

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2475 of 2024

Arising Out of PS. Case No.-15 Year-2011 Thana- MADHEPUR District- Madhubani

Yugeshwar singh @ Yugeshwar Kumar Singh @ Yugeshwar Prasad Singh
Son of Late Aashu Singh Resident Of Village- Nawdiha, P.S-Bilashpur,
District- Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar through the Superintendent of Police, Madhubani Bihar
2. Superintendent of Police, Madhubani Bihar
3. Deputy Development Commissioner-cum-Project Director, District Rural Development Authority, Madhubani Bihar
4. District Program Officer, Madhepur, Jhanjharpur, Madhubani Bihar
5. Station Head Officer of Madhepur Police Station, Jhanjharpur, Madhubani Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. P.N. Shahi, Sr. Adv. Mr. Baidhyanath Thakur, Adv. Mr. Kaushik Deo, Adv. Mr. Ravi Kumar, Adv.
For the Respondent/s	:	Mr. Birju Prasad, G.P.13 Mrs. Shweta Anand, A.C. to G.P.13

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 28-11-2025

The present petition has been filed for quashing the
FIR of Madhepur P.S. Case No. 15 of 2011 lodged under
Sections 420 and 409/34 of the Indian Penal Code.

02. Briefly stated facts of the case are that the
petitioner is one of the accused persons of Madhepur P.S. Case
No. 15 of 2011. The allegation against the petitioner and other
co-accused persons is that they committed irregularity in
renovation of one pond and defalcated large sum making
payment without authorization. The said fact came to



knowledge when an inquiry was held by Director of accounts, Administration and Self Employment, District Rural Authority, Madhubani in the renovation work of Bhith Bhagwanpur Bindheshwar Astha pond initiated under MNREGA Scheme No. 01/2006-07. On 08.01.2011 several irregularities were reported to the District Magistrate, Madhubani who asked Deputy Development Commissioner-cum-Project Director, District Rural Development Authority, Madhubani on 08.01.2011 to lodge FIR against the erring officials and consequently Madhepur P.S. Case No. 15 of 2011 was lodged against the petitioner and other co-accused persons.

03. Learned senior Counsel Mr. P.N. Shahi appearing on behalf of the petitioner submits that the institution of FIR and subsequent investigation is completely a misuse and abuse of process of law. About 15 years have elapsed after the registration of FIR and commencement of investigation but charge sheet has not been submitted till date.

04. Even on merits the allegation could not be sustained against the petitioner who had been working as Assistant Engineer during the relevant time. The allegation pertains to the year 2006-2007 and the FIR was lodged in the year 2011. Only allegation against this petitioner is that he



verified the measurement bills for payment of Rs. 3,20,000/- on 10.07.2007 but the payment was made on 29.07.2008 i.e., after delay of one year without giving any reasons for delay. Than without any material, an inference has been drawn that there has been antedating in measurement book. But this allegation has no basis. The petitioner has no concern with payment made pursuant to his verification of measurement book.

05. Mr. Shahi further submits that the present prosecution is only a malicious prosecution. No irregularity was noticed during the tenure of the petitioner. On 15.04.2008, the petitioner signed the measurement book after proper spot verification. After lapse of about three years, the present FIR was lodged on the basis of an enquiry report dated 18.01.2011 which was completely silent on the scientific method applied in ascertaining the quantity of de-watering the pond, excavation of soil and its lead and lift. The petitioner forwarded the measurement book to the Block Development Officer-cum-Program Officer, Madhepur for the purpose of necessary action. Finding the entries in the measurement book to be true, the Block Development Officer approved the entries made by the petitioner in the measurement book without getting approval of the Executive Engineer. But this petitioner cannot be held



responsible for the lapses on part of the Block Development Officer in not getting the approval of the measurement book from the Executive Engineer after its verification by the petitioner. The responsibility of the petitioner was to verify the site work and the measurement book which he did in proper manner. Mr. Shahi reiterates that the petitioner verified the measurement bill of Rs.3,20,200/- on 10.07.2007 and the Block Development Officer made payment on 29.07.2008. The petitioner had nothing to do with the late payment and it was the implementing agency which is answerable for such belated payment. When the final bill was presented, the petitioner was already transferred from Jhanjharpur to Hilsa and an error of record has been committed in the enquiry report that such entries were verified on 15.04.2008. If the final bill was made on 28.06.2008 it was not possible for entries to be made on 15.04.2008.

06. Mr. Shahi further submits that the facts of the case starting from the enquiry conducted in the matter and thereafter registration of FIR and continuing the enquiry till date is gross abuse of process of law. Right to speedy trial has been held to be a fundamental right by the Hon'ble Supreme Court and it has further been held that right to speedy investigation is part of



right to speedy trial. The petitioner has suffered much physical and mental agony by continuation of the present investigation and he was forced to pray for bail without any fault. Since 2015, the matter has been pending for getting sanction from the District Magistrate, Madhubani against the petitioner and this fact in itself shows how authorities are misusing the process by keeping a Damocles sword over the head of the petitioner.

07. Mr. Shahi refers to the decision of Hon'ble Supreme Court in the case of ***Santosh De Vs. Archana Guha & Ors.*** reported in ***1994 Supp(3) SCC 735*** where, in somewhat similar circumstances, the Hon'ble Supreme Court upheld the order of Patna High Court quashing the proceeding against the respondent therein. The Hon'ble Supreme Court, holding that the delay in conduct of the case was not caused by the accused respondent, and finding no progress in the case, affirmed the judgment of the High Court and dismissed the criminal appeal. In the same reported judgment a number of criminal appeals were taken for consideration by the Hon'ble Supreme Court and quashing of criminal proceedings by the High Court were upheld. The Hon'ble Supreme Court observed that when right to speedy trial have been breached, no interference in the judgment under appeal was called for.



08. Mr. Shahi next refers to the case of ***Pankaj Kumar Vs. State of Maharashtra and Ors.*** reported in ***(2008) 16 SCC 117***. In this case the Hon'ble Supreme Court held that time and again it has emphasized the need for speedy investigations and trial as both are mandated by the letter and spirit of the provisions of the Criminal Procedure Code (in particular, Sections 197, 173, 309, 437(6) and 468 etc.) and the constitutional protection enshrined in Article 21 of the Constitution.

Referring to a seven Judges Bench decision of ***Maneka Gandhi Vs. Union of Indian, (1978) 1 SCC 248*** and also ***Hussainara Khatoon Vs. Home Secy. State of Bihar, (1980) 1 SCC 81***, the Court held that Article 21 confers a fundamental right on every person not to be deprived of his life or liberty except according to procedure established by law; that such procedure is not some semblance of a procedure but the procedure should be "reasonable, fair and just"; and therefrom flows, without doubt, the right to speedy trial. The Court clarified that speedy trial means reasonably expeditious trial which is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21. Learned Senior Counsel extensively refers to paragraph 18-22 of the case of



Pankaj Kumar (supra) in support of his contention that delay in completing the criminal prosecution against the petitioner violated his fundamental right under Article 21 of the Constitution. The Hon'ble Supreme Court held that the right to speedy trial in all criminal prosecution is an inalienable right under Article 21 of the Constitution. This right is applicable not only to the actual proceedings in Court but also includes within its sweep the proceedings of police investigations as well. The right to speedy trial extends equally to all criminal prosecutions and is not confined to any particular category of cases.

Thus the conclusion was arrived that the prosecution has failed to show any exceptional circumstance, which could possibly be taken into consideration for condoning the prolongation of investigation in 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, was manifestly clear. Thus, Hon'ble Supreme Court held that the appellant has been denied his valuable constitutional right to a speedy investigation and trial and, therefore, the criminal proceedings initiated against him in the year 1987 and pending in the Court of Special Judge, Latur deserved to be quashed on this short ground alone.



9. Learned senior counsel further submits that in the present case, the investigation has been continuing for last fourteen years and the sword of Damocles has been hanging over the head of the petitioner. Such state of affairs cannot be allowed to continue and considering the gross abuse of process of law, the FIR against the petitioner needs to be quashed.

10. Learned APP, appearing on behalf of the State-respondents, opposes the submission made on behalf of the petitioner. Learned APP submits that after filing of the present writ petition, Sub-Divisional Police Officer, Jhanjharpur submitted a report on 24.07.2025 holding that the case was found true against all the FIR named persons including the present petitioner. Learned APP further submits that for sanction of prosecution against this petitioner, a petition was filed before the District Magistrate, Madhubani vide DR No. 1121/15 dated 18.12.2015. However, learned APP submits that till date no sanction order has been received from the District Magistrate, Madhubani. Learned APP further submits that petitioner and other co-accused persons defalcated huge sum of public money and without renovating the village pond, they grabbed the money issued for renovation. Therefore, the FIR ought not to be quashed against the petitioner.



11. I have given my thoughtful consideration to the rival submission of the parties.

12. In ***Pankaj Kumar***(Supra), referring to the case of ***Hussainara Khatoon*** (supra) and ***Abdul Rehman Antulay Vs. R.S. Nayak, (1992) 1 SCC 225*** on the point of right to speedy and public trial as a constitutional guarantee, observed in paragraph no. 18 as under :-

“The exposition of Article 21 in Hussainara Khatoon's case (supra) was exhaustively considered afresh by the Constitution Bench in Abdhul Rehman Antulay & Ors. Vs. R.S. Nayak & Anr., (1992) 1 SCC 225. Referring to a number of decisions of this Court and the American precedents on the Sixth Amendment of their Constitution, making the right to a speedy and public trial a constitutional guarantee, the Court formulated as many as eleven propositions with a note of caution that these were not exhaustive and were meant only to serve as guidelines. For the sake of brevity, we do not propose to reproduce all the said propositions and it would suffice to note the gist thereof. These are:

(i) fair, just and reasonable procedure implicit in Article 21 of the Constitution creates a right in the accused to be tried speedily;

(ii) right to speedy trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial;

(iii) in every case where the speedy trial is alleged to have been infringed, the first question to be put and answered is - who is responsible for the delay?;



(iv) while determining whether undue delay has occurred (resulting in violation of right to speedy trial) one must have regard to all the attendant circumstances, including nature of offence, number of accused and witnesses, the work-load of the court concerned, prevailing local conditions and so on-- what is called, the systemic delays;

(v) each and every delay does not necessarily prejudice the accused. Some delays may indeed work to his advantage. However, inordinately long delay may be taken as presumptive proof of prejudice. In this context, the fact of incarceration of accused will also be a relevant fact. The prosecution should not be allowed to become a persecution. But when does the prosecution become persecution, again depends upon the facts of a given case;

(vi) ultimately, the court has to balance and weigh several relevant factors--'balancing test' or 'balancing process'--and determine in each case whether the right to speedy trial has been denied;

(vii) 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 and having regard to the nature of offence and other circumstances when the court feels that quashing of proceedings cannot be in the interest of justice, it is open to the court to make appropriate orders, including fixing the period for completion of trial;

(viii) it is neither advisable nor feasible to prescribe any outer time-limit for conclusion of all criminal proceedings. 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;

(ix) an objection based on denial of right to speedy trial and for relief on that account, should first be addressed to the High Court. Even if the High Court entertains such a plea, ordinarily it should not stay the proceedings, except in a case of grave and exceptional nature. Such proceedings in High Court must, however, be disposed of on a priority basis.”

13. Thereafter, in ***P. Ramchandra Rao Vs. State of Karnataka, (2002) 4 SCC 578***, a seven-Judge Bench decision of Hon’ble Supreme Court affirmed the dictum of Abdul Rehman Antulay’s case and held that the propositions emerging from Article 21 of the Constitution and expounding the right to speedy trial laid down as guidelines in the said case adequately take care of the right to speedy trial. Therefore the inescapable conclusion from the aforesaid authorities of the Hon’ble Supreme Court is that right to speedy trial in all criminal prosecution includes the police investigation and the said right is protected under Article 21 of the Constitution.

14. In the instant case, the alleged irregularity and defalcation are stated to have taken place in the year 2006 to 2008. The FIR came to be instituted in the year 2011. Since then the criminal prosecution has been kept pending against this



petitioner for more than 14 years and for last 10 years only for the purpose of obtaining sanction. The lackadaisical approach of the prosecuting authority is evident from the counter affidavit filed on behalf of the State-respondents wherein it has been mentioned that a report of Sub-Divisional Police Officer, Jhanjharpur has been submitted only on 24.07.2025. It is pertinent to mention here that this writ petition was instituted in the year 2024 and on 01.07.2025 a learned Co-ordinate Bench of this Court directed the State to file para-wise counter affidavit observing that investigation in this case is pending since 2011. Further the superintendent of Police, Madhubani was directed to swear the counter affidavit and to explain why the investigation in this case has been pending since 2011 and also directing to provide the time under which the investigation would be completed. Only in these circumstances, it appears, a report has been submitted by the Sub-Divisional Police Officer, Jhanjharpur. The counter affidavit feebly tries to explain the delay but no time frame has been given as to when the investigation would be concluded. Therefore, the prosecution has completely failed in its duty to conclude the investigation within a reasonable time. It has also failed to show any exceptional circumstance which might have resulted in delay



and this delay in investigation could be condoned. This approach of prosecution must be deprecated in harshest terms.

15. Therefore, in the light of these facts and circumstances, the case of the petitioner appears to be one in which the valuable constitutional rights of the petitioner to a speedy investigation and trial has been infringed and therefore proceeding against the petitioner deserves to be quashed since allowing such criminal proceeding would amount to abuse of process of law. Therefore without going into merits of the case, the criminal proceeding arising out of Madhepur P.S. Case No. 15 of 2011 against the petitioner is hereby quashed and the writ petition is allowed.

(Arun Kumar Jha, J)

Anuradha/-

AFR/NAFR	NAFR
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