

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Case: CRM(M) No. 653/2023
CrIM No. 1278/2023

Nek Singh

....Petitioner(s)/Appellant(s)

Through :- Mr. G. S. Thakur, Advocate

V/s

UT of J&K & Anr.

....Respondent(s)

Through :- Mr. Raman Sharma, AAG
Mr. Koshal Parihar, Advocate

Coram: HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE

JUDGMENT
18.07.2025

ORAL

01. The petitioner has invoked inherent jurisdiction of this Court, in terms of Section 482 of the Code of Criminal Procedure 1989 ["Cr.P.C"] for quashment of order dated 14.06.2023, passed by learned Additional Sessions Judge, (Special Judge Anti Corruption), Doda, ["the trial Court"] vide which, he came to be charged for the commission of offence under Section 5(1) (d) read with Section 5(2) of J&K Prevention Corruption Act, 2006 ["J&K PC Act"], Section 4-A of J&K PC (Amendment) Act, 2018 and Section 201 & 120-B RPC.

02. As factual narration of the present case would unfurl, the private respondent-Pritam Chand lodged a written report on 10.07.2013 with the Vigilance Organization alleging *inter alia* that SHO and Mohrar Head Constable of Police Station, Gandoh demanded bribe of Rs. 10,000/- from him for lodgement of FIR in connection with the molestation case of his daughter-in-law.

When he expressed his inability to arrange the money, the said Head Constable told him to arrange at least Rs. 7,000/- to entertain his complaint. On the receipt of this report, impugned FIR came to be registered.

03. It surfaced during investigation that SHO(accused No. 2) and (accused No. 3) coerced the complainant to pay bribe of Rs. 7,000/-, out of which, the SHO was to receive Rs. 5,000/- and rest of the accused persons, i.e., accused No. 3 and accused No. 1-the petitioner had to receive Rs. 1,000/- each.

04. During investigation, a trap came to be laid in a Hotel, near main gate of Police Station, Gandoh, where the Mohrar Head Constable-accused No. 3 was caught red handed accepting gratification of Rs. 7,000/- from the complainant. It is also the prosecution case that the petitioner, who had also demanded his share of Rs. 1,000/-, gave a slip to the trap team and ran away. According to the investigating agency all the accused persons including the petitioner, abused their official positions, conspired and demanded bribe of Rs. 7,000/- from the complainant for registration of his case. The investigation culminated in the charge-sheet against the petitioner and co-accused in the trial court and learned trial court vide impugned order, charged the petitioner and co-accused for the aforesaid offences.

05. The petitioner is aggrieved of the impugned order, primarily, on the ground that there is nothing in the record to indicate that he, at any point of time, demanded or accepted any illegal gratification.

06. It is by far crystallized now that the Court, while considering the question of charge, has the power to sift and weigh the evidence for the limited purpose, to find out whether a *prima facie* case is made out against the accused or not. Where the charge-sheet and the material placed on record disclose grave

suspicion against the accused, the Court is justified in framing the charge and proceed with the trial. The Court is not required to evaluate the entire material and documents on record to conclude whether it is sufficient or not for convicting the accused. The charge has to be framed if the Court is satisfied that *prima facie* case is made out for proceeding against the accused. In other words, charge can only be quashed if the evidence, which the prosecutor purposes to adduce to bring home guilt of the accused, even if accepted at its face value in entirety, does not disclose the commission of any offence by the accused. In this respect, we may gainfully refer to ***State of Bihar vs. Ramesh Singh; AIR 1977 SC 2018, Union of India vs. Prafulla Kumar Samal; AIR 1979 SC 366, Niranjana Singh Karam Singh Punjabi, Advocate vs. Jitendra Bhimraj Bijja; AIR 1990 SC 1962 and State of M.P. vs. S. B. Johari; AIR 2000 SC 665.***

07. The allegation levelled by the complainant is that the SHO and Moharrar Head Constable of Police Station, Gandoh demanded illegal gratification of Rs. 10,000/- from the complainant, out of which, the petitioner also demanded his share of Rs. 1,000/-. It is also case of the prosecution that during the trap, the petitioner gave a slip to the trap team and ran away. During investigation, the complainant, in his statement recorded under Section 164-A Cr.P.C, has clearly stated that petitioner demanded his share of Rs. 1,000/- in the bribe amount. It is well-settled in law that prosecution can prove the alleged demand and acceptance of illegal gratification by a public servant, as a fact in issue, by way of oral, circumstantial or documentary evidence.

08. The inherent jurisdiction of this Court, it is trite, is to be exercised with care and circumspection and only in exceptional cases and if the charge-sheet *prima facie* discloses the commission of offence(s) against the accused, this

Court cannot embark upon an inquiry regarding the reliability, genuineness or otherwise of the allegations and scuttle the trial. Since the complainant, in his statement under Section 164-A Cr.P.C recorded during investigation, has clearly stated that petitioner also demanded his share of Rs. 1,000/- as illegal gratification and it is the prosecution case that during the trap proceedings, the petitioner gave a slip to the trap team and ran away from the spot, there exists grave suspicion against the petitioner-accused, which is sufficient to frame the charge.

09. The plea raised by the petitioner that there is nothing in the prosecution evidence to indicate that he, at any point of a time, demanded illegal gratification from the complainant, is contrary to the statement made by the complainant, in which he has specifically stated that he also demanded his share in the bribe amount, which, of course, is required to be proved by the prosecution during the trial and petitioner shall be at liberty to shake the credibility of witnesses in cross-examination or rebut the allegation by way of defence in the trial.

10. For the foregoing reasons, the present petition is found without merit and is dismissed. Impugned order is upheld.

11. Learned trial Court shall proceed with the trial with expedition.

(RAJESH SEKHRI)
JUDGE

Jammu:
18.07.2025
Meenakshi