

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2974 of 2023

Arising Out of PS. Case No.-455 Year-2016 Thana- GANDHIMAIDAN District- Patna

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Abdul Wahab Ansari, Son of Late Nijamuddin Ansari, R/o Israt Villa, House No. 18, Aman Vihar, Harun Nagar, Section-2, P.S.-Phulwarisharif, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Santosh Kumar Shrivastava, S/o Permanand Prasad, Add. Land-Acquisition Officer, Patna, Mohalla-Shantipuri, P.S.-Motihari Sadar, District-East Champaran (Motihari).

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ramakant Sharma, Sr. Advocate
		Mr. Mayank Raj, Advocate
		Mr. Rahul Singh, Advocate
For the Opposite Party/s :		Mr. Jharkhandi Upadhyaya, APP

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CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
C.A.V. JUDGMENT
Date : 29-08-2025

Heard Mr. Ramakant Sharma, the learned

Senior Advocate for the petitioner, assisted by Mr.

Mayank Raj and Mr. Rahul Singh, the learned Advocate as

also Mr. Jharkhandi Upadhaya, the learned Additional



Public Prosecutor for the State.

2. The present application has been filed invoking the inherent jurisdiction of this Court, under Section 482 of the Code of Criminal Procedure, for quashing of the First Information Report of Gandhi Maidan P.S. Case No. 455 of 2016, dated 10.12.2016, which was registered for the offences under Sections 166, 167, 420, 421, 466, 467, 468 and 120(B) of the Indian Penal Code.

3. The brief facts giving rise to the present application is to the effect that one Santosh Kumar Srivastava, the then Additional Land Acquisition Officer, Patna, gave a written complaint before the Officer-In-Charge of Gandhi Maidan Police Station for launching prosecution alleging therein that an FIR be lodged against the Government Officer for passing orders for payment of compensation with regard to land in Village-Jujharpur, measuring 0.8 acres of land, which was acquired for the purposes of scheme for KV Grid Sub-Centre as per the



Land Acquisition Case No. 07/2008-09.

4. It was alleged that the case be lodged immediately for payment of compensation which was done by Shri Abdul Wahab Ansari (the petitioner), who was the then Land Acquisition Officer, Patna since transferred.

5. Mr. Ramakant Sharma, the learned Senior Advocate appearing on behalf of the petitioner, has submitted that the present FIR is misconceived and the petitioner had not committed any offence and he has been made an accused in this case in pursuance of the order dated 04.04.2013 passed by this Court in C.W.J.C. N. 17550 of 2012, wherein the main grievance of the writ petitioner was that compensation was wrongly paid to Shivpuran Rai and Shivlal Rai, who were nephews of the writ petitioner.

6. It has been submitted that in the Land Acquisition Case No. 07/2008-09, which was acquired for the purposes of establishment of KV Grid Sub-Centre in a



particular village, out of total area of 0.32 acres of land, compensation with regard to 0.16 acres of land to the tune of 80% was paid to one Nageshwar Rai pursuant to the order passed by this petitioner, the then Land Acquisition Officer, on 09.09.2010. Subsequently, *vide* order dated 05.03.2012, the respondent Nos. 6 and 7 of the aforesaid writ petition were also paid 80% compensation for their respective shares, *i.e.*, 0.8 acres.

7. The case of the writ petitioner, namely, Nageshwar Rai, was that he wanted the entire compensation with regard to the total land, *i.e.*, 0.32 acres of land and as such, the respondents in the writ petition, *viz.*, Shivpujan Rai and Shivlal Rai, had filed a complaint/objection before the Land Acquisition Officer, *i.e.*, the present petitioner. The petitioner, therefore, had passed the order for payment of 80% of compensation to them and rest of the amount was kept pending on account of one case being pending before the L.R.D.C.

8. It has been submitted on behalf of the



petitioner that it was on the petition filed by aforesaid Shivpujan Rai and Shivlal Rai, in proper format, that the petitioner being the Land Acquisition Officer, after conducting an enquiry by the *Amin* and the *Kanoongo*, passed the order of payment of compensation to the tune of Rs. 4,37,363.85/- for both the claimants and cheques were handed-over to them.

9. It has further been submitted that the two persons, namely, Shivpujan Rai and Shivlal Rai, by concealing the fact of Mutation Case No. 488/3/2009-10, had wrongly claimed their shares over 0.8 acres of land. As a result thereto, wrong compensation was paid to them. It has also been submitted that it was on account of the pressure being put by this Hon'ble Court in the writ petition that respondent authorities have taken action of lodging an FIR against the then Land Acquisition Officer, *i.e.*, the petitioner. However, from the perusal of the FIR, it has been submitted, it would be evident that it was a wrong order being passed by the petitioner due to



suppression of facts by the claimants and as such, the FIR was misconceived.

10. The learned Senior Advocate submits that the amounts which have been paid to wrong persons could have been recovered through a certificate proceeding and the authorities had proceeded with issuance of charge against the petitioner and, thereafter, the FIR was lodged against him.

11. Thus, it has been submitted that from the above, it would be evident that even if the whole allegation for the sake of argument be taken into consideration, there is no ingredients of any criminal offence much less the alleged offences being made out against the petitioner and at best, the orders passed by the petitioner can be termed as ignorance and inadvertence or dereliction in discharge of his duty. It has further been submitted that even in the departmental proceeding, it has been found that there was dereliction in duty on account of inadvertence and ignorance on



account of not putting up of the old records before the Land Acquisition Officer (the petitioner) by the then Assistant and the Head Assistant of the Office.

12. It has further been submitted that it was also found that on the objection filed by Nageshwar Rai (the writ petitioner), dated 12.01.2010, the petitioner, the then Land Acquisition Officer, had passed the order that the same being entered in Award Register and order to that effect was given to the In-Charge Clerk, namely, Upendra Pandey. However, he failed to comply the same. Hence, the delinquent officer, *i.e.*, the petitioner, cannot be held guilty or saddled with an act of omission. This fact is further evident from the order passed by the Directorate, which forms part of the FIR.

13. The learned Senior Advocate has pointed out that despite such facts being noted in the departmental enquiry, the aforesaid Assistant/Upendra Pandey was neither proceeded in the departmental enquiry nor any criminal case was lodged against him.



14. It has further been submitted that the case was registered in the year 2016 and the petitioner has also retired from service on 31.01.2022 and only 90% pension was released in his favour and even the leave encashment and gratuity have been withheld till final decision in the departmental enquiry.

15. Mr. Ramakant Sharma, the learned Senior Advocate, while drawing the attention of this Court to several judgments rendered by the Hon'ble Supreme Court in cases of ***Raghubir Singh & Ors. Vs. State of Bihar : reported in (1986) 4 SCC 481; Abdul Rehman Antulay & Ors. Vs. R.S. Nayak & Anr. : (1992) 1 SCC 225***; and lastly in the case of ***State of Haryana & Ors. Vs. Ch. Bhajan Lal & Ors. : AIR 1992 SCC 604***, has asserted that long pendency of criminal cases hampers the right of the accused to a speedy trial which forms part of the fundamental rights guaranteed under Article 21 of the Constitution of India.

16. It has, thus, been submitted that in view



of the legal propositions and the factual matrix of the present case, the impugned FIR, referred to above, is fit to be quashed.

17. *Per contra*, the learned APP for the State has submitted that the present FIR was lodged on account of wrong payment of compensation to one Shivpujan Rai and one Shivlal Rai in Land Acquisition Case No. 07/2008-09. It has further been submitted that the petitioner, who was then District Land Acquisition Officer, Patna, without examining his earlier order dated 28.08.2010, passed another order dated 27.02.2012 for payment of Rs. 4,37,363.85/- to the aforesaid Shri Shivpujan Rai with regard to 0.8 acres of land through Award No. 13(*Kha*). Similarly, Award No. 13(*Ka*) was prepared for compensation amount of Rs. 4,37,363.85/- in favour of Shri Shivlal Rai.

18. The learned APP has further submitted that it was on account of such faulty payments that the Principal Secretary, Revenue and Land Reforms



Department, Govt. of Bihar, after considering all the fact on record, had directed to take needful action for recovery of the aforesaid amounts through the certificate case already initiated against Shri Shivpujan Rai and Shri Shivlal Rai. The Principal Secretary has further directed to frame *Prapatra* - “Ka” against the then District Land Acquisition Officer, Patna, *i.e.*, the petitioner, and initiate a departmental proceeding against the guilty persons and also file a criminal case against them.

19. It has further been submitted by the State counsel, referring to the averments made in the counter affidavit, that the certificate case is still pending and one of the recipients of the compensation, namely, Shivlal Rai, died and his sons, namely, Kapil Rai and Vakil Rai, have been substituted in his place as legal heirs and for default in the certificate case, aforesaid Kapil Rai had also been sent to jail and after six months of incarceration, he was released. The General Administration Department has also passed orders of



recovery of five percent Pension amount of the petitioner.

20. The learned APP, in nutshell, has submitted that the criminal case has been instituted against the petitioner for willfully passing an order ignoring the directions of the superior officers. Unless the same is taken to its logical conclusion, it could not be ascertained whether the petitioner had deliberately released the amount of compensation in favour of the two persons, who were not entitled for the same.

21. Having heard the learned counsel for the parties, it is evident that the present case was filed in pursuance to the directions issued by the Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar on account of the fact that the petitioner had paid compensation to those persons who were not legally entitled for the same.

22. This Court has also taken into account the fact that a certificate case has already been initiated against the persons who have been wrongly paid the



compensation amount as well as the fact that in the departmental enquiry, certain facts have emerged, wherein it was found that the previous record was not placed before the petitioner, who was the then Land Acquisition Officer, while the subsequent order of payment was being made in pursuance to the directions of the petitioner.

23. From the perusal of the documents, which is the part of the FIR, this Court has also noticed that there is an undertaking by the persons who have been paid the compensation that in case it is found that they are not entitled or if a claim by the competent Court of law/authority is made, they shall be paying back the said amount of compensation.

24. It also transpires from the perusal of the FIR that it is not the case of the prosecution that the petitioner was in connivance with the said two persons who have been wrongly paid the compensation amount nor has he received any extraneous consideration for



passing the said order in their favour. This Court, in fact, notices that in the FIR it has been alleged that the person who has directed for payment of compensation should be booked without giving any details as to what was the offence committed by him.

25. It is relevant to refer at this stage Paragraph-9 of the judgment passed in case of **Raghubir Singh** (*supra*), which reads as follows :

“9. Several questions arise for consideration. Was there delay? How long was the delay? Was the delay inevitable having regard to the nature of the case, the sparse availability of legal services and other relevant circumstances? Was the delay unreasonable? Was any part of the delay caused by the wilfulness or the negligence of the prosecuting agency? Was any part of the delay caused by the tactics of the defence? Was the delay due to causes beyond the control of the prosecuting and defending agencies? Did the accused have the ability and the opportunity to assert his right to a speedy trial? Was there a likelihood of the accused



being prejudiced in his defence? Irrespective of any likelihood of prejudice in the conduct of his defence, was the very length of the delay sufficiently prejudicial to the accused? Some of these factors have been identified in Barker v. Wingo (supra). A host of other questions may arise which we may not be able to readily visualise just now. The question whether the right to a speedy trial which forms part of the fundamental right to life and liberty guaranteed by Article 21 has been infringed is ultimately a question of fairness in the administration of criminal justice even as 'acting fairly' is of the essence of the principles of natural justice [In re K. (H.) and infant] and a 'fair and reasonable procedure' is what is contemplated by the expression 'procedure established by law' in Article 21 (Maneka Gandhi)."

26. The Hon'ble Supreme Court in case of **Abdul Rehman Antulay** (supra) in Paragraph-53 of the judgment has observed as hereinunder :

"53. In *Sheela Barse v. Union of*



India : [1986] 3 SCR 562], a Division Bench comprising Bhagwati and R.N. Misra, JJ. re-affirmed that the “right to speedy trial is a fundamental right implicit in Article 21 of the Constitution” and observed “the consequence of violation of fundamental right to speedy trial would be that the prosecution itself would be liable to be quashed on the ground that it is in breach of the fundamental right.” Thus, the Court answered the question which Bhagwati, J. had posed in the first Hussainara Khatoon case. Accordingly, they directed that so far as a child accused of an offence punishable with imprisonment of not more than 7 years is concerned, a period of three months from the date of filing of complaint or lodging of the F.I.R. shall be deemed to be the maximum time permissible for investigation and a period of six months from the filing of the charge-sheet as the reasonable period within which the trial should be completed. It was specifically directed that if these time-limits are not obeyed, the prosecution against the child should be quashed.”



27. This Court has observed that the petitioner proceeded by passing the orders of payment of compensation on account of dereliction in duty by one of the Assistants of the Land Acquisition Office and as such, he could not have been saddled with the entire liability of wrongly paying the compensation to persons who were not competent to receive the same. This Court also finds that it is only the petitioner who has been singled out and no case has been lodged against the Assistant and the Head Assistant of the concerned Office.

28. This Court is constraint to observe the grounds enumerated by Hon'ble the Supreme Court in case of **Ch. Bhajan Lal** (*supra*). Paragraph-108 of the said judgment, wherein, the conditions under which an F.I.R. could be quashed was enumerated, is reproduced hereinbelow for ready reference :

“108. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by



this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

1. Where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

2.

3.

4.

5. Where the allegations made in the FIR or complaint are so absurd and



inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

6. Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/ or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

7. Where a criminal proceeding is manifestly attended with mala fide and/ or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

29. In view of the aforesaid facts and circumstances and also taking into account the various judicial pronouncements made by the Hon’ble Supreme



Court, this Court finds that despite passage of almost nine years, the investigation has not yet been completed, which clearly is against the settled law on the fundamental right to life and liberty granted under Article 21 of the Constitution of India, which is being infringed in the present case.

30. Under such circumstances, the continuation of the present proceeding would amount to abuse of process of law. Moreover, the delay, which has occurred in concluding the investigation, has caused serious prejudice to the petitioner, leaving no option to this Court, but to quash the F.I.R. of Gandhi Maidan P.S. Case No. 455 of 2016.

31. This Court orders accordingly.

32. The application stands allowed.

(Sourendra Pandey, J)

Praveen-II/-

AFR/NAFR	AFR
CAV DATE	05/08/2025
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