

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

CRM(M) 115/2024

ABDUL RASHID MIR

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

Through: Mr. Sheikh Mushtaq, Advocate

Vs.

UT of JK and Others

...Respondent(s)

Through: Mr. Wasim Gul, GA

CORAM:

HON'BLE MR. JUSTICE VINOD CHATTERJI KOUL-JUDGE

ORDER
08.07.2025

1. Orders dated 10.10.2023 and 05.03.2024 in three cases/challans, passed by the court of Judicial Magistrate 1st Class Kangan (Trial Court), are sought to be quashed.
2. Heard and considered.
3. Three chargesheets have presented before the Trial Magistrate. By virtue of order dated 12.07.2023, the Trial Court had directed prosecution in three cases, viz. FIR nos. 31, 32, and 33 of 2021, to ensure that Supervisory officer and IO, Abdul Rashid (petitioner herein) would submit their explanation as to why three chargesheets were filed when the transaction was same. Besides, report with respect to seized property had also been directed to be submitted, which, however, was not done. As the petitioner did not appear before the Trial court in pursuance of the orders passed by it and as warrants could not be executed, the Trial court passed the following order:

“...App. Present. Accused along with counsel present. Vide Order dated 12.07.2023 prosecution has been directed to ensure that the supervisory officer and IO Abdul Rashid shall submit their explanation. But till date order has not been complied by the police concerned. Further no report has been submitted with respect to seized property. Therefore, IO and SHO Gund shall submit report with respect to the seized property as the same is subject to speedy decay. Till date no response has been received through prosecution from the concerned police officials. On last date of hearing, NBW also been issued against the IO Abdul Rashid, but same has not been

executed. Therefore, SHO Gund is directed to appear in person before this court on next date of hearing along with status report with respect to the seized material and also execute NBW issued against SI Abdul Rashid failing which contempt proceedings will be initiated against SHO. App. is directed to forward copy of this order along with NBW to SHO Gund for compliance and the copy of same to SSP Ganderbal for information and compliance. List the matter on 31.10.2023.”

4. The order dated 10.10.2023 is being challenged by the petitioner in this petition.
5. Ordinarily petitioner was required to obey the orders of the Trial court by making himself available and give the explanation which was sought from him. Instead, as is clear from the order which is under challenge, petitioner has not bothered to appear, which compelled the Trial Court to pass the order impugned.
6. The petitioner ought to have approached the Trial court, instead of challenging the orders impugned before this Court, by making an application before for withdrawal of warrants and was required to tender explanation.
7. Mr. Sheikh Mushtaq, learned appearing counsel for the petitioner, submits that explanation was furnished which is as Annexure IV with the petition. Perusal of which would show that it has not been furnished before passing of the order impugned and whether actually it has been filed or not is also not coming to fore.
8. However, in case such an explanation has been furnished, Trial Court may consider the same provided the petitioner appears before it and in case he appears and seeks withdrawal of warrants, the Trial Court may consider the same.
9. **Disposed of** along with the connected CM(s).

(VINOD CHATTERJI KOUL)
JUDGE

SRINAGAR
08.07.2025
“Imtiyaz”