

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

CRM(M) No. 1200/2025
CrlM No. 2230/2025

Satish sharma

.....Petitioner/Appellant(s)

Through: Mr. Vikram Sharma, Senior Adv. with
Ms. Amita Khajuria, adv.

Vs

UT of J&K and another

..... Respondent(s)

Through: Ms.Monika Kohli, sr. AAG

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

ORDER
24.11.2025

1. Ms. Monika Kohli, Id Sr. AAG appears and accepts notice in the matter for the respondents.
2. Heard.
3. Through the medium of the instant petition, filed in terms of the provisions of Section 528 of the Bharatiya Nagarik Surakhsha Sanhita, 2023, (hereinafter referred to as "BNSS" for short), the petitioner has sought the quashing of the final report/charge sheet No. 3 of 2018 dated 16.03.2018 as also the supplementary charge sheet No. 21/2022 dated 07.11.2022, titled *State vs. Raj Kumar*, pertaining to FIR No. 16 of 2013 of Police Station Crime Branch, Jammu, along with the proceedings conducted thereon, especially the order dated 12.09.2019 passed by the learned trial court, i.e., the Court of Principal/Additional Sessions Judge, Samba, regarding the framing of charge against the petitioner under Sections 419, 420, 467, 468, 417 read with 120-B RPC, on the main

grounds that he has been falsely implicated in the aforesaid FIR and the consequent charge sheets. That the learned trial court vide impugned order dated 12.09.2019 framed the charges against the petitioner and other accused U/ss 419, 420, 467, 460, 417 r/w 120-B RPC, while discharging them under sections 201, 109 RPC. That he was charged in the case despite the fact that he through his counsel pin pointed various conflicts in the investigation and the charge sheet on several material issues pointing the culpability of actual offenders and his false implication. That PW-14 namely Rashpal Singh s/o Prethi Singh, has given contradictory versions in his statement regarding allotment of land to his father which is evident from his affidavit given in this court in OWP No. 1383/2014 and his statement recorded earlier by the Investigating Officer u/s 161 of the Code during investigation. That the learned trial court itself pin pointed the unfair investigation conducted in the matter while passing the impugned order dated 12.09.19 by observing that, **“before parting it is pertinent to mention here that the investigation in the case has been conducted not only in perfunctory manner, but, the investigating/officer seems to have left out certain areas from the purview of investigation especially with regard to the manufacture of the order of allotment in favour of Prithi Singh, its implementation in the revenue record through afore named Raj Kumar Choudhary. In the absence of legal evidence against any other person, I have to keep my hands away from taking cognizance against any other person, except, the accused herein. However, the investigating agency**

is at liberty to exercise its powers in terms of section 173(8) Cr.PC”.

That despite the scathing observation of the Ld. Trial Court w.r.t. the investigation and the loop holes left therein, the respondent P.S. Crime Branch brought no new facts/evidence w.r.t the pointed loop-holes, particularly the manufacturing of the original allotment order in the name of Prithi Singh by impersonation, and/or the petitioner's involvement at the time of allotment of the said land, in the supplementary charge sheet No. 2112022 dated 07.11.2022. That the material before the learned trial court did not support the framing of charge, a contention which, despite having been raised and agitated by him through his counsel during trial, was not appreciated by the learned trial court.

4. The petitioner has set out the grounds of challenge to the impugned charge sheets and the impugned order dated 12.09.2019 in detail in the main petition. It is submitted by the learned counsel for the petitioner/accused that the learned trial court was under a legal obligation to consider the supplementary charge sheet filed by the respondent—Investigating Agency pursuant to the direction of the learned trial court dated 12.09.2019, in order to ascertain whether any ground existed under law for the addition or alteration of the charge already framed. It is submitted that the learned trial court, however, merely entertained the supplementary charge sheet as a part of the main charge sheet and proceeded to conduct the trial.

5. The learned counsel for the respondents, however, in rebuttal, contended that since the supplementary charge sheet neither indicated the innocence of any of the accused, including the petitioner, nor did it disclose the involvement of any other person, therefore, the learned trial court rightly placed the same on the record as an integral part of the main charge sheet and proceeded with the trial. It is further submitted that the evidence collected during further investigation is subject to corroboration during trial by the concerned witnesses. She submitted that no ground is made out for the exoneration of the petitioner/accused from the case FIR. She further argued that it was not incumbent upon the learned trial court to weigh or meticulously examine the evidence at the stage of framing of charge, and the court was only required to consider the broader probabilities on the basis of the material in the form of documents and statements of witnesses prepared or recorded during the investigation.
6. I have given my thoughtful consideration to the rival arguments advanced on both the sides which in essence were so advanced at this threshold stage regarding *prima facie* maintainability of the petition and the consideration for grant of interim relief.
7. In the facts and circumstances of the case, this Court is of the opinion that the ends of justice would be met if the instant petition is disposed of at this threshold stage with a direction to the learned trial court to examine whether any ground exists for the addition or alteration of the charges already framed vide impugned order dated 12.09.2019, by considering both the original and the supplementary charge sheets in juxtaposition and

after affording an opportunity of being heard to both the sides. Since the charge can be added or altered at any stage of the trial, there is no illegality in undertaking such an exercise, particularly in the backdrop of the filing of the supplementary charge sheet. During this exercise, the learned trial court may hear not only the present petitioner/accused but also the co-accused, if any, interested. The learned trial court will undertake the exercise without being influenced by its earlier order dated 12.09.2019.

8. This petition is, accordingly, disposed of in terms of above observations. However, it is directed that the learned trial court shall consider the addition or alteration of the charges at an earliest, so that no delay is caused in the trial proceedings.

9. Disposed of.

Jammu
24.11.2025
Ayaz

(Mohd. Yousuf Wani)
Judge

