

**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 0854 2024

SC No.- 182 of 2024

ST No.- 01 (07) of 2024

arising out of

Gaighata PS Case No.- 395 of 2023 dated 23/04/2023

Charge framed under sections 341/325/308/506/34 of the Indian Penal Code, 1860

State

represented by Ld. PP-in-Charge Shri Dulal Kumar Bardhan

v.

Dilip Mondal, Sampa Mondal, Dipan Mondal and Priti Bala (Mondal)

represented by Ld. Advocate Shri Kshitimohan Karmakar

Order No.- 06

05/05/2025

Today is fixed for appearance of the accused and compliance report by the Superintendent of Police, Bongaon PD.

Out of four (04) accused two (02) accused **Dilip Mondal and Sampa Mondal** are on Court bail and they are present by filing hazira.

Other two (02) accused **Dipan Mondal and Priti Bala (Mondal)** have voluntarily surrendered before Court by filing vakalatnama.

They are taken into custody and remanded to judicial custody till next date.

They have filed an application praying for bail on the ground that they are innocent; the instant case against them are false and there is no chance of absconding.

Heard.

The Ld. PP-in-Charge has raised no objection.

Considering the facts and circumstances of the case and since the accused have surrendered voluntarily in compliance with the summons of this Court and the co-accused are on Court bail, these accused may find bail of Rs. 5,000/- with two registered surety of Rs. 2,500/- each on condition to appear on each and every dates before the Court subject to the satisfaction of the Ld. ACJM, Bongaon.

Let relevant portion of this order be sent to the Ld. ACJM, Bongaon for information and necessary action.

It appears that on the last date i.e. on 17/02/2025 the Court passed the following order :

The facts and circumstances of the case demand an inquiry to find out whether there is any nexus between the Investigating Agency and the discharged accused persons, whether the investigation was influenced by any dishonesty, biasness and unfairness and whether there is any possibility of collusion and ulterior motive on the part of the concerned Investigating Officer, Officer-in-Charge and Circle Inspector in this regard.

Hence, the Superintendent of Police, Bongaon PD is directed inquire into the matter thoroughly and submit a comprehensive report.

He is further directed to initiate necessary proceeding and / or take necessary action, as he deems fit and proper, against the erring officers who treat the law to be their sub-servient and the Court shall be informed of the action so taken by him.

The Superintendent of Police, Bongaon PD submitted a compliance report vide Memo No.- 663/E/Legal Cell/BGN PD/25 dated 03/05/2025 stating that the IO of this case has already been transferred to another District. As some procedural lapses and lackadaisical approaches have been found on the part of the IO during investigation in connection with this case, a memo (509/RO-BGN PD date 03/05/2025) has been sent to the concerned District requesting action against the erring police officer currently posted in that Police District.

In his compliance report the Superintendent of Police, Bongaon PD has neither disclosed the name of the Police District where memo no.- 509/RO-BGN PD dated 03/05/2025 has been sent requesting action against the erring police officer / IO nor annexed any copy of the said memo for perusal of the Court. There is also no reflection in the report whether the Superintendent of Police, Bongaon PD conducted any inquire into the matter as directed.

The report of the Superintendent of Police, Bongaon PD is neither clear nor candid; rather material information has been suppressed / concealed therein.

The Court is constrained to highlight that the Superintendent of Police, Bongaon PD is in a habit to submit such kind of incomplete report without complying order of the Court in its letter and spirit.

On 06/11/2024 in CNR No.- WBNP 0600 2062 2019 / SC No.- 320 of 2019 this Court passed the following order : According to Police Order No.- 04 of 2011 issued by the Director General & Inspector General of Police, West Bengal “Non-arrest indicates inaction, possibility of collusion and ulterior motives on the part of the I.O.”. The act of the Investigating Agency creates suspicion on their action; it indicates towards an unholy nexus between the accused who has been shown absconder in the charge-sheet and the Investigating Agency who conducted/monitored investigation. It seems to be that the Investigating Agency has been influenced by the interested person. The Officer-in-Charge of the concerned PS as well as the SDPO and the Additional SP have also failed to perform their legal obligation to take appropriate action and monitor an efficient investigation of the case. The facts and circumstances of the case demand an enquiry to find out whether there is any collusion between the Investigating Agency and the absconder accused Subrata Roy and whether the investigation has been influenced by any ulterior motives on the part of the concerned Investigating Officer and Officer-in-Charge, Gopalnagar PS as well as the concerned SDPO, Bongaon and Additional Superintendent of Police, North 24 Parganas. Hence, the Superintendent of Police, Bongaon PD is directed to inquire into the matter and take necessary action against the erring Officers in terms of Police Order No.- 04 of 2011 and the Court shall be informed of the action so taken by him.
On 03/01/2025 the Superintendent of Police, Bongaon PD submitted a compliance report vide Memo No.- 02/E/Legal Cell/BGN PD dated 02/01/2025 over which the Court passed the following order : The SP, Bongaon PD has submitted his report mechanically. There is no reflection in his report that how he arrived at the above conclusion. There is no whisper in his report whether the concerned police officers have been called on by the SP, Bongaon PD or any written explanations have been sought for from them. The Officer-in-Charge, Gopalnagar PS and the Warrant Officer of the PS who are present before the Court have stated that they could not traced the concerned IO of this case. Without examining at least the IO how could the SP, Bongaon PD come to such a conclusion which is not only against the spirit of the Police Order No.- 04 of 2011 but also contrary to the observation of the Hon’ble Court that undue indulgence and favour shown to the absconding accused !. It is settled principle of law that “Reason is the soul of the law.” But unfortunately the report of the SP, Bongaon is devoid of any reason. Since the reason of report of the SP, Bongaon ceases, so does the report itself. In the above compelling circumstances, the DIG, Barasat is requested to inquire into the matter and take necessary action against the erring Officers in terms of Police Order No.- 04 of 2011 and the Court shall be informed of the action so taken by him.
On 03/03/2025 the DIG, Barasat Range filed a report on which the Court passed the following order :

The Court would like to appreciate that in view of the order of the Court the DIG, Barasat Range has taken the pain to conduct an enquiry into the matter and come to a logical conclusion and submitted a detailed report with sufficient and appropriate reason as transpired from his enquiry.

The DIG, Barasat Range is requested to sensitize the Police Officers of this police district for submission of report clubbed with reason and comply the order of the Court in its letter and spirit.

Relevant portion of order of this Court passed on 03/03/2025 in **CNR No.- WBNP 0600 0611 2022 / SC No.- 62 of 2022 / ST No.- 05 (03) of 2024** will also help to understand the attitude of the Superintendent of Police, Bongaon PD in submission of report in compliance with the order of the Court which is as follows :

INJURY REPORT

On last date i.e. on 11/02/2025 the Court passed the following order :

From the charge-sheet it appears that the IO collected the injury report of victim/injured Rabi Mallick from Bongaon Hospital. But again surprisingly he has not cited any doctor or doctors as witness(es) in the charge-sheet who examined the victim/injured. Moreover, the IO has neither kept the injury report in the case diary nor sent the same before the Court.

Accordingly, the Officer-in-Charge, Gopalnagar PS was directed to produce the injury report shown to be collected during investigation.

Without complying the said order the Officer-in-Charge, Gopalnagar PS very cunning reported that “as per your kind order, I am submitting a copy of BHT/Injury report of Rebi Mallick before your Ld. Court for your kind perusal.”

Sitting over the order of the Court the Superintendent of Police, Bongaon PD has reported that “injury report was found in the CD (Page No-30-34).

The Ld. PP-in-Charge has categorically submitted that the Officer-in-Charge, Gopalnagar PS has not produced the injury report shown to be collected during investigation. There is no injury report either in the CD or in today’s submitted medical documents.

Page Nos.- 30 to 34 of the CD contain medical document of Palla PHC, Bed Head Ticket, Intake & Output Record, Management Information (without any columns filled in) and OPD treatment sheet. Page 30 belongs to Palla PHC and other four pages are of JR Dhar Hospital, Bongaon.

Where did the Superintendent of Police find “Injury Report” in those pages in CD ?

It is very astonishing that Superintendent of Police as well as Officer-in-Charge could not differentia the injury report with other medical documents.

Through their respective report both of them tried to misled the Court – which is discouraged and not unbecoming from such Senior Police Officers.

The Superintendent of Police, Bongaon PD as well as the Officer-in-Charge, Gopalnagar PS are hereby cautioned and directed to be more careful in sending compliance report before the Court in future.

Once again the Officer-in-Charge, Gopalnagar PS is directed to produce the injury report shown to be collected during investigation.

A redacted copy of a injury report of Dr. JR Dhar Hospital of another case is sent to the Superintendent of Police, Bongaon PD and Officer-in-Charge, Gopalnagar PS for their guidance.

SUPERINTENDENT OF POLICE NEITHER INQUIRED INTO LACUNAE IN INVESTIGATION NOR TOOK NECESSARY ACTION AS DIRECTED

On 11/02/2025 the Court passed the following order :

There is no iota of doubt that the complainant, victim/injured, seizure witness and doctor who examined the victim/injured 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 the de-facto complainant Manju Mallick, victim/injured Rabi Mallick, seizure witnesses C/2245 Nirmal Mondal and C/1744 Samir Kr. Mallick as witnesses in the charge-sheet.

The IO has also not mentioned the RO as well as himself as witnesses in the charge-sheet.

From the charge-sheet it appears that the IO collected the injury report of victim/injured Rabi Mallick from Bongaon Hospital. But again surprisingly he has not cited any doctor or

doctors as witness(es) in the charge-sheet who examined the victim/injured. Moreover, the IO has neither kept the injury report in the case diary nor sent the same before the Court.

Thereafter, referring ***H. N. Rishbud v the State Of Delhi : 1955 AIR 196 : 1955 SCR (1) 1150, M.C. Mehta v Union Of India : (2007) 1 SCC 110, Sharif Ahmed v. State of Uttar Pradesh : 2024 INSC 363*** as well as ***Police Regulations of Bengal, 1943*** and pointing out the duties, obligations and responsibilities of Officer-in-Charge, Circle Inspector and Superintendent of Police in investigation the Court placed 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.*

The Court further made it clear that *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, Gaighata PS and the CI, Gaighata for not citing those vital witnesses as witnesses in the charge-sheet, for not keeping the injury report in the case diary or for not sending the same before the Court, etc. which is also required to inquired into.*

Accordingly, the Superintendent of Police, Bongaon PD was 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.*

In his report the Superintendent of Police, Bongaon PD has also mentioned that on perusing the charge-sheet it could be seen that IO has not mentioned the complainant Manju Mallick and injured person Ravi Mallick as well as seizure witnesses C/2245 Nirmal Mondal and C/744 Samir Kr. Mallick in the CS as witnesses and neither himself.

In spite of that defying/disobeying/disrespecting/violating/breaching the order of the Court the Superintendent of Police, Bongaon PD neither sought for any explanation from the erring police officer(s) nor took any necessary action.

Adopting self restrain the Court would like to give a further opportunity to the Superintendent of Police, Bongaon PD to comply the order of the Court.

The Superintendent of Police, Bongaon PD is directed to comply the order of the Court in this regard and submit a compliance report.

COMPLIANCE OF SOLEMN MANDATES OF HON'BLE APEX COURT

Pointing out many lacunae found from many other charge-sheets the Superintendent of Police, Bongaon PD was 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.

The report of the Superintendent of Police, Bongaon PD is bereft of any reflection to that effect.

The Superintendent of Police, Bongaon PD was 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.

Coming to this case since the Superintendent of Police, Bongaon PD has submitted a incomplete report suppressing / concealing material information, the DIG, Barasat Range is requested to inquire into the matter thoroughly and submit a comprehensive report.

The DIG, Barasat Range is further requested to initiate necessary proceeding and / or take necessary action, as he deems fit and proper, against the erring officers who treat the law to be their sub-servient and the Court shall be informed of the action so taken by him.

Let a copy of this order along with order dated 17/02/2025 be sent to the DIG, Barasat Range for compliance.

To 26/08/2025 for appearance of the accused, framing of charge against subsequently arrayed accused and compliance report by the DIG, Barasat Range.

The BC to do the needful.

Typed by me

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

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