IN THE HIGH COURT AT CALCUTTA

(Criminal Revisional Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

C.R.R. No. 1697 of 2012

With

CRAN No. 1 of 2012

(Old No. CRAN 3082 of 2012)

Pranit Rai

Vs.

State of West Bengal & Anr.

Mr. Deep Chaim Kabir, Sr. Adv.
Mr. Mazhar Hossain Chowdhury
Md. Zeeshanuddin

.....For the petitioner.

Mr. Avishek Sinha

.....For the State.

Hearing Concluded On : 01.04.2026

Judgment On : 30.04.2026

Krishna Rao, J.:

1. The petitioner has filed the present application under Section 482 of the Code of Criminal Procedure, 1973, praying for quashing of proceedings of G.R. Case No. 59 of 2006 pending before the Learned Court of the Chief Judicial Magistrate, Darjeeling, arising out of Darjeeling Sadar Police Station Case No. 31 of 2006 dated 23rd May, 2006, under Sections 420/467/468/471/409/120B of the Indian Penal Code, 1860 and Sections 13(1)(d)/13(2) of the Prevention of Corruption Act, and all orders passed by the Learned Chief Judicial Magistrate including the order passed by the Learned Additional District and Sessions Judge, 3rd Court, Darjeeling, dated 27th June, 2011, rejecting the application filed by the petitioner for discharge and affirmed the order passed by the Learned Chief Judicial Magistrate, Darjeeling by an order No. 45 dated 27th August, 2009.

2. On the basis of written complaint of the Principal Secretary and Council Project Director, SSA, Darjeeling Gorkha Hill Council (hereinafter referred to as "DGHC") dated 22nd May, 2006, the Police of Sadar Police Station, Darjeeling initiated an FIR No. 31 of 2006 dated 23rd May, 2006, under Sections 420/467/468/471/409/120B of the Indian Penal Code against Shri Lakpa Rynden, WBCS, Ex-Education Secretary, DGHC and Council Project Officer, SSA and seven others including the petitioner herein on the following allegations:

> *"A case of fraudulent drawl & misappropriation of fund from SSA, DGH Account No. 641 maintained with DCCB, Darjeeling has*

come to our notice. This drawl of fund relates to the disbursement of funds under SSA for construction of new School Buildings, Water & Toilet Blocks in 102 schools, construction of additional class rooms in 90 schools and the total fund involved in this is Rs.5,14,50,000/- (rupees five crore fourteen lakhs and fifty thousand only). It appears that this fraud has been committed with collusion of ex-Education Secretary, Shri L. Rynden, staff of SSA cell Namely, late Dilip Kumar Rai, Bishan Thapa, Bijan Thapa, Ramesh Thapa, SAE Prenit Rai. There appears to be collusion between these officers & staff with the branch managers of DCCB, Darjeeling namely Mr. D.M. Tamang, B.B. Chhetri, and Mr. S. Miya. The fund has been fraudulently withdrawn and misappropriated from the available SSA funds in DGHC starting December 2004 up till March 2005. This fraudulent drawl of fund has taken place from the Current Account No.641 of District Central Cooperative Bank (DCCB), Darjeeling with the involvement of the Ex-Education Secretary, DGHC and the Council Project Officer SSA, DGHC Shri L. Rynden, WBCS, Branch Manager In-charge of DCCB, Darjeeling Shri D.M. Tamang and Managers Shri S. Miya, Shri B.B. Chhetri and the Council SSA Staff viz. Late Dilip Kumar Rai, Shri Bishan Thapa, Shri Ramesh Thapa, Shri Bijan Thapa and Shri Prenit Rai. It appears that the aforementioned persons in collusion withdrew an amount of Rs. 514.50 lakhs from the DCCB vide 30 cheques drawn at different dates on the same account and received the amount entirely in cash but there is no trace of this amount having been officially disbursed to the alleged VEC/WEC. Late Dilip Kumar Rai who functioned as Cashier in SSA Cell and others received the cash amount as per the enclosed statement of the Bank, Dilip Kumar Rai, cashier, SSA cell, DGHC expired on 22/10/05. Shri Rynden has been transferred since March, 2005 and presently posted in District Magistrate's Office, Darjeeling.

To detail out the matter further, the following sequence of events have taken place:-

***1.** The Current Account No. 641 in DCCB, Darjeeling was opened in the name of Sarba Shiksha Abhiyan, DGHC vide Memo No. 676/Edn/SSA/2004 dated 19.10.2004 from Shri*

L. Rynden, Secretary Education Department, DGHC. The letter of request to the Manager for opening the account mentioned that the Account will be operated upon jointly by (1) Principal Secretary, DGHC and (2) Secretary Education and Council Project Officer, DGHC SSA Cell. However, it appears that Shri Rynden tampered with this letter and erased the word "jointly" and inserted the word "either" and also "or" in the said letter. The specimen signature document available from the Bank records show that there was an initial intention of opening a "Savings Account" which later was crossed and "Current Account" opened. It is also evident from the reverse of this Specimen Signature Card that mode of operation has been filled up as "to be operated either by CPS or by Education Secretary" and all other columns on this reverse side has been left blank particularly the one that is used for office purpose regarding the verification and confirmation of the opening of Account. There is no signature of the Ledger Keeper, the Accountant or the Branch Manager. My discussion with the present Branch Manager of DCCB reveals that there could be a possible collusion of the Branch Manager in opening a Current Account in place of the Savings Account since a Savings Account is likely to pose more problems for drawl of huge amount of fund in cash. The tampering of letter also goes to indicate that the Branch Manager has been either careless or colluded with others so as to facilitate the fraudulent drawl of funds.

2. *During the period starting 4th December 2004 and up till 23rd March 2005 a total of 30 cheques were "self" drawn by Shri Rynden (out of 34 cheques issued) and the entire amount withdrawn in cash by either one or the other signatory from SSA Cell along with Shri Rynden. Only four cheques were credited to an account No. 623 of VEC which was duly transferred to the said account.*

3. *The above stated cheques relate to grant of fund for New School Building & construction of Additional class rooms. During the above stated period, files connected with this matter was dealt solely by Shri Rynden to process for grant of funds for construction of 102 New School Building @ Rs.*

4,85,000/- (Rs 4,50,000/- for the building & Rs. 35,000/- for TWS (toilet & water supply), totaling to Rs. 4,94,70,000, 15 schools for construction of Additional class rooms @ Rs. 90,000/- and 11 schools @ Rs. 60,000/- (totaling to Rs. 19,80,000/-). It is also unknown as to why the amount granted for New School Building which is normally granted @ Rs. 3,50,000/- was enhanced to Rs. 4,50,000/- by Shri Rynden on his own.

4. *From the office records of SSA Cell, we have retrieved the bills which were prepared in favour of President/Secretary of VEC/WEC but as is seen from the above records that no amount was ever handed over to the VEC or the WEC either in cash and of course, not by Cheque. The Cash Book available in the SSA Cell is left completely blank during this period and no records as to any cash withdrawal or disbursement of the amount has been kept. Due to the death of the Cashier Dilip Kumar Rai, it is difficult to ascertain as to why this record keeping was not done.*

5. *There is no authentic record indicating in whose favour or to whom was this cash withdrawn from the Bank disbursed or handed over.*

6. *These entire transactions came to light when the audit conducted by Sr. Auditor form the Office of Pr..AG (Audit) dated 17.11.05 gave adverse comments regarding handling of SSA funds, particularly the non submission of Utilization certificates relating to the Civil Works, following which this office asked the respective VECs/WECs for submission of Utilization Certificates for the funds purported to have been credited in their favour by the Account Payee Cheques from the SSA fund. There was a complete denial from all VECs/WECs for having received any fund from SSA for construction of new school buildings or additional class rooms.*

7. *All the above actions appear to have been taken by Shri Rynden the then Secretary Education Department and Council Project Officer SSA, DGHC without approval of the Principal Secretary, DGHC or the Empowered Councilor (Now Ex-Councilor Shri A.R. Dewan) or the Chief Executive Councilor, DGHC."*

3. When the petitioner came to know that his name is incorporated in the FIR, the petitioner has voluntarily surrendered before the Learned Court of Chief Judicial Magistrate on 11th June, 2006 and he was granted interim bail on 10th July, 2006 and subsequently the interim bail was confirmed on 4th September, 2006.

4. On 18th September, 2006, the prosecution made prayer for addition for adding Sections 13(1)(d)/ 13(2) of the Prevention of Corruption Act and the Learned Chief Judicial Magistrate allowed the prayer of the prosecution. On 28th May, 2009, the Investigating Officer filed an application for extension of time for submitting report in final form and the Learned Magistrate has allowed the said prayer on the same day. After completion of investigation, the police have submitted charge sheet being No. 37 of 2009 dated 11th August, 2009, under Sections 420/467/468/471/409/120B of the Indian Penal Code read with Sections 13(1)(d)/ 13(2) of the Prevention of Corruption Act against all accused persons except one Dilip Kumar Rai who had died during the pendency of investigation. On 24th June, 2010, the Police submitted supplementary chargesheet No. 54 of 2010 by incorporating certain documents.

5. The allegation made against the petitioner is that one self cheque being No. 70227 dated 18th March, 2005, amounting to Rs. 3,60,000/- issued by the principal accused, namely, Lakpa Ryden to the petitioner and the petitioner has withdrawn the said amount by putting his signature at the back side of the cheque from the concern bank. The petitioner has filed an application before the Learned Chief Judicial Magistrate for his discharge from the case on the ground that the date of FIR is dated 23rd May, 2006 and the police has filed charge sheet on 11th August, 2009, through two years from the date of first arrest expired on 8th June, 2008, as three accused persons, namely, Ramesh Thapa, Biren Thapa and Bijoy Thapa were arrested on 8th June, 2006 and three years from the first arrest expired on 8th June, 2009, extension of time for investigation filed on 28th May, 2009, Chargesheet was filed on 11th August, 2009 and the Learned Magistrate took Cognizance on 12th August, 2009. The application filed by the petitioner was rejected by the Learned Magistrate by an order No. 45 dated 27th August, 2009.

6. Being aggrieved with the order passed by the Learned Magistrate, the petitioner has preferred a revisional application before the Learned Additional District and Sessions Judge, 3rd Court, Darjeeling being Criminal Revision No. 17 of 2009. The revisional application filed by the petitioner was rejected on 27th June, 2011, which is impugned in the present application.

7. Mr. Deep Chaim Kabir, Learned Senior Advocate representing the petitioner submits that the police registered the FIR on 23rd May, 2006. As per the provisions of Section 167(5)(iii) of the Code of Criminal Procedure Code as amended in the State of West Bengal, the statutory period for completion of investigation for any other type of case (including Special Case which is neither Magistrate triable nor Sessions triable) is two years. Period of two years completed on 8th June, 2008, as the first accused persons were arrested on 8th June, 2006 but the Police have submitted charge sheet on 11th August, 2009 i.e. after the period of two years. He submits that if Section 167(5)(ii) is taken into consideration the time period for completion of investigation is three years from first arrest for solely Sessions Triable Case under Chapter XVIII of the Indian Penal Code. Period of three years completed on 8th June, 2009 but the Investigating Officer has filed an application for extension of time to complete investigation on 28th May, 2009, which the Learned Magistrate has extended the same mechanically. He submits that on 28th May, 2009, the Learned Magistrate had no jurisdiction to extend the time for investigation as on 18th September, 2006 after adding Sections 13(1)(d)/13(2) of the Prevention of Corruption Act was added and the case became triable by the Learned Court of Special Judge under the Prevention of Corruption Act.

8. Mr. Kabir submits that on 18th September, 2006, the prosecution has filed an application for addition of Section 13(1)(d)/13(2) of the Prevention of Corruption Act, thus on addition of the said Section, the Learned Magistrate lost its jurisdiction but the Learned Magistrate passed several orders even accepting chargesheet and taking cognizance which are without any jurisdiction. He submits that once the police invoked the provisions of Prevention of Corruption Act, the Learned Magistrate lost its jurisdiction and he ought to have transferred the case record to the Learned Special Court having

Jurisdiction to deal with the case under the provisions of Prevention of Corruption Act.

9. Mr. Kabir submits that the order passed by the Learned Magistrate for extension of time to complete the investigation is also without any jurisdiction. He submits that once the police have invoked the provisions of Prevention of Corruption Act by adding Sections 13(1)(d)/13(2), from the said day itself the Learned Magistrate lost his jurisdiction to proceed with the case, but the Learned Magistrate has passed several orders.

10. Mr. Kabir submits that the petitioner has raised all the points before the Learned Magistrate as well as before the Learned Additional District and Sessions Judge, 3rd Court, Darjeeling but both Courts failed to consider the issues raised by the petitioner.

11. Mr. Kabir submits that there are no sufficient materials collected by the investigating agency against the petitioner except alleged recovery of one cheque which bears signature of the petitioner on the back side of the said cheque. He submits that there are no other corroborative materials available on record to prove the involvement of the petitioner in any of the offences as per the chargesheet submitted by the police. It is also not the case of prosecution that the petitioner has filled up the amount in words and figure in the said cheque.

12. Mr. Kabir submits that that the petitioner was working as intern and he was not a public servant and no property was entrusted to the petitioner to constitute the offence of breach of trust. He submits that the police have invoked the provisions of Sections 409 and 420 of the IPC but it is settled law that allegation of cheating and criminal breach of trust cannot go together. He submits that there is no allegation that the petitioner has induced anyone to delivery of any property to him on any misrepresentation. He submits that there is no allegation that the petitioner has committed any forgery. He further submits Section 13(1)(d)/13(2) of the Prevention of Corruption Act is not applicable to the petitioner.

13. Mr. Avishek Sinha, Learned Advocate representing the State submits that during investigation, the Investigating Officer has seized one cheque from bank being cheque No. 70227 dated 18th March, 2005, for Rs. 3,60,000/- in which at the back of the cheque, the signature of the petitioner is appearing and the same is duly corroborated by the report of Hand Writing Expert. He submits that whether the said amount received by the petitioner or not and the petitioner has got any benefit from the said cheque amount is the matter of trial.

14. Mr. Sinha submits that when the FIR was initiated and the same was forwarded to the Learned Magistrate, at the relevant point of time, the Magistrate had the power. He submits that after addition of Section 13(1)(d)/13(2) of the Prevention of Corruption Act, the Learned Magistrate has not transferred the case to the Special Judge.

15. Mr. Sinha submits that the petitioner was engaged as contract worker in the said establishment and the petitioner has entered into an agreement and the agreement is also seized by the police during investigation and thus the same is to be proved during trial.

16. Mr. Sinha submits that the petitioner has relied upon the degree certificate of Civil Engineering which he has obtained in the year 2008 and from the said documents, the petitioner intents to prove that at the time he was an intern but the same cannot decide in an application under Section 482 of the Cr.P.C and the same is also to be proved by the petitioner in trial.

17. Section 167(5)(ii) and (iii) of the Code of Criminal Procedure, 1973, as amended by the State of West Bengal, reads as follows:

> ***"167. Procedure when investigation cannot be completed in twenty-four hours.-***
>
> *(5) [West Bengal]. – In its application to the State of West Bengal, in section 167, -*
>
> ***"167.*** *(5) If, in respect of—*
>
> *(ii) any case exclusively triable by a court of session or a case under Chapter XVIII of the Indian Penal Code, 1860 (45 of 1860), the investigation is not concluded within a period of three years, or*
>
> *(iii) any case other than those mentioned in clauses (i) and (ii), the investigation is not concluded within a period of two years,*
>
> *from the date on which the accused was arrested or made his appearance, the Magistrate shall make an order stopping further investigation into the offence and shall discharge the accused unless the officer making the investigation satisfies the*

> *Magistrate that for special reasons and in the interests of justice the continuation of the investigation beyond the periods mentioned in this sub-section is necessary."*

18. Initially the police registered an FIR for the offence under Sections 420/467/468/ 471/409/120B of the Indian Penal Code and during investigation, the Investigating Officer filed an application for addition of sections and by an order dated 18th September, 2006, Sections 13(1)(d)/13(2) of the Prevention of Corruption Act were added. Once Sections 13(1)(d)/13(2) is added, the case became a Special Case under the Prevention of Corruption Act. Once it becomes a Special Case, the said case will fall under Clause (iii) of Section 167(5) of the Code of Criminal Procedure, 1973 as amended under West Bengal State Amendment. The petitioner has voluntarily surrendered before the Learned Magistrate on 11th June, 2006, thus the date of arrest of the petitioner is to be taken into consideration from 11th June, 2006 and not 8th June, 2006 as claimed by the petitioner.

19. On 28th May, 2009, the Investigating Officer prayed for extension of time to complete investigation and on the same day, the Learned Magistrate has extended time for investigation and on completion of investigation, the Police submitted chargesheet on 11th August, 2009. In the case of ***Hussainara Khatoon and Others Vs. Home Secretary, State of Bihar, Patna,*** reported in ***(1980) 1 SCC 108,*** the Hon'ble Supreme Court held that:

> ***"8.*** *We had given direction by our order dated February 26, 1979 that the State Government*

should enquire into cases where the offences charged against under trial prisoners are triable as summons cases, for the purpose of ascertaining whether there has been compliance with the provision enacted in Section 167 sub-section (5) of the Code of Criminal Procedure. It is clear from this provision that if in any case trial by a Magistrate as a summons case the investigation is not concluded within a period of six months from the date on which the accused was arrested, the Magistrate must make an order stopping further investigation into the offence, unless the officer making the investigation satisfies the Magistrate that for special reasons and in the interest of justice, the continuation of the investigation beyond the period of six months is necessary. With a view to securing compliance with this provision we directed that if, in a case triable by a Magistrate as a summons case, it is found that investigation has been going on for a period of more than six months without satisfying the Magistrate that, for special reasons and in the interest of justice, the continuation of the investigation beyond the period of six months is necessary, the State Government will release the undertrial prisoner, unless the necessary orders of the Magistrate are obtained within a period of one month. The reason for giving this direction was that in such a case the Magistrate is bound to make an order stopping further investigation and in that event, only two courses would be open: either the police must immediately proceed to file a charge-sheet, if the investigation conducted till then warrants such a course, or if no case for proceeding against the undertrial prisoner is disclosed by the investigation, the undertrial prisoner must be released forthwith from detention. The State Government has not filed before us any report of compliance with this direction and we would, therefore, require the State Government to do so within a period of ten days from today. We would also request the High Court to draw the attention of the Magistrates to the provision in Section 167 sub-section (5) and ensure compliance with the requirement of this provision by the Magistrate."

20. In the case of ***State of West Bengal Vs. Falguni Dutta and Another*** reported in ***(1993) 3 SCC 288*** wherein the Hon'ble Supreme Court held that:

> ***"6.*** *It may here be mentioned that Section 12-A was first inserted by Amendment Act of 1964. It then empowered the Central Government to specify any order under Section 3 to be a special order the contravention whereof may be tried summarily to which the provisions of Sections 262 to 265 of the Code were made applicable. The proviso stipulated that in the case of conviction in a summary trial it shall be lawful for the Magistrate to pass a sentence of imprisonment not exceeding one year. Subsequently by Amendment Act 18 of 1981, Section 12-A was substituted by the present provisions and new Sections 12-AA to 12-AC were inserted. The avowed object of these legislative changes was expeditious disposal of offences under the Act by Special Courts employing summary procedure and applying the provisions of the Code to such trials save as otherwise provided. This enabled the Special Courts to take cognizance of the offences under the Act without a formal order of commitment. It thus becomes clear from the plain language of the provisions introduced by Act 18 of 1981 that the legislature desired to ensure that all offences under the Act were tried by the Special Court constituted under Section 12-A in a summary manner applying the provisions of Sections 262 to 265 of the Code and further provided that in case of conviction the sentence shall not exceed two years, bringing the offence within the definition of a summons-case under the Code. But for the insertion of Section 12-A in its present form and Section 12-AA, the offence under Section 7(1)(a)(ii) of the Act would have attracted the definition of a warrant-case. It is, therefore, obvious that the Amending Act 18 of 1981 has brought about a substantial change."*

21. The petitioner entered appearance in the case on 11th June, 2006. The petitioner filed an application under Section 167(5) of the Code Of Criminal Procedure, 1973 as amended in the State of West Bengal, on

12th August, 2009, that is after filing of Chargesheet and taking cognizance. In the case of ***Durgesh Chandra Saha Vs. Bimal Chandra Saha and Ors.*** reported in ***AIR 1996 SC 740*** wherein the Hon'ble Supreme Court held that:

> ***"8.*** *After giving our anxious consideration to the respective submission of the learned counsel appearing for the parties it appears to us that the language of Section 167(5) of CrPC as amended by the West Bengal Act is quite clear in indicating that the said section is applicable only in a case where the investigation was still pending but not in a case where investigation had been completed and the charge-sheet had been filed. It appears to us that Section 167(5) CrPC as amended, is intended to ensure speedy completion of investigation within the time frame specified therein otherwise to face an order of discharge of the accused against whom investigation without any just cause to the satisfaction of the court has been kept pending. Where investigation has been completed, a different situation, not contemplated under Section 167(5) CrPC emerges. We may indicate here that if a criminal case is kept pending for a very long time without any just cause thereby seriously affecting the guarantee under Article 21 against deprivation of personal liberty, the law is well-settled that the court, in an appropriate case may quash the criminal proceeding as indicated in the Constitution Bench decision of this Court in A.R. Antulay case reported in (1992) 1 SCC 225. Hence, unnecessary liberal construction of Section 167(5) CrPC with a view to protect the right against deprivation of personal liberty as contended by Mr Ghosh is not called for."*

22. In the present case, two years from the date of the appearance of the petitioner completed on 11th June, 2008. The petitioner has not filed any application before submission of chargesheet that the investigation is not completed within a period of two years. The petitioner kept silent till 27th August, 2009, by this time investigation was completed and chargesheet was filed. Under the West Bengal Amendment of Section 167(5) of the Code of Criminal Procedure, if the investigation continues beyond the specified time, the accused can pray for stopping of investigation and can pray for his discharge from the case, but his right lapses if the chargesheet is filed and thereafter the accused filed an application for discharge. Under the provision of 167(5) of the Code of Civil Procedure, as amended in the State of West Bengal is only for the purpose of expeditious investigation and if investigation is not completed, the accused has a right to pray for stopping further investigation after the period provided either under 167(5)(ii) or (iii). Once chargesheet is filed, the accused cannot take the advantage of the said provision.

23. As regard to the provisions of Prevention of Corruption Act, 1988, Section 3 of the Prevention of Corruption Act, 1988 provides that the Central Government or the State Government may, by Notification in the Official Gazette, appoint as many Special Judges as may be necessary for such area for such case or group of cases (a) to try any offence punishable under the said Act, (b) any conspiracy to commit or any attempt to commit or any abetment of any of the offences specified in clause (a).

24. Section 4(1) provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, or any other law for the time being in force, the offences specified in sub-section (1) of section 3 shall be tried by the Special Judge only.

25. Section 5 of the Prevention of Corruption Act, 1988, provides for procedure and powers of special Judge. As per Sub-Section (1) of Section 5 of the Act of 1988, a special Judge may take cognizance of offences without the accused being committed to him for trial and, in trying the accused persons, shall follow the procedure prescribed by the Code of Criminal Procedure, 1973, for the trial of warrant cases by the Magistrate.

26. Sub-Section (4) of Section 5 of the Prevention of Corruption Act, 1988, reads as follows:

> ***"5. Procedure and powers of special Judge. – (4)*** *In particular and without prejudice to the generality of the provisions contained in sub-section (3), the provisions of sections 326 and 475 of the Code of Criminal Procedure, 1973 (2 of 1974), shall, so far as may be, apply to the proceedings before a special Judge and for the purposes of the said provisions, a special Judge shall be deemed to be a Magistrate."*

27. On 1st September, 2006, the prosecution has filed an application for addition of Section 13(1)(d)/13(2) of the Prevention of Corruption Act, 1988 and on 18th September, 2006, the Learned Magistrate allowed the Investigating Officer to add the said Sections. Once Sections 13(1)(d)/13(2) of the Prevention of Corruption Act, 1988, is added, the matter became Special Case and the Learned Magistrate had to send the record before the Learned Special Judge having jurisdiction to try the matter in connection with the Prevention of Corruption Act,1988. After addition of Section of the Prevention of Corruption Act, 1988, the Learned Magistrate lost its jurisdiction to deal with the said matter any further. In the instant case, the Learned Magistrate even after addition of Sections under the Prevention of Corruption Act, 1988, continue with the matter in his file and pass various orders including extending time for investigation and also taken cognizance after receipt of charge sheet. Thus, all orders passed by the Learned Magistrate after adding Sections under the provisions of Prevention of Corruption Act including extending time to complete investigation and taking cognizance is without jurisdiction.

28. Considering the facts and circumstances of the case mentioned above, the orders passed by the Learned Magistrate after the order dated 18^{th} September, 2006 by which sections 13(1)(d)/13(2) of the Prevention of Corruption Act, 1988, are added are set aside and quashed. The Learned Chief Judicial Magistrate, at Darjeeling is directed to immediately send the record of G.R. Case No. 59 of 2006 arising out of Darjeeling Sadar Police Station Case No. 31 of 2006 dated 23^{rd} May, 2006 along with all accused persons, to the concern Special Judge, under the Prevention of Corruption Act, 1988 immediately.

29. The Learned Special Judge shall immediately on receipt of records of the above mentioned case, shall take appropriate steps in accordance with law. The prime accused is not arrested till date. The Special Judge is directed to take appropriate steps of arrest of the prime accused and if the police failed to arrest the prime accused, the Learned Special Judge by segregating the case of the petitioner and other appearing accused persons in accordance with law to conclude the trial as early as possible.

30. The petitioner being aggrieved with the order of the Learned Magistrate dated 27th August, 2009, filed revision before the Learned Additional District and Sessions Judge, 3rd Court, Darjeeling and the Learned Additional Sessions Judge rejected the revisional application on 27th June, 2011. As this Court quashed and set aside all orders after the order dated 18th September, 2006, including the order dated 27th August, 2009, passed by the Learned Magistrate, thus the order passed by the Learned Additional District & Sessions Judge, is set aside and quashed.

31. This Court has not gone into the merit of the case. The petitioner shall raise all issues before the Learned Special Judge, Prevention of Corruption Act, once the record is transferred/ sent to the Learned Special Judge. If the petitioner files any application, the Special Judge shall decide the same in accordance with law without influence of any observations made in this order.

32. In view of the above, this Court did not find any justification to quash the proceeding as prayed for by the petitioner. However this order will not prevent the petitioner for taking appropriate steps before the Learned Special Judge in accordance with law.

33. **CRR No. 1697 of 2012** is **disposed of**. **CRAN No. 1 of 2012 (Old No. CRAN 3082 of 2012)** is **disposed of.** Interim order is vacated.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)