

Smt. Ambalika Datta vs The State Of Tripura on 20 May, 2026

TRHC010020592025

2026:THC:664

HIGH COURT OF TRIPURA
AGARTALA
Crl.P.No.69 of 2025

Smt. Ambalika Datta,
W/O Sri Asim Pal,
Resident of Agartala, Behind Radhanagar Motor Stand,
P.O.- Agartala, P.S.- West Agartala, District- West Tripura, Pin-
District- West Tripura, PIN- 799001.

....Petitioner(s).

Versus

The State of Tripura,
Represented be the Secretary,
Home Department, Government of Tripura.

.....Respondents.

For Petitioner(s) : Mr. Milon Mukherjee, Sr. Adv, Mr. Biswajit Manna, Adv, Mr. Sankar Lodh, Adv.

For Respondent(s) : Mr. Madhumita Chowdhury, Sp. P.P.

Date of Hearing : 01.05.2026

Date of delivery of
Judgment and Order : 19.05.2026

Whether fit for
Reporting : YES

HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order

Heard Learned Senior Counsel, Mr. Milon Mukherjee assisted by Learned Counsel, Mr. Biswajit Manna and Learned Counsel, Mr. Sankar Lodh appearing on behalf of the petitioner- accused. Also heard Learned Special P.P., Smt. Madhumita Chowdhury appearing on behalf of the State-respondent.

02. The petitioner-accused has filed this application under Section 528 BNSS corresponding to Section 482 of Cr.P.C. for quashing the FIR lodged against her vide West Agartala, P.S. case No.2015 WAG 60 under Section 120B/409/468/471/477A/420 of IPC and also under Section 13(1)(c) and (d) of the Prevention of Corruption Act.

03. At the time of hearing, Learned Senior Counsel raised the following four points in support of the petition filed on behalf of the accused:

(i) There was no legal scope to lodge a fresh/subsequent FIR against the present petitioner-accused after registration of an earlier case on the similar subject matter.

(ii) The petitioner-accused was exonerated from the article of charges levelled against her by the department.

(iii) There was no sanction for prosecution by the State against the petitioner-accused for lodging of prosecution under Section 197 of Cr.P.C. or under Section 19 of the Prevention of Corruption Act which were mandatory.

(iv) The cognizance taken by the Court against the petitioner- accused was badby law in absence of material evidence on record.

In support of argument, Learned Senior Counsel first of all drawn the attention of this Court that initially on the same subject matter, West Agartala, P.S. case No.156 of 2014 under Section 403/468//471/477/309 of IPC with added Section 120B of IPC and Section 13(1) of the Prevention of Corruption Act was registered on 05.09.2014 on the written complaint of one Sri Manabendra Chakraborty, the then Joint Director against one Arnab Chakraborty wherein there was no allegation against the petitioner-accused and she was not FIR named but thereafter, on the similar subject matter another FIR was lodged involving said Arnab Chakraborty and others for commission of offence showing the period w.e.f. 24.01.2014 to 02.09.2014 wherein also there was no indication of the name of the present petitioner although the said FIR which was registered as West Agartala, P.S. Case No.60 of 2015 ended in charge-sheet and at the time of filing of charge-sheet the present petitioner was implicated as accused in the aforesaid West Agartala, P.S. case No.60 of 2015 which was not permissible in the eye of law.

In this regard, Learned Senior Counsel relied upon one citation of the Hon'ble Supreme Court of India In T.T. Antony v. State of Kerala & Ors. along with other connected matters reported in (2001) 6 SCC 181, wherein in para Nos.18, 25 and 27, Hon'ble the Apex Court observed as under:

"18. An information given under sub-section (1) of Section 154 CrPC is commonly known as first information report (FIR) though this term is not used in the Code. It is a very important document. And as its nickname suggests it is the earliest and the first information of a cognizable offence recorded by an officer in charge of a police station. It sets the criminal law in motion and marks the commencement of the investigation which ends up with the formation of opinion under Section 169 or 170 CrPC, as the case may be, and forwarding of a police report under Section 173 CrPC. It is quite possible and it happens not infrequently that more informations than one are given to a police officer in charge of a police station in respect of the same incident involving one or more than one cognizable offences. In such a case he need not enter every one of them in the station house diary and this is implied in Section

154 CrPC. Apart from a vague information by a phone call or a cryptic telegram, the information first entered in the station house diary, kept for this purpose, by a police officer in charge of a police station is the first information report -- FIR postulated by Section 154 CrPC. All other informations made orally or in writing after the commencement of the investigation into the cognizable offence disclosed from the facts mentioned in the first information report and entered in the station house diary by the police officer or such other cognizable offences as may come to his notice during the investigation, will be statements falling under Section 162 CrPC. No such information/statement can properly be treated as an FIR and entered in the station house diary again, as it would in effect be a second FIR and the same cannot be in conformity with the scheme of CrPC. Take a case where an FIR mentions cognizable offence under Section 307 or 326 IPC and the investigating agency learns during the investigation or receives fresh information that the victim died, no fresh FIR under Section 302 IPC need be registered which will be irregular; in such a case alteration of the provision of law in the first FIR is the proper course to adopt. Let us consider a different situation in which H having killed W, his wife, informs the police that she is killed by an unknown person or knowing that W is killed by his mother or sister, H owns up the responsibility and during investigation the truth is detected; it does not require filing of fresh FIR against H -- the real offender -- who can be arraigned in the report under Section 173(2) or 173(8) CrPC, as the case may be. It is of course permissible for the investigating officer to send up a report to the Magistrate concerned even earlier that investigation is being directed against the person suspected to be the accused.

25. Where the police transgresses its statutory power of investigation the High Court under Section 482 CrPC or Articles 226/227 of the Constitution and this Court in an appropriate case can interdict the investigation to prevent abuse of the process of the court or otherwise to secure the ends of justice.

27. A just balance between the fundamental rights of the citizens under Articles 19 and 21 of the Constitution and the expansive power of the police to investigate a cognizable offence has to be struck by the court. There cannot be any controversy that sub-section (8) of Section 173 CrPC empowers the police to make further investigation, obtain further evidence (both oral and documentary) and forward a further report or reports to the Magistrate. In Narang case [(1979) 2 SCC 322 : 1979 SCC (Cri) 479] it was, however, observed that it would be appropriate to conduct further investigation with the permission of the court. However, the sweeping power of investigation does not warrant subjecting a citizen each time to fresh investigation by the police in respect of the same incident, giving rise to one or more cognizable offences, consequent upon filing of successive FIRs whether before or after filing the final report under Section 173(2) CrPC. It would clearly be beyond the purview of Sections 154 and 156 CrPC, nay, a case of abuse of the statutory power of investigation in a given case. In our view a case of fresh investigation based on the second or successive FIRs, not being a counter- case, filed in connection with the

same or connected cognizable offence alleged to have been committed in the course of the same transaction and in respect of which pursuant to the first FIR either investigation is under way or final report under Section 173(2) has been forwarded to the Magistrate, may be a fit case for exercise of power under Section 482 CrPC or under Articles 226/227 of the Constitution."

Referring the same, Learned Senior Counsel for the petitioner-accused submitted that in view of the aforesaid observation of the Hon'ble Supreme Court of India there was no scope to register second FIR rather it was the duty of the Investigating Agency to seek for further investigation in compliance of the provision of Section 173(8) of Cr.P.C. but that was not done by the Investigation Agency, so, this present FIR needs to be quashed.

Learned Senior Counsel, thereafter, referred Section 197(1) of Cr.P.C. which provides as under:

"197. Prosecution of Judges and public servants.--

(1) When any person who is or was a Judge or Magistrate or a public servant not removable from his office save by or with the sanction of the Government is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction 6 [save as otherwise provided in the Lokpal and Lokayuktas Act, 2013 (1 of 2014)]--

(a) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of the Union, of the Central Government;

(b) in the case of a person who is employed or, as the case may be, was at the time of commission of the alleged offence employed, in connection with the affairs of a State, of the State Government:

[Provided that where the alleged offence was committed by a person referred to in clause (b) during the period while a Proclamation issued under clause (1) of article 356 of the Constitution was in force in a State, clause (b) will apply as if for the expression "State Government" occurring therein, the expression "Central Government"

were substituted.]"

Again Learned Senior Counsel referred Section 19 of the Prevention of Corruption Act which also provides as under:

19. Previous sanction necessary for prosecution.--

(1) No court shall take cognizance of an offence punishable under 2 [sections 7, 11, 13 and 15] alleged to have been committed by a public servant, except with the previous sanction 3 [save as otherwise provided in the Lokpal and Lokayuktas Act, 2013 (1 of 2014)]--

(a) in the case of a person 4 [who is employed, or as the case may be, was at the time of commission of the alleged offence employed] in connection with the affairs of the Union and is not removable from his office save by or with the sanction of the Central Government, of that Government;

(b) in the case of a person 4 [who is employed, or as the case may be, was at the time of commission of the alleged offence employed] in connection with the affairs of a State and is not removable from his office save by or with the sanction of the State Government, of that Government;

(c) in the case of any other person, of the authority competent to remove him from his office:

[Provided that no request can be made, by a person other than a police officer or an officer of an investigation agency or other law enforcement authority, to the appropriate Government or competent authority, as the case may be, for the previous sanction of such Government or authority for taking cognizance by the court of any of the offences specified in this sub-section, unless--

(i) such person has filed a complaint in a competent court about the alleged offences for which the public servant is sought to be prosecuted; and

(ii) the court has not dismissed the complaint under section 203 of the Code of Criminal Procedure, 1973 (2 of 1974) and directed the complainant to obtain the sanction for prosecution against the public servant for further proceeding:

Provided further that in the case of request from the person other than a police officer or an officer of an investigation agency or other law enforcement authority, the appropriate Government or competent authority shall not accord sanction to prosecute a public servant without providing an opportunity of being heard to the concerned public servant:

Provided also that the appropriate Government or any competent authority shall, after the receipt of the proposal requiring sanction for prosecution of a public servant under this sub-section, endeavour to convey the decision on such proposal within a period of three months from the date of its receipt:

Provided also that in case where, for the purpose of grant of sanction for prosecution, legal consultation is required, such period may, for the reasons to be recorded in

writing, be extended by a further period of one month:

Provided also that the Central Government may, for the purpose of sanction for prosecution of a public servant, prescribe such guidelines as it considers necessary.

Referring both the aforesaid provisions, Learned Senior Counsel drawn the attention of the Court that the language used in Section 197 of Cr.P.C. "is/was" and the language used in Section 19 of the Prevention of Corruption Act, the word "is" is used, but unfortunately in this present case no sanction of the State Government was obtained by the prosecution for filing of charge-sheet and as such the cognizance of offence taken against the petitioner-accused was bad in law and hence, the case against the petitioner-accused is liable to be dismissed because according to Learned Senior Counsel, it was mandatory on the part of the State to submit sanction at the time of filing of charge-sheet before the Court but no such sanction of the State Government as required by law has been submitted by the prosecution in this case and as such there is no scope to proceed for trial against the present petitioner-

accused. Learned Senior Counsel, thereafter drawn the attention of the Court that this petitioner-accused was exonerated from the article of charges levelled against her in the Departmental Proceeding and in this regard, Learned Senior Counsel drawn the attention of the Court the order dated 04.07.2022 passed by the Inquiring Authority and subsequent order dated 17.11.2022 issued by the Secretary of the School Education Department by which the present petitioner-accused was exonerated from the alleged charge of misappropriation of public money and as such the present criminal case cannot proceed against the petitioner-

accused. In this regard, reliance was placed upon another judgment of the Hon'ble Supreme Court of India in Ashoo Surendranath Tewari v. Deputy Superintendent of Police, EOW, CBI & Anr. reported in (2020) 9 SCC 636, wherein in para Nos.8 and 15, Hon'ble the Apex Court observed as under:

"8. A number of judgments have held that the standard of proof in a departmental proceeding, being based on preponderance of probability is somewhat lower than the standard of proof in a criminal proceeding where the case has to be proved beyond reasonable doubt. In P.S. Rajya v.

State of Bihar [P.S. Rajya v. State of Bihar, (1996) 9 SCC 1 : 1996 SCC (Cri) 897] , the question before the Court was posed as follows: (SCC pp. 2-3, para

3) "3. The short question that arises for our consideration in this appeal is whether the respondent is justified in pursuing the prosecution against the appellant under Section 5(2) read with Section 5(1)(e) of the Prevention of Corruption Act, 1947 notwithstanding the fact that on an identical charge the appellant was exonerated in the departmental proceedings in the light of a report submitted by the Central Vigilance Commission and concurred by the Union Public Service

Commission."

15. Applying the aforesaid judgments to the facts of this case, it is clear that in view of the detailed CVC order dated 22-12-2011, the chances of conviction in a criminal trial involving the same facts appear to be bleak. We, therefore, set aside the judgment [Ashoo Surendranath Tewari v. CBI, 2014 SCC OnLine Bom 5042] of the High Court and that of the Special Judge and discharge the appellant from the offences under the Penal Code."

Referring the same, Learned Senior Counsel submitted that since in the Departmental Proceeding the present petitioner-accused has been exonerated from the article of charges and on the similar facts and circumstances this present case cannot stand/lie against the present petitioner-accused of this case.

It was further submitted by Learned Senior Counsel that this present petition for discharging of the accused could have been filed by the petitioner before the concerned Trial Court but since the petitioner has challenged the proceeding against her including the charge-sheet laid against her and as such there was no such scope on the part of the petitioner to approach to the concerned Court save and except to approach this High Court by filing application under Section 482 of Cr.P.C.

In this regard, further reference was placed upon another citation of the Hon'ble Supreme Court of India in a case in Pepsi Foods Ltd. & Anr. v. Special Judicial Magistrate & Ors. reported in (1998) 5 SCC 749, wherein in para Nos.29 and 30 Hon'ble the Apex Court observed as under:

"29. No doubt the Magistrate can discharge the accused at any stage of the trial if he considers the charge to be groundless, but that does not mean that the accused cannot approach the High Court under Section 482 of the Code or Article 227 of the Constitution to have the proceeding quashed against him when the complaint does not make out any case against him and still he must undergo the agony of a criminal trial. It was submitted before us on behalf of the State that in case we find that the High Court failed to exercise its jurisdiction the matter should be remanded back to it to consider if the complaint and the evidence on record did not make out any case against the appellants. If, however, we refer to the impugned judgment of the High Court it has come to the conclusion, though without referring to any material on record, that "in the present case it cannot be said at this stage that the allegations in the complaint are so absurd and inherently improbable on the basis of which no prudent man can ever reach a just conclusion that there exists no sufficient ground for proceedings against the accused". We do not think that the High Court was correct in coming to such a conclusion and in coming to that it has also foreclosed the matter for the Magistrate as well, as the Magistrate will not give any different conclusion on an application filed under Section 245 of the Code. The High Court says that the appellants could very well appear before the court and move an application under Section 245(2) of the Code and that the Magistrate could discharge them if he found the charge to be groundless and at the same time it has itself returned the finding that there are sufficient grounds for proceeding against the

appellants.

30. It is no comfortable thought for the appellants to be told that they could appear before the court which is at a far off place in Ghazipur in the State of Uttar Pradesh, seek their release on bail and then to either move an application under Section 245(2) of the Code or to face trial when the complaint and the preliminary evidence recorded makes out no case against them. It is certainly one of those cases where there is an abuse of the process of the law and the courts and the High Court should not have shied away in exercising their jurisdiction. Provisions of Articles 226 and 227 of the Constitution and Section 482 of the Code are devised to advance justice and not to frustrate it. In our view the High Court should not have adopted such a rigid approach which certainly has led to miscarriage of justice in the case. Power of judicial review is discretionary but this was a case where the High Court should have exercised it."

Referring the same, Learned Senior Counsel drawn the attention of the Court that in view of the judgment of the Hon'ble Supreme Court of India there is no bar on the part of the petitioner-accused to move application for redressal of her grievances and accordingly, the petitioner has filed the application before this Court seeking redress.

Finally, Leaned Senior Counsel submitted that since in the FIR nothing was mentioned against the petitioner-accused and even during investigation also no evidence revealed against the petitioner-accused involving misappropriation of public money, rather it revealed that the principle accused who was the custodian of the cash book manipulated the signatures on 2 nos. of cheques and withdrawn money keeping the petitioner- accused in dark, so, no criminal offence was attributed to the present petitioner. Even, in the Departmental Proceeding the petitioner was also exonerated from the charges, so, the FIR and the subsequent charge-sheet cannot allowed to be continued against the petitioner-accused and as such the order of cognizance taken against her by the concerned Trial Court was bad in law and as such the same is liable to be quashed.

04. On the other hand, Learned Special P.P., Ms. M. Chowdhury appearing on behalf of the State-respondent submitted that admittedly in the first FIR the name of the petitioner was not there but in the second FIR although the name of the petitioner-accused was not there but in course of investigation her prima facie involvement revealed and accordingly, she was chargesheeted. It was further submitted by Learned Special P.P. that in course of investigation the I.O. could collect materials against the petitioner-accused showing that she was negligent in discharging her official duties as DDO and she was negligent to discharge her official duties when the entire episode took place and in the Departmental Proceeding for want of the documents she was exonerated but it does not mean that the petitioner was not involved with the alleged crime and since the trial has not yet been commenced, so, at this early stage there is no scope to discharge the petitioner as during investigation, the I.O. collected materials against her showing her involvement with the alleged offence. Regarding sanction, Learned Special P.P. submitted that considering the nature of allegation it was not necessary for the I.O. to procure sanction for filing prosecution against the petitioner-accused.

Learned Special P.P. in this regard placed reliance on a judgment of the Hon'ble Supreme Court of India in *Shadakshari v. State of Karnataka & Anr.* along with another connected matter reported in (2024) 11 SCC 747, wherein in para Nos.20, 22, 23, 25 and 26, Hon'ble the Apex Court observed as under:

"20. The ambit, scope and effect of Section 197CrPC has received considerable attention of this Court. It is not necessary to advert to and dilate on all such decisions. Suffice it to say that the object of such sanction for prosecution is to protect a public servant discharging official duties and functions from undue harassment by initiation of frivolous criminal proceedings.

22. This aspect was also examined by this Court in *Shambhoo Nath Misra [Shambhoo Nath Misra v. State of U.P., (1997) 5 SCC 326 : 1997 SCC (Cri) 676]*. Posing the question as to whether a public servant who allegedly commits the offence of fabrication of records or misappropriation of public funds can be said to have acted in the discharge of his official duties. Observing that it is not the official duty to fabricate records or to misappropriate public funds, this Court held as under: (SCC p. 328, para 5)

"5. The question is when the public servant is alleged to have committed the offence of fabrication of record or misappropriation of public fund, etc. can he be said to have acted in discharge of his official duties. It is not the official duty of the public servant to fabricate the false records and misappropriate the public funds, etc. in furtherance of or in the discharge of his official duties. The official capacity only enables him to fabricate the record or misappropriate the public fund, etc. It does not mean that it is integrally connected or inseparably interlinked with the crime committed in the course of the same transaction, as was believed by the learned Judge. Under these circumstances, we are of the opinion that the view expressed by the High Court as well as by the trial court on the question of sanction is clearly illegal and cannot be sustained."

23. Even in *D. Devaraja [D. Devaraja v. Owais Sabeer Hussain, (2020) 7 SCC 695 : (2020) 3 SCC (Cri) 442]* relied upon by the learned counsel for Respondent 2, this Court referred to *Ganesh Chandra Jew [State of Orissa v. Ganesh Chandra Jew, (2004) 8 SCC 40 : 2004 SCC (Cri) 2104]* and held as follows: (*D. Devaraja case [D. Devaraja v. Owais Sabeer Hussain, (2020) 7 SCC 695 : (2020) 3 SCC (Cri) 442]*, SCC p. 709, para 35) "35. In *State of Orissa v. Ganesh Chandra Jew [State of Orissa v. Ganesh Chandra Jew, (2004) 8 SCC 40 : 2004 SCC (Cri) 2104]* this Court interpreted the use of the expression "official duty" to imply that the act or omission must have been done by the public servant in course of his service and that it should have been in discharge of his duty. Section 197 of the Code of Criminal Procedure does not extend its protective cover to every act or omission done by a public servant while in service. The scope of operation of the section is restricted to only those acts or omissions which are done by a public servant in discharge of official duty."

(emphasis supplied)

25. After the hearing was over, the learned counsel for Respondent 2 circulated a judgment of this Court in *A. Srinivasulu v. State of T.N.* [*A. Srinivasulu v. State of T.N.*, (2023) 13 SCC 705] in support of the contention that a public servant cannot be prosecuted without obtaining sanction under Section 197CrPC. We have carefully gone through the aforesaid decision rendered by a two-Judge Bench of this Court in *A. Srinivasulu* [*A. Srinivasulu v. State of T.N.*, (2023) 13 SCC 705]. That was a case where seven persons were charge-sheeted by the Central Bureau of Investigation ("CBI") for allegedly committing offences under Section 120-B read with Sections 420, 468, 471 along with Sections 468 and 193IPC read with Sections 13(2) and 13(1)(d) of the Prevention of Corruption Act, 1988 (for short "the PC Act, 1988"). Four of the accused persons being A-1, A-2, A-3 and A-4 were officials of Bharat Heavy Electricals Ltd., a public sector undertaking and thus were public servants both under IPC as well as under the PC Act, 1988. Accused 1 had retired from service before filing of the charge-sheet. Insofar as Accused 3 and 4, the competent authority had refused to grant sanction but granted the same in respect of Accused 1. It was in that context that this Court considered the requirement of sanction under Section 197CrPC qua Accused 1 and observed that Accused 1 could not be prosecuted for committing the offence of criminal conspiracy when sanction for prosecuting Accused 3 and 4 with whom criminal conspiracy was alleged, was declined. This Court held as follows: (SCC p. 735, para 56) "56. It must be remembered that in this particular case, the FIR actually implicated only four persons, namely, PW 16, A-3, A-4 and A-5. A-1 was not implicated in the FIR. It was only after a confessional statement was made by PW 16 in the year 1998 that A-1 was roped in. The allegations against A-1 were that he got into a criminal conspiracy with the others to commit these offences. But the Management of BHEL refused to grant sanction for prosecuting A-3 and A-4, twice, on the ground that the decisions taken were in the realm of commercial wisdom of the Company. If according to the Management of the Company, the very same act of the co-conspirators fell in the realm of commercial wisdom, it is inconceivable that the act of A-1, as part of the criminal conspiracy, fell outside the discharge of his public duty, so as to disentitle him for protection under Section 197(1) of the Code."

(emphasis in original)

26. Admittedly, facts of the present case are clearly distinguishable from the facts of *A. Srinivasulu* [*A. Srinivasulu v. State of T.N.*, (2023) 13 SCC 705] and, therefore, the said decision cannot be applied to the facts of the present case."

Referring the same, Learned Special P.P. drawn the attention of the Court that in view of the above for the act committed by the petitioner-accused there was no need to obtain sanction for prosecution by the I.O. and as such according to Learned Special P.P. the submission of the petitioner-accused cannot be accepted in this case and prayed for dismissal of the petition filed by the petitioner-accused as during investigation material evidence collected against her and at this stage, till completion of trial, there is no scope to discharge the petitioner-accused from the charge of this case and prayed for dismissal of the petition.

Considered.

05. In this case prosecution was set into motion on the basis of an FIR/suo moto complaint laid by one Sanjoy Biswas, the then SDPO, NCC to S.P., West Tripura District on 19.05.2015 which is mentioned herein below:

To Superintendent of Police, West Tripura District, Agartala, Tripura Subject-Suo-moto complaint Sir, I, Sanjoy Biswas, SDPO, New Capital Complex, do here by lodge a Suo-moto Complaint against the accused persons namely i) Arnab Chakraborty S/O Lt. Ardhendu Chakraborty, r/o-Resham Bagan, PS- East Agartala ii) Smt. Sanghita Chakraborty W/O Sri Arnab Chakraborty,. r/o- Resham Bagan, PS- East Agartala iii)Smt. Kajal Rani Chakraborty W/O Lt. Ardhendu Chakraborty, r/o-Resham Bagan, PS- East Agartala, iv) Rajib Dasgupta S/O Sri Ranjit Dasgupta of vivekanada Pally, Narsingarh, PS- Airport and v) Binoy Das S/O Sri Bircharan Das of Gangagatipur, PS- Sidhai, unknown officials of TSCB bank and unknown others for misappropriation of Government money through corrupt means using forged cheques in criminal conspiracy with each other.

That I am the investigating officer of West Agartala PS Case No- 156/2014 U/S 403/468/471/477A/309 of IPC added with Section 120(B) of IPC and 13(1) of the Prevention of corruption Act, 1988 registered on 05.09.2014 on the written complaint of Sri Manabendra Chakraborty, the then Joint Director, Directorate of School Education, before alleging misappropriation of Government money from Rastriya Madhyamik Siksha Abhijaan (RMSA) to the tune of RS. 11,72,000/- by Sri Arnab Chakraborty, cashier of RMSA. He allegedly forged the signatures of authorized signatories and issued the cheque vide No- 012756 in his name and had withdrawn the amount from Tripura State Co-Operative Bank Limited, Secretariat branch. A Charge sheet vide No. 107/14 dated-21/11/2014 has already been filed in c/w this case.

During investigation of the aforementioned case, it has come to light that Sri Arnab Chakraborty, LDC, Cashier of RMSA in conspiracy with above mentioned other accused persons and unknown bank officials also unauthorizedly withdrew Rs. 3.19 crore approx. from the bank account No. 003212040000006 of RMSA maintained at Tripura State Co-Operative Bank Ltd, Secretariat Branch by allegedly using about 93 forged cheques during the period from 24-01-2014 to 02-09-2014. This misappropriated amount is not part of the allegations of FIR of West Agartala PS case No. 156/2014. These are distinct offences and altogether part of different transactions. The details are given below:

| Sl. No. | Name of Bank | Cheque No. | Amounts |
|---------|--------------------------|------------|----------------|
| 1. | TSCB, Secretariat Branch | 792215 | Rs. 4,50,000/- |
| 2. | TSCB, Secretariat Branch | 792216 | RS. 1,60,000/- |
| 3. | TSCB, Secretariat Branch | 318176 | RS. 10,000/- |
| 4. | TSCB, Secretariat Branch | 318188 | RS. 10,000/- |
| 5. | TSCB, Secretariat Branch | 318183 | RS. 10,000/- |
| 6. | TSCB, Secretariat Branch | 318197 | RS. 50,000/- |

| | | | |
|-----|---------------------------|--------|----------------|
| 7. | TSCB, Secretariat Branch | 792224 | RS.5,50,000/- |
| 8. | TSCB, Secretariat Branch | 318187 | RS.37,000/- |
| 9. | TSCB, Secretariat Branch | 792227 | RS.5,50,000/- |
| 10. | TSCB, Secretariat Branch | 792228 | RS.2,50,000/- |
| 11. | TSCB, Secretariat Branch | 792279 | RS.3,55,000/- |
| 12. | TSCB, Secretariat Branch | 792305 | RS.1,25,000/- |
| 13. | TSCB, Secretariat Branch | 792304 | RS.2,35,000/ |
| 14. | TSCB, Secretariat Branch | 792281 | RS.2,50,000/- |
| 15. | TSCB, Secretariat Branch | 792306 | RS.2,52,300/- |
| 16. | TSCB, Secretariat Branch | 792260 | RS.2,70,000/- |
| 17. | TSCB, Secretariat Branch | 792289 | RS.2,00,000/- |
| 18. | TSCB, Secretariat Branch | 792312 | RS.2,25,000/- |
| 19. | TSCB, Secretariat Branch | 792231 | RS.4,60,000/- |
| 20. | TSCB, Secretariat Branch | 792263 | RS.1,75,000/- |
| 21. | TSCB, Secretariat Branch | 792259 | RS.2,55,000/- |
| 22. | TSCB, Secretariat Branch | 792291 | RS.2,10,000/- |
| 23. | TSCB, Secretariat Branch | 792222 | RS.5,50,000/- |
| 24. | TSCB, Secretariat Branch | 792278 | RS.2,50,000/- |
| 25. | TSCB, Secretariat Branch | 792223 | RS.5,00,000/- |
| 26. | TSCB, Secretariat Branch | 792218 | RS.38,000/- |
| 27. | TSCB, Secretariat Branch | 792210 | RS.93,500/- |
| 28. | TSCB, Secretariat Branch | 318198 | RS.1,17,000/- |
| 29. | TSCB, Secretariat Branch | 792208 | RS.1,65,000/- |
| 30. | TSCB, Secretariat Branch | 792296 | RS.59,000/- |
| 31. | TSCB, Secretariat Branch | 792211 | RS.3,30,000/- |
| 32. | TSCB, Secretariat Branch | 792225 | RS.2,80,000/- |
| 33. | TSCB, Secretariat Branch | 792250 | RS.3,30,000/- |
| 34. | TSCB, Secretariat Branch | 012754 | RS.6,55,000/- |
| 35. | TSCB, Secretariat Branch | 792320 | RS.2,05,000/ |
| 36. | TSCB, Secretariat Branch | 792269 | RS.2,60,000/- |
| 37. | TSCB, Secretariat Branch | 792267 | RS.2,00,000/- |
| 38. | TSCB, Secretariat Branch | 792302 | RS.3,37,000/- |
| 39. | TSCB, Secretariat Branch | 792307 | RS.4,30,000/- |
| 40. | TSCB, Secretariat Branch | 792245 | RS.2,50,000/- |
| 41. | TSCB, Secretariat Branch | 792244 | RS.3,30,000/- |
| 42. | TSCB, Secretariat Branch | 792243 | RS.2,30,000/- |
| 43. | TSCB, Secretariat Branch | 792239 | RS.4,00,000/- |
| 44. | TSCB, Secretariat Branch | 792242 | RS.2,00,000/- |
| 45. | TSCB, Secretariat Branch | 792238 | RS.3,00,000/- |
| 46. | TSCB, Secretariat Branch | 792233 | RS.4,00,000/- |
| 47. | TSCB, Secretariat Branch | 792235 | RS.3,00,000/- |
| 48. | TSCB, Secretariat Branch | 792232 | RS.2,50,000/- |
| 49. | TSCB, Secretariat Branch | 792236 | RS.3,50,000 /- |
| 50. | TSCB, Secretariat Branch | 792265 | RS.4,00,000/- |
| 51. | TSCB, Secretariat Branch | 792262 | RS.6,00,000/- |
| 52. | TSCB, Secretariat Branch | 792271 | RS.5,30,000/- |
| 53. | TSCB, Secretariat Branch | 792322 | RS.6,00,000/- |
| 54. | TSCB, Secretariat Branch. | 792254 | RS.4,00,000/- |

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| 55. | TSCB, Secretariat Branch | 792264 | RS.4,09,000/- |
| 56. | TSCB, Secretariat Branch | 792309 | RS.5,00,000/- |
| 57. | TSCB, Secretariat Branch | 792321 | RS.4,00,000/- |
| 58. | TSCB, Secretariat Branch | 792272 | RS.4,14,000/- |
| 59. | TSCB, Secretariat Branch | 792303 | RS.5,00,000/- |
| 60. | TSCB, Secretariat Branch | 792255 | RS.3,40,000/- |
| 61. | TSCB, Secretariat Branch | 792311 | RS.4,00,000/- |
| 62. | TSCB, Secretariat Branch | 792268 | RS.3,20,000/- |
| 63. | TSCB, Secretariat Branch | 792315 | RS.3,00,000/- |
| 64. | TSCB, Secretariat Branch | 792316 | RS.3,00,000/- |
| 65. | TSCB, Secretariat Branch | 792314 | RS.5,00,000/- |
| 66. | TSCB, Secretariat Branch | 012753 | RS.5,50,000/- |
| 67. | TSCB, Secretariat Branch | 792313 | RS.4,70,000/- |
| 68. | TSCB, Secretariat Branch | 012752 | RS.4,37,000/- |
| 69. | TSCB, Secretariat Branch | 012751 | RS.7,00,000/- |
| 70. | TSCB, Secretariat Branch | 792275 | RS.6,00,000/- |
| 71. | TSCB, Secretariat Branch | 012755 | RS.5,50,000/- |
| 72. | TSCB, Secretariat Branch | 792273 | RS.6,00,000/- |
| 73. | TSCB, Secretariat Branch | 792274 | RS.5,20,000/- |
| 74. | TSCB, Secretariat Branch | 792257 | RS.5,25,000/- |
| 75. | TSCB, Secretariat Branch | 792266 | RS.4,71,000/- |
| 76. | TSCB, Secretariat Branch | 792261 | RS.5,00,000/- |
| 77. | TSCB, Secretariat Branch | 792318 | RS.6,50,000/- |
| 78. | TSCB, Secretariat Branch | 792319 | RS.4,50,000/- |
| 79. | TSCB, Secretariat Branch | 792256 | RS.3,80,000/- |
| 80. | TSCB, Secretariat Branch | 792317 | RS.2,00,000/- |
| 81. | TSCB, Secretariat Branch | 792324 | RS.2,50,000/- |
| 82. | TSCB, Secretariat Branch | 792308 | RS.2,30,000/- |
| 83. | TSCB, Secretariat Branch | 792226 | RS.4,50,000/- |
| 84. | TSCB, Secretariat Branch | 792230 | RS.2,50,000/- |
| 85. | TSCB, Secretariat Branch | 792280 | RS.4,50,000/- |
| 86. | TSCB, Secretariat Branch | 792310 | RS.3,00,000/- |
| 87. | TSCB, Secretariat Branch | 792301 | RS.3,90,000/- |
| 88. | TSCB, Secretariat Branch | 792325 | RS.2,10,000/- |
| 89. | TSCB, Secretariat Branch | 792258 | RS.4,18,000/- |
| 90. | TSCB, Secretariat Branch | 792323 | RS.2,00,000/- |
| 91. | TSCB, Secretariat Branch | 7922270 | RS.4,56,000/- |
| 92. | TSCB, Secretariat Branch | 012783 | RS.4,30,000/- |
| 93. | TSCB, Secretariat Branch | 012782 | RS.6,50,000/- |
| | Total | | RS.3,19,98,800/- |

The above amounts were dishonestly and

fraudulently withdrawn from the government's account by the accused persons in conspiracy with each other using forged documents and part of the amount was credited to the bank accounts of accused Arnab Chakraborty, Smt. Sanghita Chakraborty, Smt. Kajal Rani Chakraborty, Rajib Dasgupta and their family members, thereby causing wrongful loss to the government and corresponding wrongful pecuniary gain to themselves and others. During the period Arnab Chakraborty deposited about Rs. 1,37,69,445/- (approx.), Sanghita Chakraborty about Rs. 60,00,000/- (approx.), Kajal Rani Chakraborty about Rs.

12,00,000/- (approx.), and Rajib Dasgupta Rs.-52,00,000/- (approx.) in the bank accounts operated by them. Accused Arnab Chakraborty also allegedly paid Rs.13 lacs to Utpal Raha and Sanjib Banik of Rasham Bagan as advance money for purchasing two plots of land out of the misappropriated amount. Besides, two numbers of Royal Enfield Motorcycles were purchased by A/P Arnab Chakraborty and Rajib Dasgupta on 07.07.2014 valued RS. 1, 51,000/- and RS. 1, 70,000/- respectively. The cheque book of the said RMSA bank account was also kept in the custody of Sri Arnab Chakraborty during the said period.

Hence, I am submitting a separate FIR for the offences under section 120 B, 409, 468, 471, 477A, 420 IPC and section 13(2) read with 13 1(c) & (d) PC Act, 1988 against the following accused persons for misappropriation of Government money amounting to RS.3,19,98,800/- during the period from 24-01-2014 to 02-09-2014 through dishonest and fraudulent means from the bank account No-003212040000006 of RMSA maintained at State Co- operative Bank, Secretariat Branch for the end of Justice.

i) Arnab Chakraborty S/O Lt. Ardhendu Chakraborty, of Rasham Bagan, PS- East Agartala

ii) Smt. Sanghita Chakraborty W/O Arnab Chakraborty of Rasham Bagan, PS- East Agartala

(ii) Smt. Kajal Rani Chakraborty W/O Lt. Ardhendu Chakraborty of Rasham Bagan, PS- East Agartala

iv) Rajib Dasgupta S/O Sri Ranjit Dasgupta of vivekanada Pally, of Narsingarh, PS- Airport

v) Binoy Das S/O Bircharan Das of Gangagatipur, PS- Sidhai

vi) Unknown officials of TSCB Bank

vii) Unknown others On the basis of that FIR, West Agartala, P.S. case No.60 of 2015 under Sections 120B/409/468/471/477A/420 of IPC read with Sections 13(2) and 13(1)(c) & (d) of the P.C. Act, 1988 was registered. From the aforesaid FIR, it appears that prior to that FIR another West Agartala, P.S. case No.156 of 2014 under Sections 403/468/471/477A/309 of IPC with added Sections 120B of IPC and 13(1) of the Prevention of Corruption Act, 1988 was registered, on 05.09.2014 on the written complaint of one Sri Manabendra Chakraborty, the then Joint Director, Directorate of School Education for misappropriation of government money against one Arnab Chakraborty, cashier of RMSA and during investigation of the said FIR some more evidence came against said Arnab Chakraborty and others for misappropriation of government money using 93 forged cheques w.e.f. 24.01.2014 to 02.09.2014 which was not the part of investigation of the said case registered at West Agartala P.S. Case No.156 of 2014.

Admittedly in the aforesaid West Agartala, P.S. case No.156 of 2014 this present petitioner-accused was not named. Even in this present case also initially the name of the petitioner- accused at the time of registration was not there. Although in course of investigation, the name of the present

petitioner- accused was revealed. In this regard, the registration of the second FIR on the same subject matter-in- issue was not permissible in the eye of law as submitted by Learned Senior Counsel for the petitioner, Mr. M. Mukherjee at the time of hearing.

In support of his contention he referred the case reported in (2001) 6 SCC 181 (T. T. Antony vs. State of Kerala and Ors.). This plea of registration of second FIR has not been taken by the said principal-accused before this Court and this present accused-petitioner was not the FIR named and chargesheeted accused in West Agartala, P.S. case No.156 of 2014. So, the contention of the Learned Senior Counsel that the second FIR was not maintainable is not tenable in the eye of law and his submission cannot be accepted at this stage because it discloses separate cause of action. Now as already stated the present petitioner-accused was chargesheeted in this case.

06. I have also gone through the chargesheet submitted by the I.O. against this present accused and others. The I.O. after completion of investigation has laid chargesheet against this present petitioner and others. Now let us reproduce herein below the relevant part of the evidence so far collected by I.O. against the petitioner during investigation of this case.

In column No.13 of the chargesheet the following assertions have been made by I.O:

"13.EVIDENCES:

The above mentioned case was registered on 19-05- 2015 on the basis of Suo-moto complaint submitted by Shri Sanjoy Biswas, SDPO NCC against the A/Ps for misappropriation of Govt. money by corrupt means using forged cheques in criminal conspiracy with each other.

That Sri Sanjoy Biswas was the investigating officer of West Agt PS Case No 156/2014 U/S-

403/468/471/477A/409 of IPC added with Section 120(B) of IPC and 13 (1) of the Prevention of Corruption Act, 1988 registered against Shri Arnab Chakraborty, Cashier of RMSA on the written complaint of Sri Manabendra Chakraborty, Joint Director of School Education alleging misappropriation of Govt. money from RMSA in the tune of Rs.11,72,000/- by Arnab Chakraborty. During investigation of the above mentioned case it has come to light that Arnab Chakraborty, LDC, Cashier of RMSA in conspiracy with other accused person's also illegally withdrawn Rs. 3.19 Crore (approx.) from the bank account No SGB-6 of RMSA maintained at TSCB, Secretariat branch allegedly using 93 forged cheques during the period from 24/01/2014 to 02/09/2014. This amount is not part of allegations of FIR of West Agt PS Case No 156/2014. These are distinct offence and altogether part of different transactions involving different accused persons. Out of 93 cheques, 10 cheques suspected to be withdrawn by FIR named A/P Rajib Dasgupta and remaining 83 cheques were sent to SFSL along with admitted, specimen and questioned handwriting for expert's opinion.

As per the SFSL report, Smt Ambalika Datta being one of the signatory had signed in two cheques bearing No. 792215 amounting Rs:4,50,000/ & No. 792216 amounting Rs. 1,60,000/-. These two cheques were withdrawn by Arnab Chakraborty on 22-05-2015 & 24-05-2015. On the other hand signature of other authorized signatory namely B R Debbarma found to be forged. The investigation revealed that, as DDO Smt Ambalika Datta with Criminal intentions, dishonestly and fraudulently in conspiracy with other accused persons committed the following criminal acts to misappropriate the Govt. money:

As DDO she had to ensure that all monitory transactions in her office were entered in Cash Book. However, no entry was made after March, 2014. Although few casual entries were made on 02/04/2014 but she did not signed it. Even prior to that also the entries were not made regularly. This enabled the accused person to illegally withdraw the huge amount of money. An amount of Rs.3.19 (approx.) crores was withdrawn and misappropriated from 24/01/2014 to 02/09/2014 without making any entry in the cash book. As DDO she was responsible for ensuring entry of all monitory transactions in the cash book as soon as they occurred and she had to attest all such entries.

She has not given any satisfactory reply to the withdrawal of Rs. 6.1 lakhs against her genuine signature vide cheque No 792215 amounting Rs.4,50,000/ and Cheque No. 792216 amounting Rs, 1.6 lakhs.

Any payments above Rs.500/- should be made through cheques as per Govt. of Tripura standing instructions issued vide No.28(6)FIN(G)/75 dated 25-07-2005, but huge amount of Rs 3.19 crore was withdrawn by the accused persons in cash in conspiracy with each other. As DDO/authorized signatory Smt. Datta in conspiracy with other A/Ps blatantly violated the Govt. instructions in order to misappropriate the huge amount of Govt. money.

Audit of her office was conducted during July 2014 by the Sanat & Associates for the period ending 31st March 2014. The audit team observed that from 27/12/2013 to 29/03/2014, 10(ten) nos of bearer cheques were not entered in the cash book but were actually withdrawn from the bank account of TSCB totaling Rs. 16, 27, 500.00 All above cheques were bearer cheques and withdrawn in cash. In the cash book neither the amount received in cash nor the expenditure made been entered though the cash book has been duly signed and closed on 31.03.2014. So the total Rs.16, 27, 500.00 has been kept out of cash book to defraud the Govt money in conspiracy with other accused persons. Furthermore, out of these 10(ten) cheques 8(eight) cheques were mentioned in FIR vide serial no 28, 32, 33, 31, 27, 26, 29, 30.

A regular AG audit was also held during August 2014 who also pointed out that cash book was not written from 01/04/2014 to till the date of audit. Audit team also observed that, an amount of Rs 16, 27500/- was drawn from TSCB Secretariat

BranchS/B A/C No SBG-6 against 10 (ten) number of cheques during the period from 27/12/2013 to 29/03/2014 of which an amount of Rs 1495500/- was neither entered in the Cheque Issue Register nor in the cash book till date of audit(August-2014). Out of these 10(ten) cheques, 8(eight) cheques were mentioned in FIR vide no 28, 32, 33, 31, 27, 26, 29, 30. All these cheques were withdrawn in cash during February/March 2014. Even during and after the period of audit also huge amount of Govt money was illegally withdrawn and misappropriated. As DDO she had to verify the cash balance at the end of each month in cash book signed and dated certificate to that effect. She deliberately did not verify the cash book as DDO to protect herself and other accused from being caught."

The I.O. in the report submitted that in course of investigation it came to the knowledge of I.O. that the present petitioner-accused being one of the signatories signed two cheques bearing Nos.792215 amounting to Rs.4,50,000/- and 792216 amounting to Rs.1.6 lakhs. According to prosecution, those two cheques were drawn by Arnab Chakraborty on 22.05.2015 and 24.05.2015 and in those cheques the signature of other authorized signatories namely, B.R. Debbarma found to be forged.

Thus, from the charge-sheet it appears that the petitioner-accused did not forge the signature of said B. Debbarma nor she withdrawn the amount, because it is the case of the prosecution that the custodian of the cheque was principle accused, Arnab Chakraborty and there is also no evidence on record that at the instance of this present petitioner-accused the amount of those cheques were withdrawn. Although the I.O. stated that in this regard the petitioner-accused in course of investigation could not give any satisfactory reply and violating the norms allowed to withdraw the money without maintaining the cash book. But surprisingly, prosecution in this case could not produce any materials on record that the petitioner-accused forged the signature, withdrawn the money and committed forgery for withdrawal of money from the account, nor there is any evidence on record that the petitioner misappropriated the public money or she converted the same for her personal use and there is also no evidence on record that the money withdrawn was deposited in her account like others.

07. In this case although there were allegation of forgery of 93 cheques but excepting 91 cheques only two cheques were attributed to the present petitioner, but in this regard, there is no evidence on record that the present petitioner-accused had committed forgery by putting forged signatures of other counterpart withdrawn the money from the bank or there is no evidence on record that the said money was withdrawn at the instance of the present petitioner. Regarding rest 91 cheques there is no allegation against the present petitioner. In respect of negligence, as already stated a separate proceeding was drawn up and she was exonerated from the charge. So, on the ground of negligence also no liability can be fastened upon the present petitioner-accused in this criminal prosecution. The I.O. save and except the aforesaid allegation could not project any other materials before the Court in the charge-sheet.

As already stated, I have heard the detailed arguments of both the sides. Prosecution in the chargesheet intended to say that the petitioner-accused was irresponsible and negligent in discharging her duties and at her instance the money was fraudulently withdrawn from the

respective account, cash book was not properly maintained and in 2 cheques wherein the accused-petitioner gave her signatures, money was illegally withdrawn putting the forged signature of another person and according to the prosecution, the entire offence was conducted in convenience with each others. So, according to prosecution there is no scope to discharge the accused.

08. On the other hand, the petitioner took the stand that in the initial FIR she was not FIR named and in the subsequent FIR she was also not FIR named but her name revealed during investigation for which she was chargesheeted. But prosecution could not place any materials showing her involvement with the alleged offence. Since, this present petitioner-accused was not the accused of the earlier West Agartala, P.S. case No.156 of 2014, so, the plea taken by the petitioner-accused that second FIR was not permissible cannot be accepted. It is also on record that for negligence Departmental Proceeding was initiated against her and she was exonerated from the article of charges by the department levelled against her.

09. During investigation, I.O. also recorded the statements of some of the witnesses but from the statements of those witnesses nothing revealed showing involvement of the accused with the alleged crime. In this case, chargesheet was submitted against this present accused and others by the I.O. under Section 120B/409/468/471/477A/420 of IPC and also under Section 13(2) read with Section 13(1)(c) and (d) of the Prevention of Corruption Act.

In course of investigation, the I.O. save and except 2 cheques wherein the present petitioner-accused put her signatures and the rest part i.e. the signature of one B. Debbarma was forged could not place any other materials against the present petitioner-accused to stand trial before the Learned Trial Court with the alleged prosecution allegation.

10. As such in the considered opinion of this Court, no materials could collect by the prosecution in this case against the petitioner-accused to establish/stand the charge against her and as such the petitioner is liable to be discharged from this case.

11. In the result, the petition filed by the petitioner-accused, namely Smt. Ambalika Datta under Section 482 of Cr.P.C. is accordingly stands allowed. The proceeding against the petitioner-accused in pursuance of West Agartala, P.S. case No.60 of 2015 corresponding to Special (PC) 04 of 2015 connected to West Agarala PS C/S No.67 of 2025 dated 30.06.2025 under Section 120(B)/409/468/471/477A/420 IPC read with Section 13(1)(c) & (d) of 2015 is thus stands quashed. The petitioner is thus discharged from the liability of the aforesaid case and her surety, if any, is also accordingly stands discharged.

With this observation, this present petition stands disposed of.

Send down the record to the Learned Trial Court along with a copy of this judgment/order.

Return back the Case Diary, if any, to I.O. through Learned P.P. along with a copy of this judgment/order.

Pending application(s), if any, also stands disposed of.

JUDGE

PURNITA DEB

DEB

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Purnita