

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH**  
**AT SRINAGAR**

**CRM(M) 55/2024**

ABDUL REHMAN KULOO AND ANR.

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

Through: Mr. Asim ud Din, Advocate  
Mr. Robinder Singh, Advocate

**Vs.**

ADVOCATE PARVEZ SHAH

...Respondent(s)

Through: Mr. Anis Ul Islam, Advocate

**CORAM:**

**HON'BLE MR. JUSTICE VINOD CHATTERJI KOUL-JUDGE**

**ORDER**

**23.07.2025**

The petitioners through the medium of this petition are seeking quashment of the complaint which has been filed against them and setting aside of the order passed by the Trial Court taking cognizance and issuing process against him. The compliant in which the Trial court has taken cognizance is reproduced as under:

“...The complainant most humbly submits as under:-

That the complainant is the permanent resident of UT of J&K and has every right to invoke the jurisdiction of this Hon'ble court for the protection of his life and liberty enshrined in the law of land.

That the complainant is an advocate by profession and used to work with a firm under the mentorship of advocate Saifuddin Shah and associates.

That the accused persons approached our firm regarding the land dispute between the accused and two persons namely Zahoor Ahmad and Ghulam Rasool Malik.

That the land was situated at Tumlahal, Pulwama measuring 110 plus Kanals of land of which 83 Kanals were milkiyat and rest land was shamilat.

That accused persons told us that case regarding the same subject matter is going before financial commissioner revenue and other case is pending before learned CJM Srinagar.

That after the analysis of both cases it came to surface that the decision in one case has already being announced and the learned financial commissioner had decided the matter against accused persons interests and other case is filed before learned CJM, Srinagar.

That we after much discussion we finally accepted accused persons case and decide to file a fresh case before the Principal District Judge, Pulwama after withdrawing the case before learned CJM, Srinagar.

That we filed a fresh case before learned Principal District Judge, Pulwama, for specific performance of contract.

That accused used to talk mostly to one of our associate namely Advocate Peerzada Abid as accused no. 2 came to him through a common family friend namely Suhail Ahmad and it was due to his credibility and trustworthiness that we trusted accused persons and never doubted their intentions.

That the fee which was decide between us was

- a) 90,000 for every order passed in your case;
- b) 6,00,000 for every year till the case is finally disposed off;
- c) 63,50,000 as final consideration.
- d) That accused have paid fee which is not equal to even one year of fee which was due to them.

That the accused had told complainants firm that the other party (Zahoor Ahmad and Ghulam Rasool Malik in the dispute of land were working for them as their laborer but it case to surface in 2017 that the above mentioned persons were not their laborer but were actual partners.

That when complainants senior came to know about the same he along with advocate Ghulam Hassan Shah insisted for a compromise between accused persons and the other party and due to efforts of both counsels they entered into a compromise dated 31<sup>st</sup> of May, 2017.

That after the compromise when we demanded the fee from accused persons they requested us to wait till they will be able to sell the land at Tumlahal and on humanitarian grounds we accepted the request of accused as we trusted them.

That the complainant we waiting for accused persons to sell the land so that they will liquidate the counsel fee but till today they have remained mum on the issue and complainant was in deep sleep as they had never thought that the accused person can deceive them or break their trust.

That the complainant through Adv. Peerzada Abid had asked accused no. 2 many times ( from 2018-2023) to clear the fee but accused no. 2 would always say that they have not sold the land and once they will sell the land they will pay the fee.

That recently complainant came to know that accused persons have already sold the land in 2019 and till date they have neither cleared out fee nor informed us about the same.

That the complainant had worked very hard in the above-mentioned cases for almost 4 years and when the complainant requested his mentor to ask/demand out legal fee from the accused persons, the senior counsel immediately issued a legal notice for the same.

That the accused persons replied to the said legal notice by totally denying to pay any fee and when the complainant saw that reply he was surprised by the lies in the averments of reply.

That the accused persons have not only deceived and cheated the complainant and complainants associates by making them believe that the complainant and associates will get the counsel fee once the land will be sold but have also breached the complainants trust by not paying the fee once the land was sold.

That the accused persons have also misappropriated the share which was the right of complainant, hence this complaint.

That this complaint is supported by the duly sworn affidavit by the complainant and is associated with list of witness.

In the premises, it is, therefore, humbly prayed that Hon'ble court be pleased to take the cognizance of the aforementioned criminal complaint and proceed against the accused persons strictly in accordance with the law of land for committing different offence under the section 420, 403, 406 of Indian Penal Code and punish him in accordance with law."

Whether the Trial court ought to have taken cognizance on the complaint and issued process while taking into consideration the contents therein, is to be dealt with here.

What has been claimed by complainant-Advocate is that he was engaged as counsel and fee was settled as Rs.90,000/- for every order passed in the case and Rs.6,00,000/- for every year till the case is finally disposed of and Rs.63,50,000/- as final consideration.

Having regard to the contents of the complaint and what has been stated and what is disclosed therefrom, the Trial Court ought not to have entertain the complaint muchless taking cognizance and issuing process against petitioner.

On the face of it, impugned complaint appears to be without any basis. Had there be any claim for payment of fee, complainant ought to have filed a suit for recovery; even the fee structure shown therein is not a structure permissible under law.

By filing such a complaint, respondent-complainant has misused the process of law; by virtue of which petitioners herein have been harassed and made to face the trial and approach this Court with instant petition.

The complaint being misconceived and has been filed with an intention to inflict harassment upon the petitioners by misusing the process of court and law.

Having an overall view of the matter, the instant petition is allowed. The complaint filed by respondent before the Trial Court is **dismissed** and the order(s) passed by the Trial Court on the said complaint are **set-aside**. Respondent/Advocate shall pay Rs.20,000/- as costs to petitioners.

(VINOD CHATTERJI KOUL)  
JUDGE

SRINAGAR  
23.07.2025  
"Imtiyaz"