IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. M.P. No. 2763 of 2024

1. Badri Narayan Lal, aged about 78 years, son of D.N. Lal, R/o 704 Vasundra Apartment, Doranda, Ranchi, P.O. & P.S. Doranda, District Ranchi, Jharkhand
2. Mahendra Prasad Singh, aged about 79 years, son of late Bindeshwari Prasad Singh, R/o Ashok Kunj Apartment, Ashok Kunj, P.O. Doranda, P.S. Argora, District Ranchi, Jharkhand
3. Sheo Dahin Prasad Singh @ Sheo Dahin Singh aged about 84 years, son of late Thakur Prasad Singh, R/o H /1, 207, Harmu Housing Colony, Ranchi, Post Office Harmu, Police Station Argora, District Ranchi, Jharkhand

… … Petitioners

Versus

The State of Jharkhand through Vigilance (now ACB)

… … Opposite Party

CORAM: HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Petitioners : Mr. A.K. Kashyap, Sr. Advocate
: Ms. Supriya Dayal, Advocate
For the Opposite Party : Mrs. Priya Shrestha, Spl.PP

CAV on 27.10.2026 **Pronounced on: 03.11.2026**

This petition has been filed for quashing of the entire criminal prosecution/proceeding including the order dated 27.09.2023 passed by learned Special Judge (A.C.B), West Singhbhum at Chaibasa, in connection with Vigilance Case No.21 of 1992 registered under Section 5 of Prevention of Corruption Act, and Section 161/34 of Indian Penal Code, arising out of Adityapur P.S. Case No.76/1992, whereby cognizance has been taken against the petitioners for offence under Section 161 read with Section 34 of the Indian Penal Code and Section 5 of the P.C. Act, which is now pending in the court of learned Special Judge (A.C.B), West Singhbhum at Chaibasa.

2. Subsequently, one I.A. No.181 of 2025 was filed seeking to add additional relief challenging the order framing charge dated 04.12.2024 whereby charge has been framed for alleged offence under Section 7 (a) of the Prevention of Corruption (Amended) Act, 2018. The charge was framed in the following manner:

> *"Name of the person hereby charge you as follows: -*
>
> *1. Badri Narayan Lal*
> *2. Mahendra Prasad Singh*
> *3. Sheo Dahin Singh*
>
> *Firstly: -That you, on or about the 06th day of June, 1992 at Govt. Polytechnic Adityapur being a Public Servant (invigilator of Answer sheets of Polytechnic Examination) take gratification of various amounts such as Rs. 5,900/-(From Badrinarayan Lal) & Mahendra Prasad Singh, Sheodahin Singh other than legal remuneration for evaluation of the answer sheets of the aforesaid examination.*
>
> *and thereby committed an offence punishable under section 7(a) of Prevention of Corruption (Amended) Act, 2018 and within my cognizance.*
>
> *And I hereby direct that you be tried by me on the said charge.*
>
> *The contents read over and explained them in 'Hindi' to which they pleaded not guilty and claimed to be tried."*

3. The case records reveal that there were altogether 11 accused persons and 7 were enlarged on bail and 4 remained absent. The records as placed before this court reveals that a few persons had expired and a report regarding their death was called for. The order sheet dated 04.12.2024 reveals that the present three petitioners had appeared before the court and two accused namely, Baldev Prasad Sahu and Shakti Nath Jha, who were on bail, were absent. Consequently, bail of Baldev Prasad Sahu and Shakti Nath Jha was cancelled and non-bailable warrant was directed to be issued and the case of present petitioners was split and charge was framed against the petitioners. Thus, the case remained pending awaiting the appearance of other co-accused persons.

4. The three accused persons against whom charge has been framed are the petitioners before this Court.

5. The aforesaid interlocutory application was disposed of vide order dated 15.05.2026 and the petitioners were permitted to challenge the order framing charge against them.

6. Subsequently, the following additional prayer was added vide order dated 15.05.2026:

> "*Further, for quashing of the entire criminal prosecution/proceeding including the order dated 04.12.2024 passed by learned Special Judge (A.C.B) West Singhbhum at Chaibasa, in connection with Vigilance Case No.21 of 1992, corresponding to Special Case No.21 of 1992, whereby and whereunder charge has been framed under Section 7 (a) of Prevention of Corruption (Amended) Act, 2018 and the case is fixed for after charge evidence, which is now pending in the court of learned Special Judge (A.C.B) West Singhbhum at Chaibasa*."

Arguments of the petitioners

7. Learned Senior counsel for the petitioner has submitted that as per the F.I.R., the date of alleged offence is 06.06.1992 and the F.I.R. was lodged on 07.06.1992, but it has been registered under Section 5 of the Prevention of Corruption Act, 1947 read with Section 161/34 of Indian Penal Code ***(IPC)***. He submits that on the date of occurrence as well as on the date of lodging of F.I.R., the Prevention of Corruption Act, 1947 stood repealed and replaced by the Prevention of Corruption Act, 1988 and further by virtue of the Prevention of Corruption Act, 1988 itself, the provision of Section 161 of IPC was also repealed.

8. He has further submitted that the charge sheet in the present case was submitted on 25.04.2000 committing the same mistake for alleged offence under Section 5 of the Prevention of Corruption Act, 1947 read with Section 161 / 34 of IPC and cognizance was also taken on 27.09.2023 for alleged offence under Section 5 of the Prevention of Corruption Act and Section 161/34 of the 1947 Act, unmindful of the fact that the said provisions under which cognizance have been taken, were already repealed.

9. The learned counsel has further submitted that charge has been framed during the pendency of this case under Section 7 (a) of the Prevention of Corruption Act as amended in 2018 and has submitted that the punishment prescribed under section 7(a) of the Prevention of Corruption Act, as amended in 2018, is much higher as compared to the punishment prescribed under Section 7 (a) of the Prevention of

Corruption Act, 1988. He has submitted that the charge could not have been framed under Section 7 (a) of Prevention of Corruption (Amended) Act, 2018 as the alleged incident involved in this case is covered under the Prevention of Corruption Act, 1988.

10. The learned counsel has further submitted that so far as the 3 petitioners are concerned, they were the examiners and there is an allegation of taking illegal gratification in connection with correction of answer sheets. The learned counsel has then submitted that there has been inordinate delay in the matter inasmuch as the F.I.R. was lodged on 07.06.1992 and the charge has been framed in the year 2024 i.e. after 31 years of registering the F.I.R. He submits that all the 3 petitioners are senior citizens and they are entitled for speedy trial and their rights under Article 21 of the Constitution of India has been violated. They have been facing the mental agony since the year 1992. He further submits that the order sheet of the learned court reveals that the case was adjourned from time to time awaiting the sanction order. Therefore, continued criminal proceedings cannot be sustained.

11. He has referred to the judgements passed by Hon'ble Supreme Court reported in (***1998) 7 SCC 507 (Raj Deo Sharma Vs. State of Bihar)***; ***(1999) 7 SCC 604 (Raj Deo Sharma Vs. State of Bihar)*** and ***(2002) 4 SCC 578 (P. Ramachandra Rao Vs. State of Karnataka)*** paragraphs 21, 28 and 29. Paragraphs 21 and 29 of the judgement reported in ***(2002) 4 SCC 578 (P. Ramachandra Rao Vs. State of Karnataka)*** are quoted as under:

> *21. Is it at all necessary to have limitation bars terminating trials and proceedings? Is there no effective mechanism available for achieving the same end? The Criminal Procedure Code, as it stands, incorporates a few provisions to which resort can be had for protecting the interest of the accused and saving him from unreasonable prolixity or laxity at the trial amounting to oppression. Section 309, dealing with power to postpone or adjourn proceedings, provides generally for every inquiry or trial, being proceeded with as expeditiously as possible, and in particular, when the examination of witnesses has once begun, the same to be continued from day to day until all the witnesses in attendance have been examined, unless the court finds the adjournment of*

the same beyond the following day to be necessary for reasons to be recorded. Explanation 2 to Section 309 confers power on the court to impose costs to be paid by the prosecution or the accused, in appropriate cases, and putting the parties on terms while granting an adjournment or postponing of proceedings. This power to impose costs is rarely exercised by the courts. Section 258, in Chapter XX CrPC, on trial of summons cases, empowers the Magistrate trying summons cases instituted otherwise than upon complaint, for reasons to be recorded by him, to stop the proceedings at any stage without pronouncing any judgment and where such stoppage of proceedings is made after the evidence of the principal witnesses has been recorded, to pronounce a judgment of acquittal, and in any other case, release the accused, having effect of discharge. This provision is almost never used by the courts. In appropriate cases, inherent power of the High Court, under Section 482 can be invoked to make such orders, as may be necessary, to give effect to any order under the Code of Criminal Procedure or to prevent abuse of the process of any court, or otherwise, to secure the ends of justice. The power is wide and, if judiciously and consciously exercised, can take care of almost all the situations where interference by the High Court becomes necessary on account of delay in proceedings or for any other reason amounting to oppression or harassment in any trial, inquiry or proceedings. In appropriate cases, the High Courts have exercised their jurisdiction under Section 482 CrPC for quashing of first information report and investigation, and terminating criminal proceedings if the case of abuse of process of law was clearly made out. Such power can certainly be exercised on a case being made out of breach of fundamental right conferred by Article 21 of the Constitution. The Constitution Bench in A.R. Antulay case [(1992) 1 SCC 225 : 1992 SCC (Cri) 93] referred to such power, vesting in the High Court (vide paras 62 and 65 of its judgment) and held that it was clear that even apart from Article 21, the courts can take care of undue or inordinate delays in criminal matters or proceedings if they remain pending for too long and putting an end, by making appropriate orders, to further proceedings when they are found to be oppressive and unwarranted.

……

29. *For all the foregoing reasons, we are of the opinion that in Common Cause case (I) [(1996) 4 SCC 33 : 1996 SCC (Cri) 589] [as modified in Common Cause (II) [(1996) 6 SCC 775 : 1997 SCC (Cri) 42]] and Raj Deo Sharma (I) [(1998) 7 SCC*

507 : 1998 SCC (Cri) 1692] and (II) [(1999) 7 SCC 604 : 1999 SCC (Cri) 1324] the Court could not have prescribed periods of limitation beyond which the trial of a criminal case or a criminal proceeding cannot continue and must mandatorily be closed followed by an order acquitting or discharging the accused. In conclusion we hold:

(1) The dictum in A.R. Antulay case [(1992) 1 SCC 225 : 1992 SCC (Cri) 93] is correct and still holds the field.

(2) The propositions emerging from Article 21 of the Constitution and expounding the right to speedy trial laid down as guidelines in A.R. Antulay case [(1992) 1 SCC 225 : 1992 SCC (Cri) 93] adequately take care of right to speedy trial. We uphold and reaffirm the said propositions.

(3) The guidelines laid down in A.R. Antulay case [(1992) 1 SCC 225 : 1992 SCC (Cri) 93] are not exhaustive but only illustrative. They are not intended to operate as hard-and-fast rules or to be applied like a straitjacket formula. Their applicability would depend on the fact situation of each case. It is difficult to foresee all situations and no generalization can be made.

(4) It is neither advisable, nor feasible, nor judicially permissible to draw or prescribe an outer limit for conclusion of all criminal proceedings. The time-limits or bars of limitation prescribed in the several directions made in Common Cause (I) [(1996) 4 SCC 33 : 1996 SCC (Cri) 589] , Raj Deo Sharma (I) [(1998) 7 SCC 507 : 1998 SCC (Cri) 1692] and Raj Deo Sharma (II) [(1999) 7 SCC 604 : 1999 SCC (Cri) 1324] could not have been so prescribed or drawn and are not good law. The criminal courts are not obliged to terminate trial or criminal proceedings merely on account of lapse of time, as prescribed by the directions made in Common Cause case (I) [(1996) 4 SCC 33 : 1996 SCC (Cri) 589] , Raj Deo Sharma case (I) [(1998) 7 SCC 507 : 1998 SCC (Cri) 1692] and (II) [(1999) 7 SCC 604 : 1999 SCC (Cri) 1324] . At the most the periods of time prescribed in those decisions can be taken by the courts seized of the trial or proceedings to act as reminders when they may be persuaded to apply their judicial mind to the facts and circumstances of the case before them and determine by taking into consideration the several relevant factors as pointed out in A.R. Antulay case [(1992) 1 SCC 225 : 1992 SCC (Cri) 93] and decide whether the trial or proceedings have become so inordinately delayed as to be called oppressive and unwarranted. Such time-limits cannot and will not by themselves be treated by any court as a bar to further

continuance of the trial or proceedings and as mandatorily obliging the court to terminate the same and acquit or discharge the accused.

(5) The criminal courts should exercise their available powers, such as those under Sections 309, 311 and 258 of the Code of Criminal Procedure to effectuate the right to speedy trial. A watchful and diligent trial Judge can prove to be a better protector of such right than any guidelines. In appropriate cases, jurisdiction of the High Court under Section 482 CrPC and Articles 226 and 227 of the Constitution can be invoked seeking appropriate relief or suitable directions.

(6) This is an appropriate occasion to remind the Union of India and the State Governments of their constitutional obligation to strengthen the judiciary — quantitatively and qualitatively — by providing requisite funds, manpower and infrastructure. We hope and trust that the Governments shall act.

We answer the questions posed in the orders of reference dated 19-9-2000 and 26-4-2001 in the abovesaid terms.

12. The learned counsel has submitted that the law in connection with right of speedy trial and quashment of the criminal proceedings in cases of inordinate delay has been ultimately summarized by the Hon'ble Supreme Court in the judgement reported in ***(2002) 4 SCC 578 (supra)*** paragraph 21, 28 and 29 and has submitted that reference to the judgement reported in ***(2002) 4 SCC 578 (supra)*** would be sufficient to bring home the aforesaid point.

13. The learned counsel has also submitted that a balance has to be maintained between the right of the prosecution to proceed against the accused persons and the right of the accused persons to have speedy trial. The essential factors would be the length of delay, justification for delay, and the prejudice which has been caused to the accused.

14. The learned counsel has further submitted that the original sanction order has not been placed before the trial court and what has been placed is only a certified copy. He submits that in absence of original sanction order, cognizance could not have been taken, and therefore, the order taking cognizance itself is bad in law.

15. For this proposition, he has relied upon the judgement passed by this Court reported in ***2013 (2) JCR 41 (Shailendra Prasad Vs. State of Jharkhand) paragraphs 5 and 7***. The learned counsel submits that in the said case decided by this Court, the photocopy of sanction order was filed before the trial court and original was not filed and it was asserted by the State that the original sanction order will be produced at the time of trial. The learned counsel submits that in the present case before the learned trial court the sanction order was not produced for quite some time and subsequently a certified copy has been produced on the basis of which cognizance has been taken. He submits that in absence of original sanction order, cognizance could not have been taken on the basis of any certified copy.

16. ***Learned counsel for the opposite party representing ACB*** has referred to the order dated 04.12.2024 annexed along with I.A. No.181 of 2025 and has submitted that though the record was of the year 1992 but the co-accused remained absent, and therefore, their bail was cancelled and non-bailable warrant was issued against them. She submits that the delay, if any, is not attributable to the prosecution. The learned counsel has also submitted that as per the F.I.R. itself, the petitioners were caught while they were in the room where the answer sheets were being corrected and money was also recovered during search. The learned counsel has submitted that at the time of conducting the raid, incriminating materials were found whereby the name of the examinees were disclosed in a chit of paper with their code number and the modus operandi of committing the offence had also come to light. She has referred to the allegations made in the F.I.R. itself which deals with the materials collected at the time of raid. She submits that since incriminating materials were collected during the raid itself, no prejudice has been caused to the petitioners.

17. The learned counsel has also submitted that so far as the framing of charge under Section 7 (a) of the Prevention of Corruption (Amended) Act, 2018 is concerned, except for the extent of punishment, the ingredients are one and the same. The learned counsel for the State has also submitted that in case there is any irregularity in

the order framing charge, the entire proceeding may not be quashed and at best it can be remanded back to the court concerned for framing fresh charge.

18. The learned counsel for the opposite party has relied upon the judgment passed by this Court in ***Cr.M.P. No. 725 of 2025 (Dr. Harendra Kumar Singh Vs. Central Bureau of Investigation)***, dated 27.11.2025 and has submitted that, in the said case, the case was registered as Vigilance Case No.10 of 2011 and by referring to the new provisions of Section 218 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), it has been held that as per the said provision, if the prosecution sanction does not come within a period of 120 days, there is a deemed sanction. She has submitted that once BNSS 2023 has come into force, the concept of deemed sanction would apply in the present case as the charges in the present case have been framed after BNSS 2023 has come into force. Cognizance has been taken prior to coming into force of BNSS 2023.

19. Learned counsel has also submitted that in order dated 25.04.2000, it was recorded that a communication was received vide Letter No. 450 dated 18.03.1998 issued by Sri A.K. Upadhyay, Additional Secretary, Department of Science and Technology, Government of Bihar. However, the document which has been forwarded by the concerned court pursuant to the order of this Court reveal that the communication in connection with sanction has been issued by A.K. Upadhyay, the Secretary of the Department of Science and Technology. She has submitted that A.K. Upadhyay, the Secretary of the Department of Science and Technology, was the competent authority for grant of sanction and sanction order was already placed on record. She has also submitted that charge have already been framed and therefore, there is no illegality in the impugned proceeding involved in the present case.

20. ***To this, the learned Senior counsel for the petitioners*** submits that not only the punishment but also the ingredients of Section 7 (a) of the Prevention of Corruption Act, 1988 and the provision of Section 7 (a) of Prevention of Corruption Act, 1988 as amended in 2018 are

different. The order framing charge cannot be sustained in law as explained above.

Findings of this Court

21. The prosecution story as mentioned in the FIR dated 07.06.1992 reveals that the case was initiated on the basis of the typed report filed by one Pramanand Ram, Sub-divisional Officer, Seraikela on 07.06.1992 lodged at Adityapur Police Station, which was registered as Adityapur P.S.Case No. 76 of 1992 dated 07.06.1992 under sections 161 r/w section 34 of the Indian Penal Code and 5 of the P.C. Act. It has been alleged therein that the Deputy Commissioner, West Singhbhum at Chaibasa had received a secret information that bribe amount was being taken from the examinees for evaluation of their answer book in Adityapur Government Polytechnic. On the instruction of the Deputy Commissioner, West Singhbhum at Chaibasa, the informant along with other government officials reached at the spot on 06.06.1992 at 16.45 hours along with Officer-in-charge, Adityapur Police Station, where the allegations were found true and incriminating articles were also recovered from the place where the answer sheets were being corrected and the petitioners and other co-accused persons were correcting the answer sheets.

22. The FIR was registered under section 161 read with section 34 of IPC and section 5 of the Prevention of Corruption Act and charge sheet dated 20.02.2000 was filed under section 161 read with section 34 of IPC and section 5 of the Prevention of Corruption Act and cognizance was also taken under the same sections on 27.09.2023.

23. This Court finds that the entire allegation relates to offence committed after coming into force of Prevention of Corruption Act, 1988, by which Prevention of Corruption Act, 1947 as well as section 161 and other analogous sections of IPC, were repealed. However, right from the FIR till the order taking cognizance, the sections referred to were section 161 read with section 34 of IPC and section 5 of the Prevention of Corruption Act, but no specific mention was made of whether it was Prevention of Corruption Act, 1947 or

Prevention of Corruption Act, 1988. However, the fact remains that the offences under Prevention of Corruption Act, 1947 was referrable to section 5 and the offences under Prevention of Corruption Act, 1988 were referrable to section 7. Thus, apparently, the FIR as well as the cognizance was taken under repealed section 161 of IPC and also under repealed section 5 of Prevention of Corruption Act, 1947 although the entire incident related to events when the aforesaid provisions were already repealed and the Prevention of Corruption Act, 1988 was already enacted. However, the charge has been framed under section 7 (a) of the Prevention of Corruption (Amendment) Act, 2018 as amended in the year 2018 and there is no dispute that 2018 amendment is also not applicable in the present case.

24. Being faced with aforesaid situation, the learned counsel has submitted that such irregularities will not vitiate the entire criminal proceedings and the matter regarding framing of charge could be remanded to rectify the errors.

25. There is no doubt that the learned special court had the jurisdiction to deal with the case, be it under Prevention of Corruption Act, 1947, or Prevention of Corruption Act, 1988 or Prevention of Corruption (Amendment) Act, 2018.

26. The records of the case reveal that the petitioners had filed one Cr. Misc. Case No.837 of 2000 (R) challenging that investigation of the case and vide order dated 20.09.2000 an order was passed directing the Superintendent of Police to take necessary action in the matter and to communicate the court the reason for the delay in submission of the final form in the case. However, the final form was submitted during the pendency of Cr. Misc Case No.837 of 2000 (R) and the proceedings before this Court was dropped as the case had become infructuous. The final form placed on record reveals that the same was submitted against the 11 accused persons including the petitioners for alleged offence under Section 161 read with Section 34 of the Indian Penal Code and Section 5 of the P.C. Act. The order dated 09.01.2001 is quoted as under: -

> *"In this case the prayer of the petitioner is for quashing of the investigation. Since the final form has already been submitted, this application has become infructuous. Accordingly, it is dismissed as such. However, the petitioner will be at liberty to challenge the order taking cognizance if an when the occasion arises."*

27. Upon submission of charge-sheet (final form) dated 24.04.2000, the charge sheet was perused by the learned Special Judge (Vigilance) Ranchi on 25.04.2000, who observed that the original sanction order against the accused persons accorded by the competent authority was not on record and what was placed on record was only a communication letter issued vide letter no.450 dated 18.03.1998 under the signature of Additional Secretary, Department of Science and Technology, Government of Bihar addressed to Superintendent of Police, West Singhbhum at Chaibasa and was filed along with the case diary. The court was of the view that since the original sanction order accorded by the competent authority against the accused persons was not on record, and in absence of valid sanction order on record, no cognizance could be taken. In such circumstances, the Special Judge had written a letter to the Secretary, Science and Technology, Govt. of Bihar as well as Superintendent of Police, West Singhbhum and Dy. S.P. Seraikella and I.O. of the case to produce the original sanction order accorded by the competent authority so that cognizance could be taken.

28. The order dated 25.04.2000 is quoted as under:

> *"Perused the final form report filed in Adityapur P.S. Case no.76/92 dated 7.6.92 out of which special case 21/92 arises. From the perusal of the final form report and the original case diary it transpires that the I.O. i.e. Dy.S.P. Saraikella has submitted chargesheet u/s 161 read with 34 I.P.C. and u/s 5 of the P.C. Act against 11 accused persons mentioned in the chargesheet. From the perusal of the case diary it transpires that the original sanction order against the accused persons granted by the competent authority is not on the record and only a communication issued vide letter no.450 dated 18.3.98 issued under the signatures of A.K.Upadhyay, Addl. Secretary, Department*

of Science and Technology, Govt. of Bihar addressed to the S.P., West Singhbhum, Chaibasa is filed alongwith the case diary. From the perusal of the aforesaid letter it transpires that the competent authority has granted sanction in terms of P.C. against all the 11 accused persons for prosecution in the case but the original sanction order accorded against all the accused persons is not with the record. In this view of the matter in absence of valid sanction, no cognizance can be taken against the accused persons at this stage. Office to write a letter to the Secretary, Science and Technology Govt. of Bihar, Deputy Commissioner, West Singhbhum Chaibasa S.P. Chaibasa and Dy. S.P. Seraikella, the I.O. of the .... Obtain the original sanction order from…… authority against all the accused persons forthwith transmit the said sanction order to this court so that the cognizance in the case can be taken. From the perusal of the record submitted by the I.O. alongwith the case diary it further transpires that the I.O. of the case have submitted photo copy of the seizure list and the original seizure list is kept with the record of the case. List this case on 24.5.2000 waiting original sanction order against all the 11 accused persons for cognizance."

29. Thereafter, the case was transferred to the court of learned Special Judge (ACB) West Singhbhum at Chaibasa.

30. The order sheet further reveals that the case was adjourned from time to time awaiting the sanction order from the competent authority, the Secretary, Science and Technology Govt. of Bihar, to whom letter was issued pursuant to order dated 25.04.2000. The order dated 10.08.2023 again records adjournment of the case to 27.09.2023 awaiting sanction order.

31. Cognizance dated 27.09.2023, has been taken against 11 accused persons on the basis of certified copy of the letter issued by the Department of Science and Technology, Govt. of Bihar vide Letter No. 450 dated 18.03.1998, addressed to the S.P, West Singhbhum at Chaibasa treating the same as the sanction for prosecution.

32. It is the specific case of the petitioners in paragraph 16 of the petition that the case was pending since 2000 awaiting the original sanction order and suddenly without receiving the original sanction

accorded by the competent authority against the accused persons, the Special Judge, (ACB), West Singhbhum, Chaibasa has taken cognizance after 31 years.

33. On 05.10.2026, this court recorded the submission of the learned counsel for the petitioners who stated that still the sanction order is not on record. In such circumstances, this Court has passed an order dated 05.10.2026 directing the office to call for a copy of the certified copy of the sanction order which has been received by the learned court vide letter no.1509 / Patna dated 08.07.2015 of the Assistant Director, Department of Science and Technology, Bihar Patna as has been mentioned in the order dated 27.09.2023.

34. Pursuant to the aforesaid order dated 05.10.2026 passed by this court, the learned court has placed on record the following documents through letter no.137 /2026 dated 08.10.2026.

S. No.	Documents	No. of Sheet	Annexure
1	Copy of order dated 09.01.2001 passed by the Hon'ble High Court of Jharkhand Ranchi in Cr. Misc. No.837 of 2000	01	Annexure – A (Page No.1)
2.	Copy of Memo No.4495 dated 20.02.2001 of the Hon'ble Court through which the aforesaid order received.	01	Annexure – A (Page No.2)
3	Copy of Certified copy of sanction order	01	Annexure – B (Page No.1)
4	Copy of Memo No.1509/Patna, dated 08.07.2015 of the Dy. Director, Science and Technology Department Bihar Patna	01	Annexure – B (Page No.2)

35. The enclosure to the said letter contained in Memo No.1509/Patna, dated 08.07.2015 of the Dy. Director, Science and Technology Department, Bihar, Patna reveals that ***the copy of the certified copy of the sanction order is the same letter no. 450 dated 18.03.1998 which has been referred to in the earlier order dated 25.04.2000 produced before the court along with the case diary.*** In the order dated 25.04.2000, the learned trial court did not record that the original of letter no. 450 dated 18.03.1998 was not placed on record but recorded that the said letter was issued under the signature of A.K. Upadhyay, Additional Secretary, Department of Science and

Technology, Government of Bihar and that it was only a communication but the required sanction of the competent authority i.e. Secretary, Science and Technology, Government of Bihar was not placed on record.

36. As rightly pointed out by the learned counsel for the opposite party that there appears to be an error committed by the learned trial court in order dated 25.04.2000 itself. It has been rightly pointed out that the letter no. 450 dated 18.03.1998 was issued by the Secretary of the Department and not by the Additional Secretary of the Department of Science and Technology. Upon perusal of the certified copy of the said letter no.450 dated 18.03.1998 as forwarded by the learned court pursuant to the order of this Court, it reveals that the letter was issued by the Secretary, Science and Technology Department, Government of Bihar mentioning about grant of sanction for prosecution to all the 11 accused persons and the same was not just a communication under the signature of A.K. Upadhyay, Additional Secretary, Department of Science and Technology. The designation of A.K. Upadhyay as Additional Secretary, Department of Science and Technology, Government of Bihar has been wrongly mentioned in the order dated 25.04.2000 while referring to letter no. 450 dated 18.03.1998. Under such error, it appears that the trial court proceeded waiting for the order of sanction issued by the Secretary, Science and Technology Department Government of Bihar and also made communications to the Secretary, Science and Technology Department Government of Bihar asking the said authority to forward the sanction order. It was this very letter whose certified copy was again forwarded to the court concerned vide letter contained in Memo No.1509 dated 08.07.2015 and upon perusal of certified copy of letter no. 450 dated 18.03.1998, the learned court has taken cognizance and has proceeded with the case.

Upon perusal of the said letter, it reveals that it was issued by the Secretary, Science and Technology Department stating that the sanction for prosecution has been given with respect to all the 11

accused persons and the letter is addressed to the Superintendent of Police, West Singhbhum, Chaibasa and also to the public prosecutor.

37. Accordingly, it cannot be said that sanction order has not been placed on record as argued by the learned counsel for the petitioners. This court is of the considered view that the learned court has committed no error by recording that sanction order has been placed on record.

38. So far as the judgment reported in ***2013 (2) JCR 41 (Jhr) (Shailendra Prasad Vs. State of Jharkhand)*** is concerned, the same does not apply to the facts of the case. A reference has been made by the learned counsel for the petitioners to paragraph 7 of the said judgment. The case arises out of Railway Property Unlawful Possession Act, 1966 and the order refusing discharge was under challenge. In paragraph 7 of the said judgment, it was submitted by the petitioner that the court had committed grave error in law by treating photocopy of the letter dated 31.07.1996 issued by Chief Security Commissioner granting permission for lodging the complaint against the accused persons before the court of law to be amounting to the order of sanction against the petitioner and consequently it was submitted that in absence of proper sanction order issued by the competent authority, cognizance could not have been taken against the petitioner, who was the public servant.

The said judgement does not apply to the present case. In the present case, the sanction order on the basis of which cognizance has been taken, was issued by the Secretary of the Science and Technology Department. By referring to Adityapur P.S. case No.76 of 1992 dated 07.06.1992, sanction has been granted with respect to prosecution of all the 11 accused persons in the case. The said letter No. 450 dated 18.03.1998 has been issued by the Secretary, Science and Technology Department, Government of Bihar, Patna and addressed to the Superintendent of Police, West Singhbhum, Chaibasa.

39. Further in the judgment passed by Hon'ble Supreme Court reported in ***(2014) 16 SCC 807 (State of Punjab Vs. Labh Singh),*** it has been held that if the public servant has already attained the age of

superannuation on the date of cognizance by the court, sanction for prosecution is not required. Admittedly, in the present case, all the accused persons have attained the age of superannuation.

40. In view of the aforesaid discussions the order taking cognizance does not call for any interference for want of sanction for prosecution.

41. Further challenge to the order taking cognizance is that the cognizance has been taken under the repealed provisions and the case relates to the provisions of Prevention of Corruption Act, 1988. In the present case, cognizance has been taken for the alleged offence under Section 161/34 IPC and also under Section 5 of the Prevention of Corruption Act, 1947, but both of which stood repealed vide Prevention of Corruption Act, 1988. However, the petitioners were being proceeded for having taken illegal gratification for the purpose of correction of answer sheets and the petitioners very well know about the allegations against them. It is not the case of the petitioners that there are no provisions under the Prevention of Corruption Act, 1988 so as to cover the alleged offence. In such circumstances, this Court is of the view that no prejudice has been caused to the petitioners by virtue of cognizance having been taken by mentioning wrong provisions of law. It is further not in dispute that the concerned court has the jurisdiction to take cognizance under the provisions of Prevention of Corruption Act, 1988. Thus, in spite of there being irregularity in the order taking cognizance inasmuch as repealed provisions have been mentioned and not the corresponding provisions under the Prevention of Corruption Act, 1988, the order taking cognizance does not call for any interference.

42. This is over and above the fact that the stage of the case has also changed and charge has been framed for alleged offence under section 7 (a) of Prevention of Corruption (Amendment) Act, 2018. The order framing charge is also under challenge by arguing that the entire criminal case falls during the period when the Prevention of Corruption Act, 1988 was in existence. This Court is of the considered view that such irregularity cannot be a reason for quashing the entire

criminal proceedings, but the order framing charge is fit to be set-aside and the matter is to be remanded for passing fresh order on the point of charge.

<u>On the point of prolonged criminal case and quashment of prosecution</u>

43. So far as the argument of the petitioners with respect to prolonged criminal case against the petitioners is concerned, this Court finds no reason to quash the criminal case on the ground of delay when seen in the light of the judgement reported in ***(2002) 4 SCC 578 (P. Ramachandra Rao Vs. State of Karnataka), para 29 as quoted above and*** the following reasons:

A. The petitioners had challenged the entire criminal proceeding and its investigation earlier in Criminal Miscellaneous Case No.837 of 2000 (R), and the same was said to be infructuous upon filing of charge sheet, and liberty was reserved with the petitioners to challenge the order taking cognizance. This happened in the year 2000.

B. Thereafter, the trial court recorded that final form along with case diary and a communication issued by the Additional Secretary, Department of Science and Technology, Mr. A.K. Upadhyay vide letter No. 450 dated 18.03.1998 was available. While passing the aforesaid order, the trial court committed serious error of record inasmuch as the said Letter No. 450 dated 18.03.1998 was not issued by the Additional Secretary of Science and Technology Department, but was issued by the Secretary, Science and Technology Department himself, stating grant of prosecution sanction. On account of such error, the court adjourned the matter for want of original sanction letter from Secretary, Science and Technology Department and sent letters to the investigating officer as well as to the sanctioning authority, that is, Secretary, Science and Technology Department, Government of Bihar asking them to forward the order granting sanction for prosecution, and the case remained pending. Ultimately when the certified copy of the same Letter

No. 450 dated 18.03.1998 was forwarded to the trial court, the trial court found that it was a certified copy of the sanction for prosecution by the competent authority-Secretary, Science and Technology Department, Government of Bihar and took cognizance of offence by the impugned order dated 27.09.2023.

By virtue of the orders passed by this Court, the relevant records were called for and this Court also finds that Letter No. 450 dated 18.03.1998 was issued by the Secretary, Science and Technology Department and not by Additional Secretary, Science and Technology Department as discussed above. Thus, the error of record committed by the trial court in the year 2000 continued for a long time and ultimately the cognizance was taken vide order dated 27.09.2023 when certified copy of the same letter Letter No. 450 dated 18.03.1998 was forwarded to the trial court.

C. This Court further finds that the case was still pending for appearance of the co-accused persons.

D. The allegations against the petitioners are very serious, inasmuch as they are alleged to be involved in taking illegal gratification while correcting answer sheets and incriminating articles were also seized during the raid from the same place where they were correcting the answer sheets.

The petitioners throughout enjoyed the privilege of bail and the charge sheet was submitted as back as in the year 2000.

Considering the totality of facts and circumstances, this Court is of the view that no prejudice has been caused to the petitioners by virtue of any delay and whatever was required to be done by the prosecution so far as the submission of charge sheet and the letter issued by the Secretary, Science and Technology Department, Government of Bihar in connection with sanction for prosecution, was already placed on record.

In such circumstances, this Court is not inclined to quash the entire criminal proceedings on the ground of delay.

44. **<u>Summary:</u>**

a) The order taking cognizance does not call for interference.

b) The order framing charge for alleged offence under the Prevention of Corruption (Amendment) Act, 2018 cannot be sustained in the eyes of law as the entire case relates to the period when the Prevention of Corruption Act, 1988 was in force.

c) The prayer to quash the entire criminal proceedings on the ground of delay/prolonged litigation is also rejected.

45. Consequently, the matter is remanded to the learned trial court for passing fresh order on framing charge, taking into consideration that the entire alleged offence relates to the period during which the Prevention of Corruption Act, 1988 was in force and the provision of Section 161 of Indian Penal Code was repealed.

46. The petitioners are directed to appear before the learned court on 01.12.2026 at 11.30 a.m. Since this is an old case relating to FIR of the year 1992 and the petitioners are senior citizens, the parties to cooperate with the proceedings so that the case is taken to a logical end at the earliest.

47. By the impugned order, the case of two co-accused persons have been split and their bail bonds have been cancelled and they are not the petitioners before this Court. It will certainly be open to the learned court to pass a similar order of splitting the case, if otherwise, there is no legal impediment.

48. This petition is partly allowed to the extent it relates to order framing charge.

49. Pending interlocutory application, if any, is dismissed as not pressed.

(Anubha Rawat Choudhary, J.)

Date of Pronouncement: 03.11.2026
Date of Uploading: 06.11.2026
Saurav/-