

18/11/2021
Aloke Kr. Jha

ALOKE KR. JHA
Advocate
Biraagar, Raiganj, U/Dinajpur
En. No.-WB-1031/1977, MJD052474

In the Court of the Special Judge, Uttar Dinajpur.
[under West Bengal Criminal Law Amendment Act]
&
In the Court of the Additional Session Judge, 1st Court
Raiganj, Uttar Dinajpur.

Case No. TR-02/2010

State -VS- Krishnapada Sarkar
...Petitioner/Acquittal

In the matter of :

An Application For -

~~VDO~~ ^{Video} recording of the proceedings of
the petition for rectification of the
order passed on 26.06.2020 at own
cost which is fixed for hearing today
considering the issue of large
gathering in COVID-19 pandemic,
transparency, sensitivity, truth and
seriousness of the matter of
corruption and application of
Article-14, 19, 21, 129, 149, 150, 151
of Constitution of India and other
legal issues raised thereon regarding
wrongful prosecution.

AND

In the matter of :

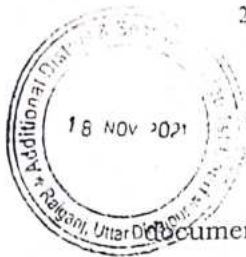
Providing an opportunity to the
petitioner for production of relevant

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Documents and about ten eminent persons having knowledge of accounting, auditing, banking, office administration and occupation of the petitioner before the court in support of the fact stated in aforesaid petition and furnishing necessary information and explanation to clear all the doubts of Ld. Court for rectification of the order of judgement passed on 26.06.2020.

AND

In the matter of :

Passing on necessary order as may deem fit and proper considering the evidence and information obtained during the course of trial from witness and accused of the case.

AND

In the matter of :

TR-02/2010 corresponding GR Case No. 623/2001 disposed of isefore the Court.

AND

In the matter of :

Sri Krishnapada Sarkar,

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En. No.-WB-183/1977, 9434052474

Son of Late Gour Pada Sarkar, of
Ramendrapally, P.O. & P.S. Raiganj
- 733134, Dist. Uttar Dinajpur.

.....Appellant

VERSUS

State of West Bengal

Represented by:-

The District Magistrate,

Uttar Dinajpur,

Office at Karnajora,

P.O. Karnajora - 733130,

Dist. Uttar Dinajpur.

.....Respondent

Humble application filed on behalf
of the acquitted accused the
applicant Sri Krishna Pada Sarkar.

Most Respectfully Sheweth :-

1. **That**, your petitioner would like to state that he is very much obliged and grateful to the learned court for acceptance of his application praying for permission to produce relevant documents before the court to establish that the petitioner was falsely and purposefully implicated by unlawful means in aforesaid TR-2/2010 (GR-623/2001) case and for fixing the date for hearing of the petition on 18.11.2021.

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En. No. WB-109/11977, 943462474

2. **That**, your petitioner would like state about the justification and necessity of VDO recording of the hearing of aforesaid petition considering the issue of transparency, sensitivity, integrity, and corruption of public servants by abusing official power, disobeying preamble of the constitution of the country and its basic foundations particularly the supremacy of the constitution and separation of powers between the legislature, the executive and the judiciary and ignoring the application of article-14,19,21,129,149,150,151 of the constitution and violation of the several provisions IPC and other laws, guideline, rules applicable thereon as stated and explained in the petition/petitions already filed before the court and also stated in brief separately in the Annexure-A enclosed herewith which your petitioner have to explain further by producing relevant documents in support of his views.

3. **That** your petitioner would like to state that in aforesaid case he has been victimized and made scapegoat not only by the public servants of the executives system but also by the judicial system by delaying in delivery of justice to keep the matter sub-judice for ever so that the corrupt public servants can enjoy it peacefully as save heaven ignoring the constitutional authority and responsibility as well as dignity of the office of C & AG, Governor/President and Public Account Committee (PAC) of the state assembly/parliament as stated in Article-149,150 and 151 respectively. In this context, it is to be stated that

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the objectives of the preamble of the constitution for justice, liberty of expression, equality of status and to promote/ensure dignity of all fraternity and individual have been ignored and the matter has also been stated in his earlier petitions filed on several dates. It is to be noted that PAC members are legislature and politician. It is apparent from this case that the basic foundation of the constitution regarding separation of power as stated here above has been destroyed. Hence the petitioner seeks cooperation and support from the learned court to enable access to justice and strengthen democracy.

4. **That** the petitioner would like to state that education and expertise knowledge acquired from the recognized university and/or from professional institutions like ICAI, ICWAI, ICSI, IIM to obtain master degree or professional degree in the field of accounts, audit, commerce, finance, law have absolutely been ignored in framing the unlawful case by the person having no requisite education, knowledge, competency, capacity and legal authority in this regard. It is to be noted that aforesaid institution are established by the law of the land and organized and run by highly educated, learned and reputed scholar person. It is also to be stated that the Governor of the state is the chancellor of the universities of the states and he is also responsible to discharge his duties in this case as per Article-151 of the constitution. In view of this fact it is very difficult to any prudent person to explain the



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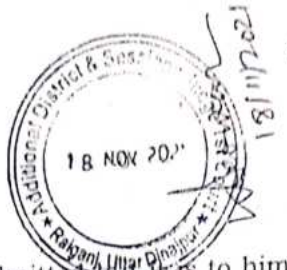
necessity and relevancy of higher education and the existence of aforesaid educational institutions.

5. **That** in aforesaid context the views and statement of Sk Abdul Bakar Hakkni, education minister of the Taliban Government of Afghanistan is very much relevant that there is no need of master or PhD degree to run the university education and their talibs having faith and knowledge of Islam religion is enough for this job. Accordingly highly educated scholar vice chancellor of Kabul University, Dr. Hamidullah Farooqi, PhD holder mastered in economics from Queens College of New York published so many well recognized papers on corruption and its economics effects on development has been discharged from his post by appointing in Mr. Asraf Ghairat a talib graduate in arts ignoring the protest of about 70 professors by their resignation from Kabul University. Whole world is surprised and worried considering the consequence about humanity and human civilization and watching the situation silently without recognizing the Taliban government and their way of governance. In this regard, your petitioner would like to express his anxiety about talibani process of administration which he has experienced during the course of his legal battle for more than twenty years for justice for aforesaid false and unlawful prosecution where numbers of mistake, actions or inactions of public servants as stated in his petitions have already been established and the few pending issues are yet to be established. The petitioner's have no difference of opinion about the mistake already

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En. No. WB-1081/1977, 9434852474

admitted to him or to any prudent person to be ensured about the nature of mistakes whether these are inadvertent or intentional keeping in view the fact of non delivery of justice for more than twenty years.

6. That your petitioner would like to state that it is very much encouraging and providing inspiration while the Hon'ble president of India, Dr A.P.J Abdul Kalam called the Chartered Accountants are the partner in nation building to honour and recognize the services of the chartered account profession. But at the same time it is very painful and frustrating while the petitioner as a chartered accountant becomes a victim and scapegoat for rendering his professional services appropriately towards the grant in aid sanctioned by the president of India for public benefit to hide public servants from their crime, corruption and money laundering activities for diversion and misappropriation of that fund for their own benefits and for promotion of criminal activities. That your petitioner believes that the funds generated out of corruption are being utilized for destruction of the basic foundation of the constitution. Commercialization or criminalization of politics, pre and post violence in election, terrorism, insurgency, enforcement of law of ruler instead of rule of law and other crime in the society are the consequence of aforesaid fact. So the change the attitude, mindset, perception as explained in the petition filed 24.06.2020 in point no-5 and rule of law are the key

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issues for proper utilization of public fund for public benefit.

7. **That** your petitioner most respectfully would like to state that to bring the truth in open daylight is the essence of the trial and any effort, action, inaction or intentional mistake to divert attention for suppression or misinterpretation of the true fact for protection of the public servants of legislative, executive, judicial or any other system involved in unlawful prosecution will definitely be considered as an action for destruction of the basic foundation and structure of the constitution, disobeying the preamble of the constitution of the country which ensure certain fundamental right to its citizen and attempts to tarnish, diminish or wipe out the confidence of the people in judiciary as per Article 129. Unfortunately, it has been observed that the court is very much negligent about truth and since inception very much careful to protect the corrupt public servants responsible for aforesaid unlawful prosecution. Consequently the petitioner had failed to obtain bail or any justice from the court below the apex court.

8. **That** the Hon'ble High Court passed the order dated 16.10.2001 against application 1st accused u/s 439 of Cr. P.C and orders dated 26.11.2001 and dated 20.12.2001 were passed by same bench against petition filed by the 2nd and 3rd accused respectively u/s - 482 of Cr.P.C It is to be stated that as per the order dated 26.11.2001, the warrant of arrest of 2nd accused Ex-C.M.O.H and Member Secretary of the Society then posted Writers Building, Kolkata as Deputy Director of jail was stayed with direction to

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serve notice to public prosecutor to list the same after two weeks. The case appeared in the list up to March, 2002 but nothing happened thereon and that stay order was in force in the trial court up to the year, 2012. Interestingly in the order dated 20.12.2001 for disposal of the petition filed by undersigned petitioner, the 3rd accused, on same matter, direction was given to surrender before trial court within three weeks knowing very well the consequences thereof. The aforesaid orders create serious doubt in the mind of every prudent person about the fairness, integrity and intention in the light of the principle and objective to provide natural to the citizen. Thereafter the bail petition u/s 438 of Cr.P. C filed before the trial court was rejected on 11.03.2003 and thereafter from high court on 24.06.2003. Ultimately the bail has been granted by the Supreme Court of India on 24.09.2004 and prior to that the warrant of arrest was stayed on the date of hearing of S.L.P on 13.02.2004 and accordingly the bail bond was executed on 29.11.2004. That a notice was issued to petitioner u/s 22 of the R. P. Act, 1950, vide memo no 1512(26)/610 dated 31.10.2005 for deletion of his name from voter list considering him absconding and not appearing before the court in spite of the aforesaid fact which are nothing but an incident of the contempt of the order of the apex court. (Copy of correspondence with the office of C.E.C.I, MOH & FW, D.M, and court orders are enclosed herewith which itself speak about the truth.

9. **That** the other issues about harassing and humiliating actions or inactions for delaying or denying of justice have been stated in the petition submitted on 25.03.2019 such as non supply of the copies of important seized documents u/s 161 & 173 of Cr. P. C, non production of key witness or production of fake witness, non compliance of the high court order CRR-no-1722 of 2013 with CRAN-2120 of 2013 dated 08.10.2013 to dispose of the case with one year, calling death report of petitioner from police (Order No-

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44 dt.21.07.2016) etc. The matter of corruption have been stated in the petitions dated 20.01.2018 and 24.06.2020 and in the petition dated 06.03. 2021, the order of final judgement given by changing his occupational identity purposefully from independent practicing chartered accountant to an employee as UDC of C.M.O.H, Uttar Dinajpur to convict him unlawfully u/s 468, 409, and 120B of IPC has been explained as miscarriage of justice.

10. That he has lost the feelings of death and life which he has been facing since the year, 2001 after institution of this unlawful prosecution. That the petitioner his is age more than 65 years and he has been sufferings from hypertension, diabetes and coronary artery disease since the year 2005 which have been developed due to trace, tension, anxiety and pain of his professional death and death by character assassination and/or defamation in consequence of aforesaid facts relating to the unlawful prosecution. Subsequently the CABG surgery was done in December, 2014 and thereafter the surgery for carcinoma diseases was done in May, 2017 to remove one kidney, gallbladder and other part of carcinoma affected and doubtful organs of the body and the facts have already been informed to court. In April 2021 he was admitted to Jeevan Rekha Nursing Home, Raiganj for seven days for medical treatment of COVID-19 diseases which has damaged his lungs severely. He feels that he is in the row of death but still alive at the blessing of the God to established the truth, very essence of the trial for strengthen Democracy for best interest of the of the people of the Court and therefore eagerly waiting for justice within his lifetime to come out as clean and as per his desire.

In the aforesaid facts, circumstances and the existing agony of this accused, the accused prays for:-

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En. No. WB-1031/1977, 5434052474

- a) Video recording of the proceedings of the petition for rectification of the order passed on 26.06.2020 at own cost which is to be heard on 18.11.2021 considering the issue of large gathering in COVID-19 pandemic, transparency, sensitivity, truth and seriousness of the matter of corruption and application of Article-14, 19, 21, 129, 149, 150, 151 of the Constitution of India and other legal issues raised thereon regarding wrongful prosecution.
- b) Providing an opportunity to the petitioner for production of relevant documents and about ten eminent persons having knowledge of accounting, auditing, banking, office administration and occupation of the petitioner before the court in support of the fact stated in aforesaid petition and furnishing necessary information and explanation to clear all the doubts of Ld. Court for rectification of the order of judgement passed on 26.06.2020.

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c) Any other or further order or orders which your honour consider fit and proper.

And your petitioner as in duty bound shall ever pray.

VERIFICATION

The contents of the above petition are all true to the best of my knowledge. I put my signature on this the 18th day of November, 2021 at Court premises at Raiganj.

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20/12
18/11/21

In the Court of the Special Judge, Uttar Dinajpur.
[under West Bengal Criminal Law Amendment Act]
&
In the Court of the Additional Session Judge, 1st Court
Raiganj, Uttar Dinajpur.

Case No. TR-02/2010

State -VS- Krishnapada Sarkar
...Petitioner/Acquittal

List of Section involved in the CASE NO. T.R-2/210
(G.R -623/2001), P.S- RAIGANJ

HC
Pm.
T.P.
18.11.2021

INDIAN PENAL CODE

1. **Section 119 of IPC**-Public servant concealing design to commit offence which it his duty to prevent.
2. **Section 120B of IPC**- (i) The accused conspired with two or more persons, (ii) In doing so the accused either did or caused to be done an illegal act or an act though not itself illegal by illegal means, (iii) Such an act done or caused to be done was an offence punishable under IPC, (iv) If the act so done was not an offence then an

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overt act had been done by one or more parties to such agreement in pursuance thereof.

3. **Section 166 of IPC-** The Public servant disobeying the law with intent to cause injury to any person.
4. **Section 167 of IPC-** The Public servant framing an incorrect document with intent to cause injury.
5. **Section 191 of IPC-** Giving false evidence (Chap. XI of False Evidence & Offence against Public Justice).
6. **Section 192 of IPC-** Fabricating false evidence (Chap. XI of False Evidence & Offence against Public Justice).
7. **Section 193 of IPC-** Punishment for false evidence (Chap. XI of False Evidence & Offence against Public Justice).
8. **Section 195 of IPC-** Giving and fabricating false evidence with intent to procure conviction of

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offence punishable with imprisonment (Chap. XI of False Evidence & Offence against Public Justice).

9. Section 196 of IPC- Using evidence knowing to be false (Chap. XI of False Evidence & Offence against Public Justice).

10. Section 204 of IPC- Destruction of documents to prevent its production as evidence. - Whoever secretes or destroys any document which he may be lawfully compelled to produce as evidence in a court of justice, or in any proceeding lawfully held before a public servant, as such, or obliterates or render illegible the whole or any part of such document with the intention of preventing the same from being produced or used as evidence before such court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

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11. **Section 211 of IPC-** False charge of offence made with intent to injure. as stated here above.

12. **Section 217 of IPC-** The Public servant disobeying the direction of law with intent to save a person from punishment or property from forfeiture.

13. **Section 218 of IPC-** The Public servant framing incorrect record or writing with intent to save a person from punishment or property from forfeiture.

14. **Section 219 of IPC-** The Public servant in judicial proceeding corruptly making report etc., contrary to law.

15. **Section 220 of IPC-** Commencement for trial or confinement by person having authority who knows that he is acting contrary to law.

16. **Section 383 of IPC- For Extortion-** Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or

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valuable security, or anything signed or sealed which may be converted into a valuable security, commit "extortion".

17. Section 386 of IPC- Extortion by putting in fear of death or grievous hurt to a person or any other shall be punished with imprisonment may be extended to ten years with fine.

18. Section 409 of IPC- For Criminal breach trust by **public servant**. – (i) Accused was a public servant, or a banker or merchant or agency or factor or broker or an attorney, (ii) In such capacity accused was entrusted with certain property or he gained domain over such property which was not his own, (iii) Accused committed criminal breach of trust with respect to such property.

19. Section 468 of IPC- Whoever commit forgery, intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term extend to seven years, and

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1874/1872

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En No. 108-1891/1877, No. 108/1872

Cr. P.C- Code of Criminal Procedure, 1973

20. **Section 313 of Cr. P.C-** Power to examine the accused.
21. **Section 315 of Cr. P.C-** Accused person to be competent witness
22. **Section 319 of Cr. P.C-** Power to proceed against other persons appearing to be guilty of offence.

THE PREVENTION OF CORRUPTION ACT, 1988.

23. **Section 7 of PAC-** Public Servant taking gratification other than legal remuneration in respect of an official act.
24. **Section 13 of PAC-** Criminal misconduct by a public servant.

West Bengal Societies Registration Act, 1961

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En. No. WB-1031/1971, 943405247

- 25. **Section 15** -Books of Accounts and Audit.
- 26. **Section 16** - Annual General Meeting.
- 27. **Section 17** - Annual and other returns.
- 28. **Section 18** - Custody of Assets.
- 29. **Section 23** - Investigation of affairs of a Society.

THE CONSTITUTION OF INDIA.

30. Preamble of the Constitution -

To secure all its citizen

- (i) JUSTICE, social, economic and political;
- (ii) LIBERTY of thought, expression, belief, faith & worship;
- (iii) EQUALITY of status and of opportunity; and
- (iv) To promote among them all FRATERNITY assuring the dignity of individual and the unity & integrity of the nation

31. Basic Features of the Constitution - The basic foundation an structure of the constitution remains same and cannot by any form of amendment be destroyed which consist of following features-

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- (i) Supremacy of the constitution;
- (ii) Republic and Democratic forms of Government;
- (iii) Secular character of the Constitution;
- (iv) Separation of powers between the legislature, the executive and the judiciary;
- (v) Federal character of the Constitution.

32. Article 14 for Equality Before Law- (i) Bias included in Malice or ill-will, (ii) Permissible Classification, (iii) Doctrine of Natural Justice (Principle of Natural Justice) & (iv) Judicial Review-Policy decision of Union of India in respect of economic matters cannot be interfered with in the court of law.

33. Article 19 - (i) For right to freedom of speech and expression in proceedings witnessed & heard in court, (ii) For right to practice any Profession.

34. Article 21 - For Right to Life, Personal liberty, lives with Dignity, Speedy Trial for conclusion of 20 years old case.

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35. Article 129- The Supreme Court shall be a court of record and shall have powers of such a court including the power to punish for contempt of itself. The confidence in the court of justice, which the people possess, cannot in any way, be allowed to be tarnished, diminished or wiped out by contumacious behavior of any person. Its impartiality and the glory of law has to be maintained, protected and strengthened.

36. Article 149- Duties and power of the Comptroller and Auditor General (C & AG). Section 14 of C & AG (DPCS) Act, 1971 specifies the power and duties of audit of the institution in addition to audit conducted by CA Firm, where the Grant from Govt. availed by that institutions is not less than 25.00 lakhs in a financial year.

37. Article 150- The accounts of the union and of the state shall be kept in such form as the president may, on advice of the C & AG, prescribe.

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38. Article 151- The report of C & AG, in case of the Union, shall be submitted to the President, who shall cause them to be laid before each House Parliament and in case of the state shall be submitted to the Governor of the state, who shall cause them to be laid before Legislature of the state.

GENERAL FINANCIAL RULE (GFR)

39. GFR 150- Supplementary Audit of the institution is conducted by C & AG as per sec. 14 of C & AG Act, in addition to audit conducted by CA Firm, where the Grant from Govt. availed by that institutions is not less than 25.00 lakhs in a financial year.

40. GFR 151- To sanction Grant for subsequent year, the grantor has to examine the annual financial statement and auditors' report thereon obtained from practicing chartered accountant, C & AG internal audit report, utilization certificate given in Form GFR19-A by the management of the Institution availed grant and the audit and performance report submitted by Indian Audit and Accounts Department.

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