

**In the Court of the Additional District & Sessions Judge, 2nd Court,
Bongaon, Dist.- North 24 Parganas**

Before

Shri Pradip Kumar Adhikary, WBJS,
J O Code (UID No.) - WB916,
Additional District & Sessions Judge, 2nd Court,
Bongaon, Dist.- North 24 Parganas.

CNR No.- WBNP 0600 2101 2022
SC No.- 314 of 2022
ST No.- 05 (07) of 2024
arising out of
Bongaon PS Case No.- 622 dated 03/07/2016

**Charge framed under sections 326/307 of the Indian Penal Code, 1860 and sections 25 /
27 Arms Act, 1959**

State

represented by Ld. PP-in-Charge Shri Arnab Chatterjee
v.

Rafik Chitrakar

represented by Ld. Advocate Shri Ranjit Pramanick and Shri Pradip Kumar Chatterjee

Order No.- 13
16/05/2025

Today is fixed for submission of report by the Superintendent of Police, Bongaon PD and evidence of two seizure witnesses.

The sole accused on Court bail is present by filing hazira.

The Holding IO ASI Jalal Uddin Shaikh is present.

The Ld. PP-in-Charge is present with two witnesses Sanjay Halder and Ram Mohan Nath and they are examined as P.W.- 06 and P.W.- 07 respectively, cross-examined in full and discharged.

This is a case punishable under sections 326/307 IPC and sections 25/27 of the Arms Act. The concerned Investigating Officer seized one automatic pistol made in Italy fitted with empty magazine engraved as "No. 7 mm" and one green colour plastic carry bag under seizure list mentioning Sanjay Halder and Ram Mohan Nath as seizure witnesses. There is no iota of doubt that the seizure witnesses are most vital and pivotal witnesses of the case and their evidence is essential for the just decision of the case. But surprisingly, the Investigating Officer has not cited those two persons in whose presence seizure was claimed to be made as witnesses in the charge-sheet.

Pointing out the perfunctory investigation conducted by the IO, on 25/02/2025 the Ld. PP-in-Charge prayed for issuance of summons upon those two witnesses.

In allowing the said petition as well as referring ***H. N. Rishbud v the State Of Delhi : 1955 AIR 196 : 1955 SCR (1) 1150*** and ***M.C. Mehta v Union Of India : (2007) 1 SCC 110***, ***Sharif Ahmed v. State of Uttar Pradesh : 2024 INSC 363*** and ***Police Regulations of Bengal, 1943*** the Court passed the following order :

The Court would like to place the matter to the Superintendent of Police, Bongaon PD with a direction to call for an explanation from the erring police officer(s) and take necessary action and the Court shall be informed of the action so taken by him by the next date positively.
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There is no explanation either in the charge-sheet or in the case diary either from the end of the Investigating Officer or from the side of the Officer-in-Charge of the concerned PS and the concerned Sub-Divisional Police Officer for not citing those vital witnesses (seizure witnesses) as witnesses in the charge-sheet which is also required to be inquired into.

Hence, the Superintendent of Police, Bongaon PD is directed to inquire into the lacunae as stated above and take necessary action and the Court shall be informed of the action so taken by him.

The Court is constrained to point out that not only this charge-sheet but many other charge-sheets were filed without complying the provisions of law. There are many lacunae, irregularities, illegalities etc. viz. non-citation of de-facto complainant, victim / injured, doctor, seizure witness, RI, IO etc. as witnesses, citation of one seizure witness out of two seizure witnesses without explanation, no noting of previous convictions with case references and antecedents of the accused, submission of charge-sheet showing the accused as absconder with complying the relevant provisions of the law, non-submission of list of property of absconder, delay in submission of charge, discharge of accused persons illegally and unlawfully although their names have been arrayed in the material evidence collected by IO, non-mentioning of e-mail i.d./mobile nos. and Aadhaar card particulars of witnesses, non-intimation to the heads of the offices where such public servants witnesses are posted that the latter have been cited as witnesses in the case, non-intimation to the accused well in advance about filing of charge-sheet, non-intimation to the de-facto complainant in writing about the result of the investigation of the case, absence of memo of evidence in the case diary, etc. which is required to be looked into by the Superintendent of Police of this Police District for the ends of justice. (Some of the references are **CNR No.- WBNP 0600 1459 2020 / SC No.- 73 of 2020 / ST No.- 08 (04) of 2022, CNR No.- WBNP 0600 0611 2022 / SC No.- 62 of 2022 / ST No.- 05 (03) of 2024, CNR No.- WBNP 0600 0854 2024 / SC No.- 182 of 2024 / ST No.- 01 (07) of 2024, CNR No.- WBNP 0600 2424 2024 / SC No.- 43 of 2025, CNR No.- WBNP 0600 1972 2024 / SC No.- 277 of 2024 and CNR NO.- WBNP 0600 0260 2025 / CMC No.- 73 of 2025).**

The Superintendent of Police, Bongaon PD is directed to take appropriate effective measures for proper investigation so that justice may not become casualty.

In **Sharif Ahmed v. State of Uttar Pradesh : 2024 INSC 363** the Hon'ble Apex Court has further been pleased to lay down that

Therefore, the investigating officer must make clear and complete entries of all columns in the charge sheet so that the court can clearly understand which crime has been committed by which accused and what is the material evidence available on the file. Statements under Section 161 of the Code and related documents have to be enclosed with the list of witnesses. The role played by the accused in the crime should be separately and clearly mentioned in the charge sheet, for each of the accused persons.

The Superintendent of Police, Bongaon PD is directed to ensure that the solemn mandates of the Hon'ble Apex as heralded in **Sharif Ahmed v. State of Uttar Pradesh : 2024 INSC 363** is complied with.

In terms of the said direction the Superintendent of Police, Bongaon PD has submitted a compliance report vide Memo No.- 25/Legal Cell/BGN PD/25 dated 15/05/2025 stating that the IO Sub-Inspector Subarno Biswas inadvertently omitted the names of seizure witnesses in the charge-sheet. Departmental action has been initiated against the Investigating Officer due to procedural errors. IC, Bongaon PS has also been directed to comply the orders as directed by the Court.

The Superintendent of Police, Bongaon is directed to inform the result / outcome of the department action initiated by him against the concerned Investigating Officer.

To 17/05/2025 for evidence of CSW Nos.- 06 to 08;

To 19/05/2025 for evidence of rest CSWs in terms of section 231, Cr.P.C; and

To 08/07/2025 for submission of compliance report by the Superintendent of Police, Bongaon PD.

Let a copy of this order be sent to Superintendent of Police, Bongaon PD for compliance.

The Bench Clerk is directed to do the needful at once.

Typed by me

Additional District & Sessions Judge,
2nd Court,
Bongaon, Dist.- North 24 Parganas.

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