

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

CRM(M) No. 139/2023

CrIM No. 241/2023

CrIM No. 471/2023

Reserved on: 27.07.2026
Pronounced on : 05.08.2026
Uploaded on : 05.08.2026

Operative part or full judgment: Full

Pankaj Khajuria

S/O Late Bodh Raj Khajuria

R/o Village Janglote

Tehsil & District Kathua

....Petitioners

Through:- Mr. Jagpaul Singh, Advocate.

V/S

UT of J&K through
Superintendent of Police,
Police Station, Anti-Corruption Bureau
near Civil Secretariat, Jammu
(Erstwhile Police Station Vigilance
Organization, Jammu).

.....Respondents

Through:- Mr. Raman Sharma, AAG with
Ms. Saliqa Sheikh, Advocate.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE
JUDGMENT

01. The petitioner, through the medium of the above-titled petition filed under Section 482 CrPC, seeks quashment of FIR No. 26/2017 registered on 29.07.2017 at Police Station, Anti-Corruption Bureau (erstwhile Vigilance Organization), Jammu under Sections 5(1) (e) read with Section 5(2) of the J&K Prevention of Corruption Act, on the ground that he has

been falsely implicated by the respondent in a case alleging possession of disproportionate assets.

02. It is pleaded in the petition that, at the time of registration of the impugned FIR, the petitioner was serving as a Forester and is presently working as a Range Officer; that his wife, Varinder Kour, has a business concern in the name and style of M/S Shails Sports at Govindsar, dealing with the manufacturing of cricket bats, much prior to her marriage with the petitioner on 02.06.2011, proprietorship concern having been registered with DIC Kathua on 24.04.2011. It is further averred that, although it has been alleged that the petitioner has amassed huge wealth in the form of money lying in bank accounts and vehicles-three trucks and one Fortuner standing in the name of his wife, the petitioner has accounted for every property standing in his own name or in the name of his wife. It is, therefore, contended that he has been falsely implicated under the provisions of the J&K Prevention of Corruption Act, and prayed that the impugned FIR be quashed.

03. Pursuant to notice, status report has been filed by the respondent, asserting therein that the petitioner, an employee of Forest Department, has amassed huge immovable/movable property in his name and name of his wife, which included Truck Nos. JK08D/8781, JK08E/4713 and Truck No. JK02D/9798, Fortuner Vehicle with value of Rs. 31.90 lacs in the name of his wife Varinder Kour as

proprietor of M/S Shails Sports, Govindsar and more than 16 lacs rupees in Bank Accounts No. SB 20894 and 2323938; that IGP Jammu zone had requested VOJ (now ACB) to take action as per law against the petitioner and the communication reveals that the assets, acquired by him, were disproportionate to known sources of his income, as such prima facie offences punishable under sections 5(1)(e) read with Section 5(2) of J&K Prevention of Corruption Act, 2006, were found made out against the petitioner.

04. A formal case under the aforesaid provisions of law was registered at Police Station, VOJ on 29.07.2017; that the investigation of the case was carried out by DySPs Mohd. Aslam and Abdul Wahid Giri and Inspectors Arshad Hussain and Chetan Kumar; that during investigation, various incriminating documents/records and laptop of the accused were seized and in view of the nature of the case, correspondences were made with different banks and locker operations and bank account was stopped including debt as a preventive measure; that locker in the name of the wife of the petitioner was frozen by Central Bank of India, Kathua.

05. During the course of further investigation, it revealed that the petitioner-accused was resident of village Janglote, tehsil and district Kathua and his father was appointed as an Excise Guard in the year 1965 and retired as an Excise Inspector in the year 2004; that the petitioner had

joined Forest department as Forster on 16.05.2008 and is presently working as Incharge Range Officer; that during the check period, the petitioner and his wife Varinder Kour had purchased six vehicles; that during investigation, the income of the petitioner from his salary was got verified from the concerned DDOs for the check period of 01.06.2008 till 31.07.2017; that the business concern of the petitioner's wife was stated to have been purchased from one Seema Rani on 30.03.2017 for consideration of Rs. 25 lacs; that questionnaires were served upon the petitioner and his wife regarding the rise of income, assets and source of cash which was deposited in their accounts and they were provided an opportunity of being heard.

06. It was further pleaded that both of them did not submit their reply with respect to the said questionnaires nor took any defence or explain the inflow of cash in their accounts, which proves that they had nothing in defence in this regard; that from investigation, it has been proved that the petitioner/accused, as a government official, had raised huge assets worth crores of rupees in his name and his wife's name during the check period such as M/S Shails Sports, M/S Shakti Sports, M/S Satyoti Sports, three trucks with Nos. JK08D/8781, JK08E/4713, JK02D/9798, Fortuner No. JK08F-7777, Swift Car No. JK08F-8888 and motorcycle (Bullet) No. JK08F-9999 in their name; that on investigation, a

case of disproportionate assets was proved against the petitioner for which final report was submitted to the ACB Headquarters for accord of sanction.

07. Learned counsel for the petitioner, while reiterating the grounds taken in the petition, has argued mainly on two grounds; firstly that no preliminary enquiry was conducted before registration of the case as it was the pre-requisite to register a case under the prevention of Corruption Act and in absence of conducting any preliminary enquiry, the FIR lodged against the petitioner is liable to be quashed. In support of his contention, he has relied upon the judgment of the Hon'ble Supreme Court of India in the case titled 'Charan Singh Vs. State of Maharashtra' reported as **(2021) 5 SCC 469**; secondly that the impugned FIR was registered in the year 2017 and for the last over nine years, the investigation could not be completed by the respondent-investigating agency without there being any legal impediment and that the impugned FIR is liable to be quashed for the reason of delayed investigation. In support of his contention, he has relied upon the law laid down by the Apex court in Vakil Prasad Singh Vs. State of Bihar reported as **(2009) 3 SCC 355** and Pankaj Kumar Vs. State of Maharashtra reported as **(2008) 16 SCC 117**.

08. Learned counsel for the respondent, ex adverso, argued that the impugned FIR is not liable to be quashed on both the grounds raised by the learned counsel for the

petitioner; that it is not the legal requirement in every case that preliminary enquiry is to be conducted when, ex facie, it appears from the complaint, on the information received, that an offence is disclosed; that the FIR can be quashed on this ground only when the same does not disclose the constitution of any offence. In support of his contention, he has referred and relied upon the judgment of the Apex Court in a case titled 'M/S Neeharika Infrastructure Private Ltd Vs. State of Maharashtra and Ors', reported as **AIR 2021 SC 1918**.

09. He has further argued that the Vigilance Manual provides for some enquiries before registration of the case, however, such enquiry may be desirable but is not a legal requirement and the FIR even otherwise is to be registered in view of the law laid down by the Apex Court in **Lalita Kumari's case** which provides for registration of the case when the offence is disclosed; that the petitioner cannot say that there was any malice so manifest so as to seek quashment of FIR as he has not alleged anything alike, that even remotely.

10. On the second ground raised on behalf of the petitioner with regard to delay in investigation, learned AAG submits that in view of the voluminous record with regard to different sources of income of the petitioner and his wife and the change of investigation from one officer to another due to transfers, the delay in investigation cannot be construed to be

an inordinate delay, so as to seek quashing of the FIR itself. He hastened to add that investigation of the case has already been completed and the final report has been submitted to the General Administration Department (GAD) through ACB Headquarters for accord of governmental sanction to prosecute, which is awaited, therefore, there cannot be any question of further delay in the matter and as soon as the sanction to prosecute is obtained the chargesheet shall be laid in the competent court of law. He has further argued that the investigating agency had found 348% surge in the assets as compared to the general sources of income of the petitioner, as such, he is involved in a case of gross disproportionate assets case.

11. Heard, perused and considered.

12. The petitioner has been accused of having amassed wealth beyond the known sources of his income for the period when he entered into his service in the year 2008 upto the year 2017 worth crores in the shape of bat factories, vehicles and deposits in the bank accounts. The respondent-Anti Corruption Bureau has investigated the case and has taken about 9 years to conclude the investigation against him and the case has been processed and submitted to the Government, for grant of sanction to prosecute.

13. The petitioner seeks quashing of impugned FIR on two counts only firstly, that no preliminary enquiry was

conducted and secondly, that there has been an inordinate delay of nine years in the completion of the investigation, which is against his fundamental right of speedy trial, which includes a speedy investigation as well.

14. The first contention urged by learned counsel for the petitioner is that the impugned FIR deserves to be quashed as no preliminary enquiry was conducted before its registration. The said contention, however, does not merit acceptance. It is by now well settled that a preliminary enquiry is not an indispensable legal requirement in every case before registration of an FIR. In *Lalita Kumari v. Government of Uttar Pradesh* reported as **AIR 2014 SC 187**, the Constitution Bench held that registration of an FIR is mandatory where the information discloses commission of a cognizable offence, though in certain categories of cases a preliminary enquiry may be permissible to ascertain whether a cognizable offence is disclosed. The object of such enquiry is only to verify the existence of a cognizable offence and not to test the veracity of the allegations by conducting a mini investigation.

14.1 The Supreme Court in *Lalita Kumari's* judgment (supra) has held as under:

111) In view of the aforesaid discussion, we hold:

- i) Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.**

- ii) If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.
- iii) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.
- iv) The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.
- v) The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.
- vi) As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case.

14.2 The Supreme Court in another judgment titled as State of Karnataka Vs. Channakeshava.H.D & Anr, reported as **2025 INSC 471** has held as under:

“ 12. To sum up, this Court has held that in matters of corruption a preliminary enquiry although desirable, but is not mandatory. In a case where a superior officer based on a detailed source report disclosing the commission of a cognizable offence, passes an order for registration of FIR, the requirement of preliminary enquiry can be relaxed.”

14.3 Further the Supreme Court in the case of State of Karnataka Vs. T.N. Sudhakar Reddy reported as **2025 SC Online 382** has held as under:

“51. In view of the above discussion, we conclude that:-

- a. The High Court erred in coming to the conclusion that the order dated 4th December, 2023, passed by the Superintendent of Police, was directly passed under [Section 17](#) of the PC Act, thereby violating the mandatory provisions of the [PC Act](#).**
- b. The preliminary inquiry is not mandatory in every case under the [PC Act](#). If a superior officer is in seisin of a source information report which is both detailed and well-reasoned and such that any reasonable person would be of the view that it prima facie discloses the commission of a cognizable offence, the preliminary inquiry may be avoided.....”**

14.4 In the present case, the record placed before the Court reveals that the Anti-Corruption Bureau had received information through official channels indicating that the petitioner had allegedly acquired assets disproportionate to his known sources of income. Such information disclosed the commission of a cognizable offence punishable under Sections 5(1) (e) read with Section 5(2) of the J&K Prevention of Corruption Act. Once such information was available, registration of the FIR cannot be said to be contrary to law merely because no formal preliminary enquiry preceded it.

14.5 The reliance placed by learned counsel for the petitioner on *Charan Singh v. State of Maharashtra* is

misplaced. The observations made therein cannot be read as laying down an inflexible proposition that every case under the Prevention of Corruption Act necessarily requires a preliminary enquiry before registration of an FIR. The necessity of such enquiry depends upon the facts and circumstances of each case. Where the material available with the investigating agency itself discloses commission of a cognizable offence, failure to conduct a preliminary enquiry, does not vitiate the registration of the FIR.

14.6 Equally significant is the settled principle that while exercising jurisdiction under Section 482 CrPC, this Court is not expected to examine the correctness or sufficiency of the material collected during investigation. If the allegations contained in the FIR, read as a whole, disclose the commission of a cognizable offence, the Court would ordinarily refrain from interfering with the investigation, except in rarest of rare cases, falling within the parameters laid down by the Hon'ble Supreme Court. The inherent jurisdiction is to be exercised sparingly and with circumspection and not to stifle a legitimate prosecution at its threshold.

15. The second ground urged by the petitioner relates to the delay in completion of the investigation. There can be no quarrel with the proposition that the right to a speedy investigation and trial forms part of the guarantee under Article 21 of the Constitution. At the same time, mere lapse of

time by itself does not entitle an accused to seek quashing of criminal proceedings.

15.1. In the case at hand, the allegations relate to possession of disproportionate assets accumulated over a check period of over ten years extending from the year 2008 to 2017. Investigation of such offences, necessarily involves, scrutiny of voluminous financial records, verification of bank accounts, movable and immovable properties, business concerns, record of vehicles purchased etc. The status report further reveals that the investigation was handled by different investigating officers owing to administrative transfers and that extensive correspondence had to be undertaken with various banks and departments. The investigating agency has also stated that the investigation now stands completed and the final report has been forwarded to the competent authority, for accord of sanction to prosecute.

15.2. In these circumstances, it cannot be said that the delay is wholly unexplained or actuated by mala fides so as to warrant quashing of the FIR itself. More importantly, the petitioner has not demonstrated any specific prejudice caused to his defence solely on account of the time consumed during investigation. The decisions relied upon by learned counsel for the petitioner were rendered in their own peculiar factual settings and do not lay down an absolute rule that every

delayed investigation must necessarily culminate in quashing of criminal proceedings.

16. It is also pertinent to note that the investigation has culminated in a finding, according to the investigating agency, that the petitioner possessed assets allegedly grossly disproportionate to his known sources of income and the matter is presently awaiting sanction for prosecution. At this stage, any evaluation of the correctness of the conclusions reached by the investigating agency or the explanation sought to be offered by the petitioner regarding the source of such assets would amount to appreciation of evidence, which falls exclusively within the domain of the trial Court.

17. The power under Section 482 CrPC is intended to prevent abuse of the process of law or to secure the ends of justice. It is not meant to frustrate a lawful prosecution where the allegations in the FIR disclose the commission of a cognizable offence and the investigation has yielded material which is yet to be tested in accordance with law.

18. In view of the foregoing discussion, this Court finds no merit in either of the grounds urged on behalf of the petitioner. Neither the absence of a preliminary enquiry nor delay in completion of investigation, which stands reasonably explained and has culminated in submission of the case for sanction to prosecute, vitiate the impugned FIR so as to

exercise of inherent jurisdiction under Section 482 CrPC to quash the impugned FIR.

19. Accordingly, the petition is **dismissed** being devoid of any merit and substance, along with connected application(s). Interim direction(s), if any, shall stand vacated. The respondent shall be at liberty to proceed further in accordance with law after receipt of the requisite sanction from the competent authority.

(M A CHOWDHARY)
JUDGE

JAMMU
05.08.2026
Naresh/Secy.

Whether the judgment is speaking: **Yes**

Whether the judgment is reportable: **Yes**

