerning this matter. It is further submitted that under the issuance of sanction by the State Government, the learned trial court took cognizance vide order dated



01.06.2022 in a mechanical manner without giving any reason.

13. Mr. Mauli further submitted that the FIR was registered based on a letter dated 29.01.2004 issued by the Ministry of Home Affairs, Government of India but, the said letter did not speak regarding the registration of FIR against anyone and, therefore, the action of the S.H.O. was unwarranted. It is submitted that the police have submitted two charge-sheets, finding no involvement of the petitioner in the case but, the police submitted third charge-sheet against the petitioner after fifteen years of lodging of FIR finding the allegation true against the petitioner, which is untenable in the eyes of law.

14. Mr. Mauli further submitted that the police in its further investigation did not find any new evidence/material and therefore, relying on the old evidence, the police filed charge-sheets dated 09.07.2005 and 13.04.2006, where police did not find involvement of the petitioner in this case but, subsequently, relying on the same set of evidence/material, the police found the allegation true against



petitioner vide charge-sheet dated 31.08.2020, which is an abuse of the process of law. It is further submitted that since no new material was placed before the court, the police ought not to have filed charge-sheet against the petitioner and, therefore, a third charge-sheet is fit to be quashed/set aside.

15. While arguing further, it is submitted that the sanction order dated 27.04.2022 issued under Section 197 of the CrPC by the State Government is non-speaking and without consideration of the facts and materials on record and the same was passed without application of mind and issued in the purely mechanical manner in violation of settled principle of law.

16. It is further submitted that the order taking cognizance is passed in a cryptic manner without application of judicial mind and, therefore, the same is fit to be quashed/set aside. It is further submitted that the present case was filed against the petitioner with ulterior and oblique motive. In support of his submission learned senior counsel has relied upon the legal report of Hon'ble Supreme Court as available through ***State of Haryana vs. Bhajan Lal*** since



reported in **1992 Supp. (1) SCC 335**.

17. It is further submitted by Mr. Mrigank Mauli, learned senior counsel appearing for the petitioner that with available allegations, the petitioner cannot be said to have forged any documents or cheated the department, as the ingredient of inducement is not available. It is further pointed out that the petitioner, District Magistrate of Saharsa was authorized to grant a license under the law and, therefore, he is not even liable to proceed with an offence punishable under Section 30 of the Arms Act. It is further pointed out that the permanent address given in the applications was correct and true and there was no dispute concerning the identity and permanent address of the persons concerned i.e. licensees to whom the alleged licenses were granted by the petitioner.

18. Mr. Mauli further relied upon the legal report as available through **Abhimanyu Singh vs. State of Bihar and Ors.** since reported in **2008 (2) PLJR 342**, in which it has been held if the police fail to submit its report within the specified time the licensing authority is not bound to wait for the police report and can grant an arms license under Section



13(2) of the Arms Act, 1959.

19. Mr. Mauli further relied upon the legal report of ***Ganesh Chandra Bhatt vs. D.M. Almora*** since reported in ***AIR 1993 ALL 291***, where the Hon'ble Court has held that arms license of non-prohibited arms should be granted as a rule and refusal should be an exception:-

"79. In the circumstances, the writ petition is allowed and a mandamus is Issued to the Respondents to issue an arms licence to the Petitioner for which he has applied within two weeks of production of a certified copy of this judgment before the Respondent No.1. A general mandamus is also issued to all concerned authorities that whenever any application for licence under the Arms Act is made the same must be processed and decided within three months, and the normal rule must be grant of the licence. In the case of non-prohibited firearms, and refusal should be the exception and for strong reasons to be recorded in writing after giving opportunity of hearing to the applicant and such reasons for rejection must be communicated to the applicant within three months of the application. The licence should also be



normally not restricted to the district or State except for special reasons to be recorded in writing and communicated to the applicant.”

20. During the course of the argument, Mr. Mauli further relied upon the legal report of the Hon'ble Supreme Court as available through ***Indian Oil Corporation vs. NEPC*** since reported in ***(2006) 6 SCC 736***, legal report of ***Krishika Lulla vs. Shyam V. Devkatta & Ors*** since reported in ***(2016) 2 SCC 521*** and also upon the legal report of ***Md. Ibrahim and Ors. vs. State of Bihar & Ors*** since reported in ***2009 (4) PLJR SC 99***, to support his contention that no offence of cheating or forgery is made out against petitioner and necessary ingredients in order to constitute said offences are completely lacking in the present case.

21. Travelling further, Mr. Mauli relied upon a judgment and order of the Hon'ble Supreme Court as available through ***Madhavrao Jiwajirao Scindia & Ors vs. Sambhajirao Chandrojirao Angre & Ors*** since reported in ***(1988) 1 SCC 692***, which is as under:-



"31. The legal position is well settled that when a prosecution at the initial stage is asked to be quashed, the test to be applied by the court is as to whether the uncontroverted allegations as made prima facie establish the offence. It is also for the court to take into consideration any special features which appear in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. This is so on the basis that the court cannot be utilized for any oblique purpose and where in the opinion of the court chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may while taking into consideration the special facts of a case also quash the proceeding even though it may be at a preliminary stage."

22. Mr. Mauli submitted that as the department has exonerated the petitioner, therefore, the chance of conviction in the present criminal case with the same charge appears very bleak, as the same requires strict proof of evidence. In support of his submission, Mr. Mauli relied upon the legal report of ***Ashoo Surendranath Tewari vs. Deputy Superintendent of Police, EOW, CBI and Anr.***



since reported in **2020 (9) SCC 636**.

ARGUMENT ON BEHALF OF THE STATE:

23. Mr. Ram Bilash Roy Raman, learned APP appearing on behalf of the State submitted that in the course of the investigation of the case, the Investigating Officer had recorded the statements of the Dealing Assistant and the Head Clerk of General Section of the Saharsa Collectorate in para 10 and 11 of the case diary, wherein they have stated that the then District Magistrate had issued arms licenses in the year 2003-04 by ignoring their notes for obtaining police verification. The District Arms Magistrate has also stated in his statement recorded in the case diary that several irregularities were committed earlier in the grant of arms licenses and the succeeding District Magistrate has cancelled many of the arms licenses on finding the irregularities, Further, the A.S.I. Balkrishna Jha, who had earlier carried out physical verification of various licensees has also stated that the local addresses of the licensees namely, Om Prakash Tiwari, Rani Durgawati, Hariom Kumar, Abhishek Tripathi, Rajesh Kumar, Uday Shankar Tiwari and Madhu Kumar Singh were found wrong. Nobody from the concerned locality came



out to identify them.

24. Learned APP further submitted that in compliance with the order dated 05.01.2024 of this Court passed in Cr. Misc. No.62048 of 2023, this deponent had called for a report from the S.H.O. of Saharsa Sadar Police Station vide his Memo No.452/Legal Cell dated 29.02.2024 and in response thereto, the said S.H.O. has reported that no such record of the receipt of arms application for police verification is available in the police Station. He has reported that the case is very old and in between, the police station had also shifted to a new building in the year 2012 and no such record is available. It is further submitted that during the course of further investigation, the I.O. of the case has obtained records of license granted to Sunil Kumar Singh, Kumar Madhav, Sanjay Kumar, Pawan Kumar, Kanhaiya Kumar, Chandan Singh, Deepak Kumar Bhubaniya and Sunil Kumar Daruka. It was revealed that the petitioner was posted as District Magistrate, Saharasa between 17.12.2002 to 17.12.2004. It is further submitted that police verification of Kanhaiya Kumar and Chandan Kumar was received on



14.03.2004. Both of them were reported to be accused of Pirbahore (Patna) P.S. Case No. 296 of 2003 dated 30.09.2003 under Sections 147, 148, 149, 307, 353, 470 of the IPC and Section 25(1-B)a, 26, 27 and 35 of the Arms Act. Charge-sheet was also submitted against them. The Superintended of Police, Patna had submitted its report directly to the then District Magistrate, Saharsa wherein a recommendation was made for the cancellation of their licenses. In response to the said report of the S.P. Patna, the then District Magistrate, Saharsa through his Memo No.272-1 dated 31.07.2010 had suspended the license of Chandan Singh with immediate effect. He submitted that given aforesaid, it cannot be said that there is no evidence against the petitioner in the supplementary case diary based on which charge sheet was submitted against petitioner.

25. Mr. Raman further submitted that considering the materials available on record, "sanction for prosecution" was given against petitioner.

26. Mr. Raman, learned APP has relied upon Para-25-29 of legal report of Hon'ble Supreme Court as available



through ***Devinder Kumar Bansal vs The State of Punjab***
since reported in ***2025 SCC OnLine SC 488***, which are as
under:-

"25. Avarice is a common frailty of mankind and Robert Walpole's famous pronouncement that all men have their price, notwithstanding the unsavoury cynicism that it suggests, is not very far from truth. As far back as more than two centuries ago, it was Burke who cautioned: "Among a people generally corrupt, liberty cannot last long". In more recent years, Romain Rolland lamented that France fell because there was corruption without indignation. Corruption has, in it, very dangerous potentialities. Corruption, a word of wide connotation has, in respect of almost all the spheres of our day to day life, all the world over, the limited meaning of allowing decisions and actions to be influenced not by the rights or wrongs of a case but by the prospects of monetary gains or other selfish considerations.

26. If even a fraction of what was the vox pupuli about the magnitude of corruption to be true, then it would not be far removed from the truth, that it is the rampant corruption indulged in with impunity by highly placed persons that has led to economic



unrest in this country. If one is asked to name one sole factor that effectively arrested the progress of our society to prosperity, undeniably it is corruption. If the society in a developing country faces a menace greater than even the one from the hired assassins to its law and order, then that is from the corrupt elements at the higher echelons of the Government and of the political parties.

27. In Manoj Narula v. Union of India, (2014) 9 SCC 1, this Court held that corruption erodes the fundamental tenets of the rule of law and quoted with approval its judgment in Niranjan Hemchandra Sashittal v. State of Maharashtra, (2013) 4 SCC 642 & held as under:—

"16.....'26. It can be stated without any fear of contradiction that corruption is not to be judged by degree, for corruption mothers disorder, destroys societal will to progress, accelerates undeserved ambitions, kills the conscience, jettisons the glory of the institutions, paralyses the economic health of a country, corrodes the sense of civility and mars the marrows of governance."

(Emphasis supplied)

28. In Subramanian Swamy v. Manmohan Singh, (2012) 3 SCC 64, this Court held as under:



"68. Today, corruption in our country not only poses a grave danger to the concept of constitutional governance, it also threatens the very foundation of Indian democracy and the Rule of Law. The magnitude of corruption in our public life is incompatible with the concept of a socialist, secular democratic republic. It cannot be disputed that where corruption begins all rights end. Corruption devalues human rights, chokes development and undermines justice, liberty, equality, fraternity which are the core values in our preambular vision. Therefore, the duty of the Court is that any anti-corruption law has to be interpreted and worked out in such a fashion as to strengthen the fight against corruption...."

(Emphasis supplied)

29. In *K.C. Sareen v. C.B.I., Chandigarh*, (2001) 6 SCC 584, this Court observed thus:

"12. Corruption by public servants has now reached a monstrous dimension in India. Its tentacles have started grappling even the institutions created for the protection of the republic. Unless those tentacles are intercepted and impeded from gripping the normal and orderly functioning of the public offices, through strong legislative, executive



as well as judicial exercises the corrupt public servants could even paralyse the functioning of such institutions and thereby hinder the democratic polity...."

(Emphasis supplied)

27. While concluding the argument, it is submitted by learned APP that given of aforesaid, the learned Jurisdictional Magistrate has rightly taken cognizance against the petitioner for issuing various arms licences ignoring rules and considering forged documents.

CONCLUSION:

28. I have perused the materials available on record and considered the arguments canvassed by learned counsel appearing for the parties.

29. It appears that the police submitted charge-sheet against the petitioner through its supplementary charge-sheet No.834/2020 dated 31.08.2020 for the offences punishable under Sections 109, 419, 420, 467, 468, 471 and 120-B of the IPC and Section 30 of the Arms Act. It also appears from the record that the local addresses of licensees like Om Prakash Tiwari, Rani Durgawai, Hariom Kumar, Abhishek Tripathi, Rajesh Kumar, Uday Shankar



Tiwari and Madhu Kumar Singh were not found true. Some of the licensees were even not physically capable of carrying arms. They had created forged documents under the influence of some of the politicians and other influential persons and by using the forged documents, they had succeeded in getting the arms licenses. The aforesaid licenses were issued without obtaining a police verification report as envisaged under Section 32 of the Arms Act. Even the Bodyguard of the petitioner during the course of the investigation stated that he had got an arms license issued from the petitioner, the name and favour of his relative, namely, Kaushal Kumar Sharma, Pramod Singh, Manoj Singh and Sudip, who named him in “column of care”, which is a mandatory column for making an application for issuing the license. Upon perusal of the record, it further appears that the Dealing Assistant while considering the applications of applicant Kanhaiya Kumar Singh and Chandan Kumar Singh mentioned a note on 15.07.2003 for obtaining a police verification report but, merely two days later i.e. on 17.07.2003, the petitioner being District Magistrate passed an order for issuing arms licenses to them.



30. With aforesaid irregularities and illegalities, several armed licenses were issued by petitioner, District Magistrate of Saharsa, which *prima facie* suggests that he was aware of all such illegalities and forged documents, contravening provisions of Section 30 of the Arms Act and other penal provisions of the IPC, as discussed above.

31. Upon perusal of evidence and other materials as discussed above, the Government of Bihar granted sanction for prosecution required under Section 197 of the CrPC against the petitioner. Even from the order of General Administration Department as issued through Letter No.2873 dated 25.02.2016, petitioner was directed to be remain careful in future. This note of caution cannot be equated as to accept the argument that petitioner was exonerated from departmental proceedings as to apply the ratio of ***Ashoo Surendranath Tewari case*** (*supra*).

32. The submission of the petitioner that he was authorized under the rule to grant license even without obtaining a police verification report and other materials is such a version of defence, which cannot be looked into at this



stage, because it is an established principle of law that materials available on record cannot be looked in its probative terms at this stage. Further, having authority under law does not mean to use it in an arbitrary and unjustified manner. Lawful authority demands compliance of legal procedure, but the manner in which arm licenses were issued by petitioner, as discussed above, is *prima facie* sufficient to raise eyebrows. Accordingly, materials, as discussed above, is sufficient to constitute a *prima facie* case against the petitioner for the offences punishable under Sections 109, 419, 420, 467, 468, 471 and 120-B of the IPC and Section 30 of the Arms Act as to set out criminal law in motion against the petitioner.

33. Accordingly, this Court does not find any illegality in the impugned order taking cognizance dated 01.06.2022 as passed by learned Chief Judicial Magistrate, Saharsa in connection with Saharsa Sadar P.S. Case No. 112 of 2005 against petitioner for the offences under Sections 109, 419, 420, 467, 468, 471 and 120-B of the IPC and Section 30 of the Arms Act and, therefore, same does not require interference by this Court.



34. Hence, the present quashing petition stands dismissed as being devoid of any merit, including any pending petition, if any.

35. As this case was lodged in 2003 for which cognizance was taken in the year 2022, whereafter almost no progress in the trial was made in last more than two years, the learned trial court is directed to conclude the trial expeditiously, preferably within six months of this order after taking this matter on Board, on day-to-day basis.

36. Office is directed to send a copy of this judgment to the learned trial court forthwith.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	AFR
CAV DATE	13.02.2025
Uploading Date	09-05-2025
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