

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

**CRM(M) No. 1196/2025
CrIM No. 2223/2025**

Suman Sharma

.....Petitioner(s)

Through: Mr. Vivek Sharma, Advocate
Mr. Nikhil Goswami, Advocate

Vs

Union of India and Ors.

..... Respondent(s)

Through: Ms. Monika Kohli, Sr. AAG

Coram: HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE

**ORDER
18.11.2025**

01. Heard.

02. The case of the petitioner as agitated through the medium of the instant petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS for short) is that during the investigation of the case FIR bearing No. RC0042015A005 dated 29.01.2015 by the respondent-Central Bureau of Investigation under Sections 120-B, 420, 467, 468, 471 of the Ranbir Penal Code (RPC) and Section 5 (1) (d) read with Section 5(2) of the J&K Prevention of Corruption Act, against the petitioner on the allegations of fraud and misappropriation in the execution of Cluster Project of SOZNI Craft in the erstwhile Khour Block (now Pargwal Block), the respondent-Investigation Agency did not consider some important documents of clinching nature including the documents/receipts regarding payment of amounts to the artisans, thereby causing the miscarriage of justice by denying them the right to fair investigation and trial.

That petitioner/accused being an NGO namely M/s SS Institute of Professional and Technical Education (Girls) initially challenged the FIR in question by way of a petition bearing No. CRMC No. 600/2015 before this Court in which, this Court was pleased to stay the investigation process vide order dated 18.12.2015 which remained in force till 03.02.2020. That subsequently, this Court vide its order dated 03.02.2020 modified its earlier order dated 18.12.2015 allowing the investigation in the matter with submission of the status report while barring the presentation of the final charge-sheet without the permission of this Court.

That the aforesaid petition CRMC No. 600/2015 came to be finally disposed of vide order dated 23.08.2021 whereby the presentation of the final report/challan was allowed. That subsequent to the presentation of the charge-sheet before the learned Trial Court, the petitioner-accused filed an application before the Trial Court requesting for summoning of the material/evidence of sterling quality that was lying with the Investigating Agency/respondent having a crucial bearing on the case. That subsequently, the learned Trial Court heard the main case on the issue of the consideration of framing of charge without addressing to the aforesaid application of the petitioner, which prompted him to file an another petition in terms of provisions under Article 227 of Constitution of India before this Court, which came to be disposed of with a direction to the learned Trial Court to address the said application before passing the orders in respect of the framing of charge. That the learned Trial Court, however, vide its order dated 24.10.2025 dismissed the said application in an arbitrary and illegal manner.

03. It is submitted by the learned counsel for the petitioner/accused that the evidence referred to by the petitioner is of sterling nature having a direct bearing on the allegations against her. That the refusal on the part of the learned Trial Court to call the said evidence of sterling/clinching nature has deprived the petitioner of her right to have a fair trial. It is submitted that the said evidence relied upon by the petitioner is already lying with the respondent-Agency and has been intentionally withheld to the *prejudice* of the petitioner/accused.

04. *Per contra* it is submitted by the learned Senior AAG that the application of the petitioner/accused filed before the learned Trial Court seeking summoning of the alleged documents/data was fully considered by the learned Trial Court through an order dated 24.10.2025, which was found to be devoid of any merit.

05. Perused the record of the instant petition and also accorded consideration to the rival arguments advanced on both the sides.

06. The documents alleged to be evidencing the making of payment to the artisans and the receipts of money by them in the execution of the awarded project furnished during investigation of the case by the petitioner/accused to the respondent/Investigating Agency is supposed to be lying with the respondent-Investigation Bureau. The said documents were meant to be investigated by the respondent-Bureau.

07. It was submitted by the learned counsel for the petitioner during his arguments that the Prosecution Documents-46 (PD-46) has not taken care of and included all the details regarding the payments made in favour of the artisans through Account payee cheques.

08. Since the order regarding the framing of charge/discharge is yet to be passed by the learned Trial Court, as such, the petitioner/accused has a right to refer to the said evidence in her defence and the learned Trial Court has to consider the said issue at the charge stage. The learned Trial Court is also within its powers at that stage to pass appropriate orders, if needed, for getting the said evidence, placed on the record of main charge-sheet, if not already placed and to appreciate the same in accordance with the law, while considering the framing of charge in the case.

09. Under these circumstances, the instant petition is disposed of at this stage with the direction to the learned Trial Court to address all the contentions/arguments of the petitioner/accused by way of her defence including the aforesaid contention of the consideration of the evidence regarding payment of amounts to the artisans for appreciation of the same in accordance with the law.

10. Disposed of.

(Mohd. Yousuf Wani)
Judge

Jammu
18.11.2025
Riya Kochhar