IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61795 of 2024

Arising Out of PS. Case No.-11 Year-1997 Thana- VIGILANCE District- Patna

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Jiwendra Kishore Prasad Rukhaiyar @ J. K. P. Rukhaiyar Son of Late Chandra Kishore Prasad Resident of Village - Rasalpura, P.S. - Narhat, District- Nawada

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Rajesh Ranjan, Advocate
For the Informant : Mr. Binod Murari, Advocate
For the Opposite Party/s : Mr. Syed Mojibur Rahman, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
CAV JUDGMENT
Date : 22-08-2025

Heard Mr. Rajesh Ranjan, the learned counsel appearing on behalf of the petitioner, Mr. Binod Murari, the learned counsel for the Informant and the learned Additional Public Prosecutor for the State.

2. The present application has been filed for quashing of F.I.R. of Special Case No. 19 of 1997, dated 09.06.1997 for the offences punishable under Sections 109, 120(B), 201, 409, 420, 467, 468, 471, 477A and 465 of the Indian Penal Code and Section 13(2) read with Section 13(1)(c)(d) of the Prevention of Corruption Act, 1988, pending in the Court of learned Special Judge, Special Vigilance-I, Patna.

3. The brief facts of the prosecution case is to the effect that the Informant, a Deputy Superintendent of Police, Vigilance has stated that on a preliminary investigation conducted by the Cabinet Vigilance

Department, certain facts had come into light for the financial year 1991-92 to 1994-95 in Main Budget Head-2013 and other Heads against the amount of Rs. 3,25,000/- (Three lakhs twenty five thousand) allotted by the Finance Department, total withdrawal of Rs. 57,54,000/- (Fifty seven lakhs fifty four thousand) was done and therefore an excess amount of Rs. 54,29, 000/- (Fifty four lakhs twenty nine thousand) was withdrawn during the aforesaid period. The informant has further alleged that likewise for the subsequent years also certain withdrawals were made which was also in excess of the allotted amount and certain withdrawals were made against the Bills, however, there was no entry in the contingency register regarding those Bills clearly indicating that the amount was withdrawn in an illegal manner. In the nutshell, it was alleged that the officials and employees of Finance Department, Revenue and Land Reforms Department and Secretariat Treasury have hatched a preplanned conspiracy creating erroneous records for the period 1991-92 to 1995-96 causing a loss of Rs. 54,29,000/- (Fifty four lakhs twenty nine thousand) to the Government of Bihar illegally and enriched themselves financially and have also concealed evidence and the names of the concerned officials involved were also stated.

4. The learned counsel for the petitioner submits that from bare perusal of the prosecution report, it appears that the petitioner was not named in the F.I.R. and he has been named as an accused in the present case merely on suspicion. The learned counsel next submits that the FIR was lodged on 09.06.1997 for alleged occurrence from the year 1991-92 to 1994-95 i.e., after an inordinate delay of more than two years without any reason for the same.

5. The learned counsel further submits that the charge-sheet was then submitted on 25.09.204 for the offences alleged under Section 109, 120-B, 201, 409, 420, 465, 467, 468, 471, 477A of the Indian Penal Code and Section 13(2) read with Section 13(1) (c)(d) of the Prevention of Corruption Act, 1988 against the accused persons including the petitioners.

6. The learned counsel for the petitioner next submits that after submission of the charge-sheet, the Court took cognizance against the petitioner vide order dated 04.10.2004. It is also submitted that the petitioner filed a petition under Section 207 Cr.P.C. read with Section 238 of Cr.P.C. praying for supply of legible copy of documents detailed in column no. 10 of the charge-sheet which has not been supplied to the petitioner and on such application, the learned Court below vide order dated 19.12.2016 directed the prosecution to supply the documents detailed in the charge-sheet with sanction order. The learned counsel submits that despite numerous orders being passed for compliance of the order dated 19.12.2016, even after lapse of about 8 years, the aforesaid order was not complied by the prosecution and not a single page from the documents detailed in column 10 of the charge-sheet was provided to the petitioner.

7. The learned counsel for the petitioner has drawn the attention of this Court towards order dated 02.08.2024 which has been annexed as Annexure –P/2, which is the last order passed by the learned Court below, which would go on to show that the supply of police papers to the accused persons was still awaited and such action of the prosecution goes on to show that the prosecution is not interested in the conclusion of this case and has disregarded numerous orders of the learned Court below calling for interference of this Hon'ble Court.

8. The learned counsel submits that the provisions of Section 207 of the Cr.P.C. relates to ***'supply to the accused a copy of police report and other documents',*** has been enacted not only to ensure that an accused has an inalienable right to defend himself, but also to fulfill the larger purpose of ensuring that a judicial process is in place to ensure a fair trial and transparency by providing all materials to be supplied upon by the prosecution during the trial to the accused.

9. The learned counsel at this juncture refers to a judgment of the Hon'ble Supreme Court delivered in the case of ***Manoj & Ors. Vs. State of Madhya Pradesh, reported in 2022 SCC Online SC 677*** wherein the Hon'ble Supreme Court highlighted the dual role played by the public prosecutor and the Court in safeguarding the accused's right to a fair investigation and trial, by scrutinizing the materials as well as ensuring fair disclosure.

10. The learned counsel for the petitioner has referred to the few judgments in line of the fundamental right of right to life and personal liberty provided under Article 21 of the Constitution of India. The judgment referred by the learned counsel for the petitioner are:-

(i) Hussainara Khatoon Vs. Home Secretary, State of Bihar & Ors. reported in AIR 1979 SC 1369/ 1979 SCR (3) 532.

(ii) Abdul Rehman Antulay Vs. R.S. Nayak reported in (1992) 1 SCC 225.

(iii) Mithilesh Kumar Singh Vs. State of Rajasthan, reported in (2015) 9 SCC 795.

(iv) Raghubir Singh Vs. State of Bihar reported in AIR 1987 SC 149.

(v) Madheshwardhari Singh Vs. State of Bihar reported in AIR 1986 Pat 324.

(vi) Sirajul Vs. State of Uttar Pradesh reported in (2015) 9 SCC 201.

(vii) State of Haryana Vs. Bhajan Lal reported in 1992 Supp (1) SCC 335.

11. The learned counsel for the petitioner referring to the aforesaid judgments has stated that the Hon’ble Supreme Court’s observation in all the above cases was in respect to the speedy trial flowing from Article 21 of the Constitution being implicit in the right of life and personal liberty. The learned counsel for the petitioner submits that the need for speedy investigation as per the aforesaid judgments was in tune to the constitutional protection enshrined in Article 21 of the Constitution and its application in the present case where the constitutional and statutory right of the petitioner has been violated by keeping the case pending for the last 27 years is mandated.

12. The learned counsel has thus submitted that the right to speedy trial has been infringed by an inordinate delay of 27 years that occurred in starting the trial, the lethargic manner of investigation and till date, the case being pending for supply of police paper adds to the mental stress and pressure upon the accused on whose head the sword of criminal case has been hanging. The learned counsel has stated that the precarious condition of the petitioner can be understood from the fact that the case has been kept pending for over two decades and the delay in conclusion of investigation is solely due to apathy of the successive investigating officers and their supervising authorities who have miserably failed to discharge their statutory duty. The learned counsel for the petitioner has pointed out that the petitioner had been co-operating all along during the investigation and had been diligently attending the proceedings of the Court below for the last 27 years and has now reached an age of 90 years with numerous old age related physical ailments.

13. Learned counsel for the petitioner in nutshell submits that the present case is a fit case where the application of the directions as contained in the case of ***State of Haryana Vs. Bhajan Lal reported in 1992 Supp (1) SCC 335*** for invoking the powers under Section 482 Cr.P.C. and thereby quashing the entire criminal proceeding.

14. Per contra, the learned counsel appearing on behalf of the Cabinet Vigilance Department submits that during the course of investigation, materials which were collected pointed out towards the criminal conspiracy of the petitioner with other public servants of the Revenue and Land Reform Department and the Secretariat Treasury was found and as such after a thorough inquiry charge-sheet was submitted against the petitioner, who has been found to be involved in the fraudulent withdrawals from the Department. The learned counsel for the Vigilance has further submitted that the petitioner was found to be involved in a conspiracy to make fake purchasers of articles mentioned in the buff sheets during the financial year 1991-92 in violation of financial rules and therefore his name was included in the list of accused persons in the charge-sheet and there was enough evidence to show his complicity in the crime. It is submitted by the learned counsel that the present case involves financial misappropriation and defalcation of

Government money committed by several public servants posted in various Departments of Bihar Government by abusing their official possession. As this matter required collection of large number of documents, scrutiny and classification of the same as well as recording of statements of witnesses in order to establish their complicity in the commission of the crime, identification and verification of the accused persons as such a considerable time was taken but that was completely procedural and due to the complexity and the involvement of multiple accused persons and various Departments of the Government of Bihar.

15. The learned counsel further submits that the accused persons including the petitioner were directed to appear for receiving the police papers on 02.04.2016 and the petitioner had received the police papers on 29.08.2016 and thereafter filed the application under Section 207 of the Cr.P.C. contending that documents mentioned in column 10 of the charge-sheet had not been provided to him and requested that the same be provided.

16. The learned counsel has pointed out that the document which was being demanded by the accused petitioner as referred to in Column 10 of the charge-sheet was not handed over by the then Malkhana In-charge and for which an F.I.R. was lodged against him under Vigilance Police Station Case No. 27 of 2014 for offences under Section 120B, 409, 406, 201, 420 I.P.C. and Section 13(2) read with

Section 13(1) (c) of the Prevention of Corruption Act, 1988. The learned counsel thus submits that the aforementioned facts established that the documents mentioned in Column 10 of the charge-sheet relevant to the present case are not currently available in the Vigilance Malkhans and therefore, the same was not handed over. It has lastly been submitted by the learned counsel for the Vigilance that for the aforesaid reasons, there was a delay in the proceeding of the trial and the benefit of the same should not be given to the petitioner as it was a procedural lapse on account of which the delay had occurred and as such, the present application for quashing the F.I.R. of Special Case No. 19 of 1997 is misconceived and fit to be dismissed.

17. This Court has heard the parties and has also perused the materials available on record and it is observed that the case was of the year 1997 and after a lapse of more than 7 years the charge-sheet was submitted in the year 2004 and the cognizance was taken in the year 2004. It is also observed that there is no explanation for the delay caused between 2004 to 2016 in supply of police papers to the accused persons and there is no opposition made from the prosecution side that it was on account of the petitioner that the delay had occurred. It must be noted at this point that it is a specific averment on behalf of the petitioner has been continuously appearing before the Court below and the application demanding the documents as stated in column 10 of the charge-sheet was made way back in the year 2016 and thereafter till 2024 the case was kept pending without any development with regard to the trial of the case.

18. This Court has been sensitized about the prevailing condition of the petitioner who has attained an age of 90 years with several old age related problems and relegating him now to the rigors of trial at this age would amount to an abuse of the process of law. It is further observed that the FIR was of the year 1997 and more than 27 years has already lapsed and this Court does not find any possibility of completion of trial in near future. This Court is aware of the fact that there are altogether 39 accused persons including the petitioner against whom the learned Court below has taken cognizance.

19. As referred to by the learned counsel appearing on behalf of the petitioner to the various judicial pronouncements of the Hon'ble Supreme Court, it is clear that the law is settled with regard to speedy trial and the conduction of a fair and speedy investigation is a part of fundamental right, i.e., right to life, guaranteed under Article 21 of the Constitution of India. At this juncture, this Court is constrained to note down the observations of the Hon'ble Supreme Court made in ***A.R. Antulay's case (supra)-*** *"Right to speedy trial flowing from article 21 encompasses all the stages, namely, the stage of investigation, inquiry, trial, appeal, revision and re-trial".*

20. Guidelines enumerated in A.R. Antulay's case especially guideline Nos. 8, 9 & 10 are relevant which are reproduced hereunder.

> *"(8) Ultimately, the court has to balance and weigh the several relevant factors 'balancing test' or 'balancing process' and determine in each case whether the right to speedy trial has been denied in a given case.*
>
> *(9) Ordinarily speaking, where the court comes to the conclusion that right to speedy trial of an accused has been infringed the charges or the conviction, as the case may be, shall be quashed. But this is not the only course open. The nature of the offence and other circumstances in a given case may be such that quashing of proceedings may not be in the interest of justice. In such a case, it is open to the court to make such other appropriate order including an order to conclude the trial within a fixed time where the trial is not concluded or reducing the sentence where the trial has concluded as may be deemed just and equitable in the circumstances of the case.*
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> *(I0) It is neither advisable nor practicable to fix any time-limit for trial of offences. Any such rule is bound to be qualified one. Such rule cannot also be evolved merely to shift the burden of proving justification on to the shoulders of the prosecution. In every case of complaint of denial of right to speedy trial, it is primarily for the prosecution to justify and explain the delay. At the same time, it is the duty of the court to weigh all the circumstances of a given case before pronouncing upon the complaint. The Supreme Court of USA too has repeatedly refused to fix any such outer time-limit in spite of the Sixth Amendment. Nor do*

we think that not fixing any such outer limit ineffectuates the guarantee of right to speedy trial.”

21. Considering the aforesaid factual as well as the Principles of law, the continuation of the present proceeding as far as the petitioner is concerned would amount to abuse of process of law as he has been made to suffer on account of pendency of a criminal proceeding since 1997 till date and he has reached the age of 90 years now, with no possibility of the trial to be completed in near future.

22. In view of the above, the F.I.R. of Special Case No. 19 of 1997, dated 09.06.1997, as well as the entire criminal proceedings qua the petitioner, pending in the Court of learned Special Judge, Special Vigilance-I, Patna, is hereby quashed.

23. The application stands allowed.

(Sourendra Pandey, J)

Siwani/-

AFR/NAFR	NAFR
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