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ALOKE K. JHA
Advocate
Bimagar, Raiganj, Uttar Dinajpur
No. WB-109/14 F-3405247

In the Court of the Special Judge, Uttar Dinajpur.

[under West Bengal Criminal Law Amendment Act]
CUM

In the Court of the Additional Sessions Judge, 1st Court
Raiganj, Uttar Dinajpur.

Case No. TR.02/2010

Copy for P.P.'s

Krishnapada Sarkar,

.....Applicant

Versus

State of West Bengal

.....Respondent

In the matter of : An Application For-

A. Hearing of the petitions of the appellant for rectification of the judgment passed on 26.06.2020 on urgent basis considering the fact of serious question of laws and corruptions involved thereof for keeping 22 years old unlawful prosecution pending purposefully by denying tactfully the hearing of written statement submitted u/s 313(5) of Cr.P.C.

B. Hearing of the facts and issues of corruption in public offices as stated in several petitions instead of often adopting corrupt practices of adjournment and re-fixing of the date of hearing after four to six months interval and at last about nine months to deny the justice by ignoring the petition of objection against adoption of that corrupt practice often and disobeying

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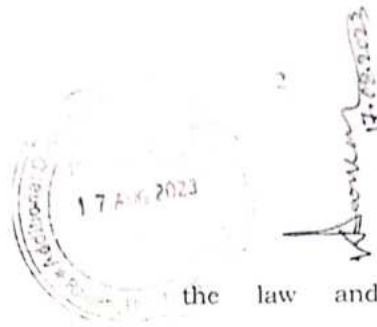
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Petition No. X 83 Dated 18/01/23

Signature of H.C.C



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ALOKE K R JHA
A. K. Jha
Bimalgar, Raigar, U.P.
No. WB-102/14 A 345547

the law and constitution of the country and public faith and confidence on democratic principles, constitutional and statutory bodies or institutions.

Most Respectfully Sheweth as follows:-

1. **That** your petitioner would like express his frustration, agony and surprise due to the fact of adjournment of the date of hearing often instead of hearing of the matter of the petition dated 06/03/2021 for rectification of mistake in the judgment passed on 26.06.2020 with baseless and wrong observation given thereon without providing any opportunity u/s 313(5) of Cr. P.C. In order No-87 dated 06/03/2021, Ld. Court has confirmed the petition for permission to produce relevant documents before the court to establish that the petitioner was falsely and purposefully implicated by unlawful means.
2. **That** the apparent mistakes observed in aforesaid judgment based on the baseless observation given thereof to hide the crime, corruption and wrong doings of public servants in this false prosecution in contravention of section 119, 120B, 166, 167, 191, 192, 193, 195, 196, 204, 211, 217, 218, 220, 383 & 386 of IPC, Section 7 & 13 of PCA and Article 14, 19, 21, 129, 149, 150, 151 of the constitution of India have been stated and explained in the earlier petitions.
3. **That** the adjournment of hearing of the petitions have been made by fixing or re-fixing the date of hearing after long four to five and at last about nine months long interval on

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A. Advocate
Bilagar, Raigarh
No WB-10911/1 3405247

23/06/2021, 18/11/2021, 22/04/2022, 28/06/2022, 03/09/2022 and 29.11.2022 to deny the justice in-spite of objection raised thereof by several written petitions as recorded in order no-89 '90 and 91. In the petition submitted on 28.06.2022 as acknowledged by Ld. court in order no-91 it has been stated that the petitioner is strongly objecting for adoption such old practice often as a tactic for delaying or denying of justice pending for last 21 years. Further stated therein that unethical tactic often used with the intention of denying justice to hide the public servants from their crimes and wrong doings in syndicate system of workings ignoring and disobeying the supremacy, glory and dignity of the constitution of the country and its preamble and basic foundation as well as the public faith and confidences thereof and other democratic institutions is serious crime and part of the larger conspiracy to assault upon the democratic principles and values directly.

4. **That** the Ld. Court has ignored the matter of aforesaid petitions and objection for adjournment of date of hearing often and passed an **order no- 92** on the date of hearing of the case on 29.11.2022 as "This court is busy to deal with number of NPDS cases in custody trial, sessions cases of murder and dacoities and congested diary does not permit to hear the case today as time constrained. The case is adjourned, fixing 17.08.2023 for hearing of the petition".
5. **That** your petitioner would like to state in context of the court order no.-92 that the Ld court has absolutely failed or negligent to do anything against dacoities of the



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No. WS-10311, 345217

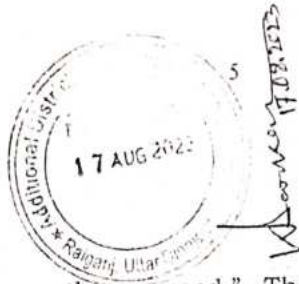
fundamental rights citizen ensured in the preamble of the constitution and murder of the constitution of country by disobeying it's basic structure in spite of strong objection raised in the last petition dated 28/06/2022 against the adoption of aforesaid corrupt practice of often adjournment of hearing of the case to deny the justice to the victim of false prosecution to hide the corruption of public servants which also stated therein as big scam and conspiracy. It is like put in fire in store of highly inflammable goods having invisible uninterrupted supply system thereof and thereafter calling fire brigade to put of that fire for befooling the innocent public as like as the policy of prince Duryadhan adopted to burn the Pandav brothers as stated in Mahabharat epic. In absence of constitution, democracy and rule of law in governance of state affairs, the anarchy, law of rulers' will be prevailed in the state. Consequently, the Ld court will definitely be flooded with the flow of number of custody trial of NPDS cases, Sessions cases offences like murder, dacoity, sexual offences, corruption cases, civil appeal matter, matrimonial disputes, etc. forever.

6. **That** your petitioner would like to refer the views of the apex court that Law must not be used as tool to harass accused. A bench of Justices Krishna Murari and S.R Bhat of the apex court delivered its verdict on 16.12.2022 while setting aside the order of the Madras High Court relating to quashing of a criminal provision of the Drugs and Cosmetics Act, 1940. "At the cost of repetition, we again state that the purpose of filing a complaint and initiating criminal proceeding must exist solely to meet the ends of justice, and the law must not be used as a

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A. S. Judge
Raiganj, Uttar Dinajpur
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tool to harass the accused.”. The bench also said “The law is a sacrosanct entity that exists to serve the ends of justice, and the courts, as protectors of the law and servants of the law, must always ensure that frivolous cases do not pervert the sacrosanct nature of the law”. The apex court observed it is apparent from record the complaint was made without providing evidence to sustain the case. In this regard your petitioner would like to state that Ld. Additional Session Judge, 1st Court, Raiganj, Uttar Dinajpur has also absolutely failed to honour the aforesaid views of apex court. In fact, the Ld. Court is very much successful as protector of corrupt ruler by delaying or denying justice of frivolous case by using law and court as tool to harass the victim of such case ignoring the sole purpose of its existence with dignity.

7. That your petitioner would like to refer another judgment of the apex court passed on 18.05.2023 where Learned court strongly denounced the misuse of the legal process for settling personal scores in frivolous criminal proceedings initiated by an official of ISKCON Kolkata. The bench of Justice Ajay Rastogi and Justice Bela M Trivedi took exception to the proceedings, which were based on a complaint filed eight years after the alleged incident of bus theft, stating that it was a clear case of misuse and abuse of law. The bench firmly stated that “ courts should not be misused for personal motives and made it evident that such misuse of the legal process would not be tolerated. In order to deter others from following a similar course, the court imposed a fine of Rs.

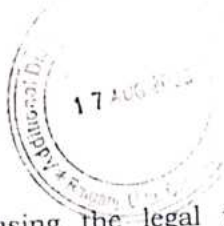
1 Lakh on the ISKON Kolkata official". The Supreme Court, after examining the evidence and arguments presented, found that the offences of forgery and criminal breach of trust were not substantive evidence against appellants. It further emphasized that "allowing the prosecution to continue would be a mere formality, resulting in a waste of the court's valuable time". The court concluded that "the eight-year delay in filing the complaint was an inordinate and unexplained delay, clearly indicative of a misuse and abuse of the legal process. Such frivolous cases, the bench stressed, obstruct the progress of genuine cases and hinder justice from being served. In this regard your petitioner would like to draw your kind attention to the 22 years old false prosecution Raiganj P.S. Case corresponding GR Case No. 623 of 2001 (TR. 02/2010) made by public servant by unlawful means. The FIR of this case was made in August, 2001 after 3 to 6 years of the incidence of alleged allegation from the year of 1995 to October, 1998 which basically is an outcome of another illegal and unlawful vigilance enquiry, in respect of same matter conducted by same investigating officials who himself involve in corruption as explained in details in earlier petitions. To hide the organised crime and corruptions of public servants is the basic reason for delay in delivery of justice of this 22 year old false prosecution as per the desire of the ruler ignoring the laws, rules and constitution of the country. It is to be stated that the name of the petitioner was not found in the FIR. However prompt action from both the side of police and concerned court for settling the unlawful and unethical scores of the rules of the land

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by abusing the legal process has been observed in frivolous complaint made on 19.12.2022 by former TMC G.P. head, Shibthakur Mondal, against Anubrata Mondal, TMC Birbhum District President accusing him of trying to choke him to death before the 2021 assembly poll. Based on the complaint, he was booked by the police under section 323, 325 and 307 of I.P.C. The Dubrajpur court issued a production warrant promptly against Anubrata Mondal on same day a Delhi Court granted the Enforcement Director (ED) permission to quize Mr. Mondal to national capital from Asansol Jail custody due to cattle smuggling case lodged by the CBI. The Sub-Divisional Court, Dubrajpur granted bail to Mr. Anubrata Mondal when he was produced after the expiry of his seven day police custody. Consequently, the glory, dignity, integrity, independency of the public institutions and public faith thereof are being affected seriously.

8. That your petitioner would like to refer another views of the apex court expressed while delivering the judgment on 15.12.2022 that direct proof not must for conviction of public servant for corruption. The five judge constitution bench of Justices Abdul Nazeer, B.R Gavai, A.S. Bopanna, V.Ramasubramanian and B.V Nagarathna ruled that in absence of direct evidence of complaint against the accused public servant, it is permissible to draw inferential deduction of culpability/guilt of a public servant under relevant provisions of the Prevention of Corruption Act. "In order to bring home the guilt of the accused, the prosecution has to first prove the demand of illegal gratification and the subsequent acceptance as a



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matter of fact. This fact in issue can be either proved by direct evidence, in the nature of oral evidence/documentary evidence. Further, the fact in issue namely the proof of demand and acceptance of illegal gratification can also be proved by circumstantial evidence in the absence of direct, oral or documentary evidence," the bench held. It added that corrupt officials have a demoralizing effect on honest public servants. Corruption by public servants has become a gigantic problem. Large-scale corruption retards nation-building activities and everyone has to suffer on that count, the bench said. "We hope and trust that complainants and prosecution make sincere efforts to ensure that corrupt public servants are brought to book and convicted, so that the administration and governance becomes unpolluted and free from corruption," it added. In this regard your petitioner would like to state that Ld. ASDJ Court of Uttar Dinajpur has absolutely failed to honour the aforesaid views of apex court and denied to provide justice in aforesaid 22 years old long pending false prosecution no GR-623/2001 (TR-2/2010) in spite of furnishing concrete and valid circumstantial evidences. Consequently, corruption and corrupt public servants have been encouraged, promoted and protected due to delay in delivery of justice of such frivolous prosecutions.

9. That your petitioner would like to state about the Government of India policy for zero tolerance towards corruption. As a part of this policy, Government has made forced retirement of ten Public Servants with

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No. W8-1091/18-3405247

doubtful integrity of the department of DOT in December, 2022. Similar measures were taken in past few years to remove about 400 public officers with dubious track record as per Fundamental Rule (FR) 56(J) and Rule 48 of the CCS (Pension Rule), 1972. The Hon'ble Prime Minister addresses the diamond jubilee celebrations of the CBI officials on 03/04/2023 and states for taking action against the corrupt, however powerful without any hesitation. However Ld court is not at all serious about corruptions in spite of several petition submitted thereon.

10. That your petitioner would like to recall often the views of apex court expressed in Lakhimpur Kheri violence case, dated 18.04.202 where the three judge bench of Chief Justice N.V. Ramana, Justices Surya Kant and Hima Kohli said criminal trials are not just between the accused and the State anymore. The State does not take on the persona of the victim. The 'victim' or the de facto sufferer of the crime is an independent persona with an equal if not a greater right to participate in the quest for justice. The victim has to be heard by the courts at every stage. "A voice has been given to victims of crime by Parliament and the judiciary and that voice needs to be heard, and if not already heard, it needs to be raised to a higher decibel so that it is clearly heard," the court said. That your petitioner, as a victim of false prosecution will have to raise his voice at higher decibel unless and until it is clearly heard and provide justice. He thinks that it is the duty of every responsible, duty bound law abiding citizen to fight against powerful ruler to protect own dignity as well as dignity of his fraternity. The great poet



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Rabindranath Tegar has expressed same views in his poem "Nakal Budhir Gar" (Duplicate Fort) through the characters of irresponsible king of the kingdom name das Chitor, his incompetent minister do nothing except to appease the king and his poor but brave duty bound tribal fighter very serious about his own dignity and dignity of his community.

11. That your petitioner would like to refer the views of a bench of apex court comprising CJI U.U. Lalit, justice S.R. Bhat and Bela M. Trivedi expressed during the course of hearing of PIL petition on 31.10.2022 seeking a direction to the Centre and states to establish special anti-corruption courts in every district to decide cases related to economic offences like money laundering and tax evasion within a year. "The bench asked senior advocate Vijay Hansaria, appearing for petitioner Ashwini Upadhyay, whether there was any "concrete example, where people sought urgent hearing of such cases and that was not done". "The petition is dismissed as withdrawn" the bench said.

12. That your petitioner, on the basis of the views of the apex court on aforesaid PIL petition, would like to state his firm belief that no information about 22 years long pending false case no GR-623/2001 (TR-2/2010) relating to economic offence of corrupt public servants has been furnished to apex court or immediate higher court from the end of subordinate court of Ld. ASDJ, Uttar Dinajpur as like as the corrupt public servants initiated aforesaid false prosecution in the year, 2001 keeping all competent and responsible authorities in dark for their own vested

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A. Advocate
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No. 18-10811

interest. Further, corrupt practices are also adopted several times during course of proceeding of case to deny justice as explained in earlier petitions. As for example, non-compliance of the direction of Calcutta High Court vide order no.-1722 of 2013 with CRAN-2120 dated 08/10/2013 to dispose of this case within one year and issue of notice u/s 22 of the R. P. Act, 1950, vide memo no 1512(26)/610 dated 31.10.2005 for deletion of name from voter list considering as absconding in spite of regular appearance before court after execution of the bail bond on 29.11.2004 as per the apex court order dated 24.09.2004. The warrant of arrest was stayed on the date of hearing of S.L.P on 13.02.2004. The coordination and communication between higher and subordinate court as well administrative control of higher court over the subordinate courts are very much questionable. Further the existence of court to provide justice at ground level is also questionable as there is no separation of power as per the doctrine of basic structure of the constitution which are actually under remote control of the ruler as well as politician.

13. That the facts and the issues of corruption, false & unlawful prosecution by abusing power of public officials disobeying the preamble of the constitution of the country and its basic foundation to prevail anarchy instead democracy and law of ruler instead of rule of law in governance of the state affairs and public administration in the light of Raiganj P.S case G.R-623/2001(T.R-2/2010), its proceedings and application of Article-14, 19, 21, 32, 129, 143, 149, 150, 151 & 154 of the Constitution and opportunity of enable access to

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justice have already been stated and explained several times in earlier petitions.

14. That your petitioner would like to refer the judgment of the Calcutta High Court passed on 21.06.2018 in the case of Binod Kumar Agarwala vs. CIT where the Court has signaled a zero tolerance policy towards the alleged nefarious practice of CAs. The division bench of Justice Sanjib Banerjee and Justice Abhijit Gangopadhyay observed that "The matter is typical of how business is conducted in this country and why loans obtained from banks remain unpaid". In the order of judgment, ITAT hauled up for not reporting the CA to the ICAI. The ITAT passed strictures and observed that a Chartered Accountant is governed by certain discipline and he has to conduct audit in accordance with the provisions and rules of the Chartered Accountants Act. ICAI was directed by Hon'ble High Court to examine the issue for appropriate steps, if thought fit in accordance with law.
- Accordingly, UDIN system has been introduced by ICAI.

15. That your petitioner would like to disclose his happiness for aforesaid order of the high court for direction given to the ICAI. Consequence which UDIN system has been introduced by ICAI to bring transparency in audit system. However, at the same time, he would also like to disclose his frustration for numbers order given in the matter of the case no-GR-623/2001 without giving any such direction to ICAI or C & AG having responsibility thereof u/s 14 & 15 C & AG(DPC) Act in spite of submission made thereof that the unlawful prosecution



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A. Magistrate
Dinajpur
Bhimgar, Raigar
No. WB-10911

has been made silently in organized way by the public servants under leadership of the I.A.S officials as DM/DVO/CEO/Chairman of Leprosy Society Uttar Dinajpur District of having vested interest without any communication with alleged accused CA, ICAI and C & AG. The ICAI is set up by an Act of Parliament and governed by its council consist of forty members presently. Out of forty, thirty two are eminent chartered accountant elected by the member of the institute and others are nominated by central government to represent MCA, MOF, C & AG, Educationist, Legal and Cost Accountants fraternity, details enclosed marked as annexure P-10. This can be stated on the basis of aforesaid false and unlawful case of alleged economic offence kept sub-judice for more than twenty years ignoring and undermining CA Act, C & AG(DPC) Act Article -14,19,21,129,149,150, 151 and basic structure of the constitution are the consequences of the current affairs of the governance of the state of West Bengal. The copy of the orders of the Hon'ble High Court dated 15.10.2001 against application 1st accused u/s 439 of Cr. P.C and orders dated 26.11.2001 and dated 20.12.2001 passed by same bench against petition filed by the 2nd and 3rd accused respectively u/s -482 of Cr.P.C. and the order dated 24.06.2003 u/s 438 as state here above are enclosed herewith marked as Annexure - P-11. The aforesaid order creates 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 fair and natural justice to the citizen



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Bhadrak, Raigarh, U. Nandpur
No. 18/10911

and it is very much detrimental to the glory of judicial system and public confidence thereof.

16.That your petitioner would like state about the fact of 50thcelebration day on 24.04.2023 for the landmark judgment given on 24.04.1973 by 13 members constitutional bench in Kesavananda Bharati Vs State of Kerala case to save the constitution of the country which pronounced that the parliament cannot alter or disturb the basic structure of the constitution except this the parliament can amend any part of the constitution. Doctrine of basic Structure includes Supremacy of the Constitution, The Rule of Law, Independency of Judiciary, Doctrine of separation of Power, Sovereign democratic Republic, Parliamentary System of Government, The Principle of free and Election and Welfare State.

17.That your petitioner would like statethat the pronouncement of aforesaid landmark judgment to save the constitution is remain alive in books for academic study and research but not found at the ground level appropriately. In real life of the people of the state of West Bengal particularly, most of the elements of the aforesaid doctrine of basic structure of the constitution have been vanished, abolished or found inactive due to unlawful action or inaction of corrupt public servants of the three arms known as care taker of the constitution who are exploiting citizen instead of rendering public services. Consequently, your petitioner as victim of false prosecution initiated in the year,2001 has failed to get justicetill now. Further several movement, deputation, social unrest and dharna stage at the feet Gandhiji statue and other nearby

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ALOKE K. JHA
A.L. Advocate
Bimagar, Raigar, U. Jhalpa
No. WS-10911, 2023

area of esplanade Kolkata for year after year to protest against corruption of public servants in organized way like West Bengal Teacher Recruitment Scam, Municipality and Other Government Office Staff Recruitment Scam, Cattle Smuggling Scam, Sarada Scam, Post -Election Violence etc. Further the three arms of the state legislatures, executives and judiciary are only responsible for five crore or more litigations pending for justice which includes about 18% 5-10 years, 7% 10- 20 years and 1.5% 20- 30 years old or more of total pending cases. These situations are encouraging corruptions, tendency of false prosecutions against innocent by corrupt persons, criminalization and commercialization of politics. There is no dearth of resources in the country to control and improve the situation. The only problem is intention of the aforesaid care takers of the constitution having vested interest to exploit the citizen and using of the sub judice status as save heaven for carrying on their unlawful, unethical and unconstitutional business.

18. That your petitioner most respectfully pray to your honor for providing opportunity for production of relevant documents and for furnishing necessary information and explanation to clear all the doubts of Ld. Court and to establish the truth, the essence of the trial, for rectification of the Judgment passed on 26.06.2020 with relevant and meaningful observation to the facts and all issues raised thereof in the petitions and for disposal of long pending prosecution as early as possible.

19. That your petitioner is sixty seven years old aged and he has been sufferings from hypertension, diabetes,

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Signature of H.C.C

carcinoma, coronary artery disease, and sever lung problem after COVID-19 treatment. He feels that he is in the row of death but still alive at the blessing of the God to establish the truth for strengthen democracy for best interest of the people of the country and therefore eagerly waiting for justice within his life.

Under the circumstance stated above your appellant prays for :-

Hearing of the petitions on urgent basis and passing a rectification order or orders as may deem fit and proper with relevant and meaningful observation based on the views and directions given by Hon`ble Supreme Court of India on different casesas stated in this petition.

And your appellant above named as in duty bound shall ever pray.

VERIFICATION

The contents of the above petition are all true to the best of my knowledge, no part of it is untrue or false, I concealed nothing. I put my signature on this 17th day of August, 2023 at court premises at Raiganj.

ALOKE KR. JHA
 Advocate
 Bilmagar, Raigarh U.P. Jharkhand
 No. WB-10911/23 3405247



17.08.2023

ALOKE PR JHA
A. Pr. Jha
Barrister, Patna
U. Pr. Jha
U. Pr. Jha

In the Court of the Special Judge under West
Bengal Criminal Hel. Registry. U/D

Case No. TR. 02/2010

Page No. TR. 8/2017

Sri. Koushikpada Sarkar

..... Applicant

—VS—

State of West Bengal.

..... Respondent.

The Applicant above named is ready through
his Advocate today.

Filed On
Dated - 17/08/23

EXAMINED BY
[Signature]

Petition No. 187 Dated 18/01/24

[Signature]
Signature of H C C

