IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MMO No. 389 of 2026
Reserved on: 27.04.2026
Date of Decision: 02nd June, 2026.

Rajesh Kakar ...Petitioner

Versus

State of Himachal Pradesh & another ...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting? No.

For the Petitioner	:	Mr Virender Thakur, Advocate.
For the Respondents/ State	:	Mr Lokender, Additional Advocate General.

Rakesh Kainthla, Judge

The petitioner has filed the present petition for quashing of F.I.R. No. 06 of 2016, dated 19.07.2016, registered for the commission of offences punishable under Sections 420, 465, 467, 468, 471 read with Section 120-B of Indian Penal Code (IPC) and Section 13(2) read with section 13(1)(c), 13(1)(d)(ii), 13(1)(d)(iii) of Prevention of Corruption Act, 1988 (P.C.Act) at Police Station State Vigilance and Anti Corruption Bureau (SV

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and ACB), Dharamshala, District Kangra, H.P. and the consequential proceedings arising out of the F.I.R.

2. Briefly stated, the facts giving rise to the present petition are that the Municipal Committee, Dharamshala, H.P., had resolved to purchase 20 large and 25 small containers with lids. Chaman Lal, Executive Officer (E.O) and Jitender Kumar, Sanitary Supervisor (SS), purchased the containers from the petitioner Rajesh Kakkar in violation of the rules. The Director, Urban Development, conducted a preliminary inquiry. The Inquiry Committee concluded that there was a violation of Financial Rules and Procedure regarding the purchase of the stores. After examining the Preliminary Inquiry Report, it was found that there was no need to purchase the obsolete waste bin because Dharamshala, Sundernagar and Paonta Sahib were selected for the installation of underground waste bins. The Urban Development Department had introduced e-tendering for all the works, but in the present case, this process was not adopted. Even the procedure for the procurement of articles in an offline mode was not followed. The elected house had not resolved to call the quotation, and the supply order was issued without mentioning the items to be procured. Hence, it was

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requested that an action be taken. SV&ACB conducted the investigation and found that the accused had conspired to purchase the containers worth ₹1,45,51,040/-. An F.I.R. was registered, and the documents were seized. It was found that the Committee had not resolved to buy the containers, and this was introduced by Lalit Kumar on his own. There were grave irregularities in the purchase of the bins. The petitioner was actively involved, and his signature tallied with the disputed signatures. The petitioner had submitted the forged quotations of two firms; hence, a charge sheet was filed before the Court.

3. Being aggrieved by the registration of the F.I.R. and filing of the charge-sheet, the present petition has been filed asserting that the Vigilance Department has taken 8 years for the investigation, which violates the petitioner's right to a speedy trial. The continuation of the proceedings amounts to an abuse of the process of the Court. The prosecution has cited 49 witnesses, and their examination would take a long time. Therefore, it was prayed that the present petition be allowed and the F.I.R and consequential proceedings arising from the F.I.R. be quashed.

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4. I have heard Mr Virender Thakur, learned counsel for the petitioner and Mr Lokender Kutlehria, learned Additional Advocate General, for the respondent/State.

5. Mr Virender Thakur, learned counsel for the petitioner, submitted that the petitioner's right to a speedy trial is being violated. The trial has not started despite the lapse of 10 years from the date of the incident. The prosecution has cited 49 witnesses, and the trial is likely to take some time. Therefore, he prayed that the present petition be allowed and the F.I.R. and consequential proceedings be quashed.

6. Mr Lokender Kutlheria, learned Additional Advocate General for the respondent/State, submitted that a voluminous record has to be examined and the forensic analysis has to be carried out in corruption cases. Hence, some delay is inevitable in such cases. There is no inordinate delay in the present case. Hence, he prayed that the present petition be dismissed.

7. I have given considerable thought to his submission and have gone through the records carefully.

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8. The present petition has been filed for quashing the F.I.R. on the ground that there was a delay of 10 years in filing the charge-sheet. It was held by the Delhi High Court in ***Deepaindra Kumar vs. State: MANU/DEOR/105458/2025,*** that the F.I.R. registered under the P.C. Act cannot be quashed merely because of the delay. It was observed: -

> 8. More significantly, the offences alleged against the Petitioner are under the PC Act, which pertain to demand and acceptance of illegal gratification by a public servant. Such offences are grave in nature and strike at the very foundation of probity in public life. The element of public interest in ensuring that allegations of corruption are tested at trial weighs heavily against terminating the proceedings at the threshold.
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> 9. Further, Section 468 of the Code of Criminal Procedure, which deals with the bar of limitation for taking cognisance, its legislative scheme is instructive. The offences alleged against the Petitioner fall under the Prevention of Corruption Act, which pertain to demand and acceptance of illegal gratification by a public servant, entailing punishment under Section 7, which prescribes imprisonment of not less than three years but which may extend to seven years, and under Section 13(2), which prescribes imprisonment of not less than four years but which may extend to ten years, along with fine. Parliament, in its wisdom, has consciously excluded serious offences punishable with imprisonment exceeding three years from the ambit of limitation under Section 468. The object of prescribing limitation was to protect against stale prosecutions in petty offences, while at the same time ensuring that serious crimes remain prosecutable regardless of time. This legislative scheme

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underscores that the mere passage of time, by itself, cannot justify quashing a prosecution under the Prevention of Corruption Act.

10. Thus, while the delay is substantial and regrettable, the Court is not persuaded that it infringes the Petitioner's right to a fair and speedy trial under Article 21 in a manner warranting the extraordinary relief of quashing the FIR. The fact that the chargesheet has now been filed and the matter is ripe for trial further tilts the balance in favour of allowing the prosecution to proceed.

11. In ***Vakil Prasad Singh v. State of Bihar* (2009) 3 SCC 355,** the Supreme Court held that the test is whether the delay has caused such prejudice to the accused as to render the trial unfair or oppressive. Unless such prejudice is established, the proceedings cannot be quashed solely on the ground of delay. Crucially, the Court observed that not every lapse of time results in prejudice to the accused. In certain situations, delay may even operate to the accused's advantage. It is only where the delay is so prolonged and unexplained that it becomes oppressive that prejudice may be presumed.

12. In the present case, no material has been placed to suggest that the Petitioner's defence has been impaired or that crucial evidence has been lost. The trap proceedings were carried out contemporaneously, the recovery was effected, and the forensic tests were duly conducted. The documentary and electronic evidence relied upon by the prosecution remains available, and the witnesses, though examined belatedly, are not unavailable for trial. The prejudice urged by the Petitioner is in the nature of suspension from service and denial of promotions. While such consequences are undoubtedly adverse, they are collateral to the prosecution and cannot, in law, justify stifling the trial itself.

13. The jurisprudence on Article 21 recognises that the right to a speedy trial is an inalienable component of

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Article 21. This right is not confined to the actual proceedings before the court but extends equally to the stage of investigation. Where this right is found to have been infringed, the natural consequence would be to quash the proceedings or set aside the conviction, as the case may be. However, as the Supreme Court held in ***Abdul Rehman Antulay & Ors. v. R.S. Nayak & Anr. (1992) 1 SCC 225,*** this is not the only course available. It was held that, having regard to the nature of the offence and the surrounding circumstances, it may not be in the interest of justice to terminate the proceedings altogether. In such cases, the Court is at liberty to issue appropriate directions, including fixing a time frame for completion of the trial, so as to balance the rights of the accused with the imperative of ensuring that serious offences do not go untried.

14. Viewed thus, the delay, though regrettable, has not translated into any apparent denial of a fair trial. The right under Article 21 to a speedy trial has to be balanced against the equally compelling public interest in prosecuting corruption by public servants. On this balance, the case does not warrant the extraordinary relief of quashing the proceedings. In such circumstances, to quash the proceedings would be to allow serious charges of corruption to be defeated not on merits but by lapse of time. The more appropriate course, therefore, is to direct that the trial now proceed with expedition and be brought to a conclusion within a reasonable, fixed period.

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18. It is also apposite to emphasise that the power to quash criminal proceedings under Article 226 of the Constitution or Section 482 Cr.P.C. (now Section 528 BNSS) is to be exercised sparingly and in the rarest of cases. The jurisdiction is intended to prevent abuse of process or to secure the ends of justice, and not to conduct a roving inquiry into disputed facts or to prematurely stifle a prosecution, particularly where the

allegations disclose cognisable offences of a serious nature.

9. In the present case, the FIR was registered for the commission of an offence punishable under Section 13 (2) of the PC Act. It was laid down by the Hon'ble Supreme Court in ***State of Chhattisgarh v. Aman Kumar Singh*, (2023) 6 SCC 559,** that corruption is eroding public life, and it is the constitutional duty of the Courts to show zero tolerance to corruption. It was observed: -

> "**47.** We preface our discussion, leading to the answers to the above two questions, taking note of a dangerous and disquieting trend that obviously disturbs us without end. Though it is the preambular promise of the Constitution to secure social justice for the people of India by striving to achieve equal distribution of wealth, it is yet a distant dream. If not the main, one of the more prominent hurdles for achieving progress in this field is undoubtedly "corruption". Corruption is a malaise, the presence of which is all-pervading in every walk of life. It is not limited now to the spheres of activities of governance; regrettably, responsible citizens say it has become a way of life. Indeed, it is a matter of disgrace for the entire community that not only on the one hand is there a steady decline in steadfastly pursuing the lofty ideals which the Founding Fathers of our Constitution had in mind, but degradation of moral values in society is rapidly on the rise on the other hand. Not much debate is required to trace the root of corruption.
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> **48.** "Greed", regarded in Hinduism as one of the seven sins, has been overpowering in its impact. In fact, unsatiated greed for wealth has facilitated corruption to develop like cancer. If the corrupt succeed in duping the

law enforcers, their success erodes even the fear of getting caught. They tend to bask under a hubris that rules, and regulations are for humbler mortals and not them. To get caught, for them, is a sin. Little wonder that an outbreak of scams is commonly noticed. What is more distressing is the investigations/inquiries that follow. More often than not, these are botched and assume the proportion of bigger scams than the scams themselves. However, should this state of affairs be allowed to continue? Tracking down corrupt public servants and punishing them appropriately is the mandate of the PC Act.

49. "We the People", with the adoption of our Constitution, had expected very high standards from people occupying positions of trust and responsibility in line with the constitutional ethos and values. Regrettably, that has not been possible because, inter alia, a small section of individuals inducted in public service for "serving the public" appears to have kept private interest above anything else and, in the process, amassed wealth not proportionate to their known sources of income at the cost of the nation. Although appropriate legislation is in place to prevent the cancer of corruption from growing and developing, where maximum punishment by way of imprisonment for ten years is stipulated, curbing it in adequate measure, much less eradicating it, is not only elusive but unthinkable in present times.

50. Since there exists no magic wand as in fairy tales, a swish of which could wipe out greed, the constitutional courts owe a duty to the people of the nation to show zero tolerance to corruption and come down heavily against the perpetrators of the crime while at the same time saving those innocent public servants, who unfortunately get entangled by men of dubious conduct acting from behind the screen with ulterior motives and/or to achieve vested interests. The task, no doubt, is onerous, but every effort ought to be made to achieve it by sifting the grain

> from the chaff. We leave the discussion here with the fervent hope of better times in future."

10. It was further held that ordinarily, the Court should not quash the F.I.R. related to the corruption except in exceptional cases where there is absolutely no material or even a reasonable suspicion to support the case. This would harm innocent public servants, but it is a small price to pay to ensure probity in society. It was observed: -

> **80.** Having regard to what we have observed above in paras 47 to 50 (*supra*) and to maintain probity in the system of governance as well as to ensure that societal pollutants are weeded out at the earliest, it would be eminently desirable if the High Courts maintain a hands-off approach and not quash a first information report pertaining to "corruption" cases, especially at the stage of investigation, even though certain elements of strong-arm tactics of the ruling dispensation might be discernible. The considerations that could apply to the quashing of first information reports pertaining to offences punishable under general penal statutes *ex proprio vigore* may not be applicable to a PC Act offence. Majorly, the proper course for the High Courts to follow, in cases under the PC Act, would be to permit the investigation to be taken to its logical conclusion and leave the aggrieved party to pursue the remedy made available by law at an appropriate stage. If at all, interference in any case is considered necessary, the same should rest on the very special features of the case.
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> **81.** Although what would constitute the special features has necessarily to depend on the peculiar facts of each case, interference could be made in exceptional cases where the records reveal *absolutely no material* to

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support even a reasonable suspicion of a public servant having intentionally enriched himself illicitly during the period of his service, and nothing other than mala fide is the basis for subjecting such servant to an investigation.

82. We quite appreciate that there could be cases of innocent public servants being entangled in investigations arising out of motivated complaints and the consequent mental agony, emotional pain and social stigma that they would have to encounter in the process, but this small price has to be paid if there is to be a society governed by the rule of law. While we do not intend to fetter the High Courts from intervening in appropriate cases, it is only just and proper to remind the courts to be careful, circumspect and cautious in quashing first information reports resting on mala fide of the nature alleged herein.

11. Therefore, it is not permissible to quash the F.I.R. registered under the P.C. Act on the ground of delay.

12. No other point was urged.

13. In view of the above, the present petition fails, and it is dismissed.

14. The observations made herein before shall remain confined to the disposal of the petition and will have no bearing whatsoever on the merits of the case.

(Rakesh Kainthla)
Judge

02nd June, 2026
(*ravinder*)