

**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.- 16
08/07/2025

Today is fixed for submission of compliance report by the Superintendent of Police, Bongaon PD.

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

The Ld. PP-in-Charge is present by filing hazira.

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.

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 without 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 on 16/05/2025 the Superintendent of Police, Bongaon PD 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.

Accordingly, on 16/05/2025 the Superintendent of Police, Bongaon was directed to inform the result / outcome of the department action initiated by him against the concerned Investigating Officer.

In compliance with the said direction the Superintendent of Police, Bongaon PD submitted compliance report which is as follows :

Respected Sir,

This is to bring to your kind notice that a thorough enquiry was conducted by the undersigned and as per available official record below mentioned points are submitted."

1. That during enquiry it is revealed that initially the case was investigated by the then I.O. 5.1. Himadri Roy then on his transfer Sub Inspector Gopal Biswas. Later on, transfer of SI Gopal Biswas, Sub-Inspector Subarno Biswas has completed the investigation and submitted Charge Sheet vide Bongaon P.S. CS No- 166/18 Dt- 15.03.2018. Thus, I.O. Sub-Inspector Subarno Biswas omitted the name of vital seizure witnesses. So, The I.O. Sub-Inspector Subarno Biswas has been dealt in Orderly Room and "**CENSURED**" for his negligence and briefed for future. The Then I/C Bongaon P.S. Shri Satinath Chottoraj has been transferred to Barasat Police District, currently posted as I/C Madhyamgram P.S. and the then SDPO Bongaon Shri Anil Roy at present he is retired from service. A message has been sent to Inspector Shri Satinath Chottoraj for submitting an explanation on the order sheet passed by the Ld. Court.
2. That, the orders passed by the Ld. Court i.e. non citation of defecto complainant, Victim/injured, Doctor, seizure witnesses R.I., I. O etc as witnesses, not noting previous conviction, non-mentioning of e-mail id./mobile nos and other orders **weekly in-service classes** over New Laws have already been started for I.Os and other officers. Preparing **SOPs** for above mentioned matters and it will be supplied to all concerned after a short time to rectify such type of mistakes from the end of I.O. The O/Cs and I/Cs of PSs have been well briefed to take initiative also supervise to avoid the mistakes of I.Os, and also, carefully comply the Ld. Court's order in future.

This is for your kind information and perusal.

To 16/03/2026 for evidence of CSW Nos.- 01 to 03;

To 17/03/2026 for evidence of CSW Nos.- 04 to 06; and

To 18/03/2026 for evidence of rest CSWs in terms of section 231, Cr.P.C.

The accused [are](#) directed to remain present on the next date.

In compliance with the mandates of the Hon'ble Apex Court as well as our Hon'ble Court the Investigating Officer is directed to remain present during trial.

The Investigating Officer is also directed to keep the witnesses present in Court.

The Officer-in-Charge of the concerned Police Station is directed to ensure the presence of the Investigating Officer on the date(s) fixed along with witness(es).

If due to some unavoidable circumstances it is not possible for the Investigating Officer to remain present before the Court, the Officer-in-Charge shall depute any other competent police officer who shall ensure the presence of witnesses before the Court on the date of recording of evidence.

It is the duty of the Investigating Officer to protect the witnesses and ensure their presence before the Trial Court, for taking to its logical conclusion. It will help both the victim and the accused person, to have speedy justice which pertains to their right to life as well.

The prosecution is directed to issue process for compelling the attendance of the witnesses and / or the production of the document or thing, if any and to inform the Investigating Officer.

Let a copy of this order be sent to the Officer-in-Charge of the concerned Police Station 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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