

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

CRM(M) No. 896/2022
CrLM No. 1850/2022

Date of Pronouncement:20.02.2026

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Dev Raj

.... Petitioner/Appellant(s)

Through: - Mrs. Veenu Gupta, Advocate

V/s

Union Territory of J&K&anr.

.... Respondent(s)

Through: - Ms. Nazia Fazal, assisting counsel to
Mrs. Monika Kohli, Sr. AAG

CORAM: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER

1. Having heard both the counsels, from the pleadings and submissions so made, the controversy essentially revolves around the registration of FIR No. 0004/2021 for offences under Sections 420, 465, 467, 468, 471 and 120-B RPC on the allegation that the petitioner secured appointment in the Revenue Department as driver on the basis of a forged date of birth certificate.

2. At the outset, it is trite that the power of this Court under Article 226 of the Constitution of India or under Section 482 Cr.P.C to quash an FIR is to be exercised sparingly and with circumspection. The parameters governing such exercise have been authoritatively laid down by the Hon'ble Supreme Court in **State of Haryana v. Bhajan Lal, 1992 Supp (1) 355** wherein illustrative categories were carved out where quashing may be justified. It was clearly held that where the allegations *prima*

facie discloses the commission of a cognizable offence, the Court would not embark upon an enquiry as to the reliability or genuineness of the accusations.

3. Similarly, in **Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra, 2021 SCC Online SC 315**, the Supreme Court reiterated that the Courts should not stall investigation into cognizable offences except in rarest of rare cases and that the police have statutory right and duty to investigate once information discloses commission of such offence. The Court cautioned against interference at the threshold which would amount to throttling legitimate investigation.

4. The contention of the petitioner that no preliminary enquiry was conducted before registration of the FIR in terms of **Lalita Kumari v. Government of Uttar Pradesh, 2014 (2) SCC 1**, is also misconceived. In that case, the Constitution Bench held that registration of FIR is mandatory where the information discloses commission of a cognizable offence. Preliminary enquiry is permissible only in limited categories of cases and even then, it is not a condition precedent where the complaint itself *prima facie* reveals ingredients of cognizable offences such as cheating and forgery.

5. In the present case, the material placed on record indicates that:

- (i) Two school leaving certificates reflecting two different dates of birth (28.10.1957 and 28.10.1962) surfaced.
- (ii) The enquiry conducted by the Sub-Divisional Magistrate, Ghagwal indicated that one of the certificates appeared fictitious.

(iii) A subsequent enquiry by the Assistant Commissioner (Revenue) placed reliance upon the driving licence and horoscope and opined in favour of the date 28.10.1962.

(iv) The Deputy Commissioner, Samba, noticing contradictory findings in the two departmental enquiries, requested the Crime Branch to conduct in-depth investigation as the matter prima facie disclosed elements of forgery.

6. The existence of two conflicting enquiries itself demonstrates that disputed and complex questions of fact are involved. Whether the petitioner's actual date of birth is 28.10.1957 or 28.10.1962; whether any certificate was fabricated; and whether such fabrication, if any, was used to secure public employment, are all matters which require collection of evidence, examination of records, and possibly expert opinion. These are matters squarely falling within the domain of investigation.

7. At the stage of registration of FIR, the Court is not required to evaluate the defence of the accused, including reliance upon a driving licence or horoscope, nor can it adjudicate upon the correctness of one enquiry report vis-à-vis another. Such appreciation would amount to conducting a mini-trial, which is impermissible in proceedings seeking quashing of FIR.

8. The plea that the FIR has been lodged to harass the petitioner or to circumvent directions issued by the Tribunal or this Court with regard to release of salary also involves factual adjudication and motive attribution, which cannot be conclusively determined at this preliminary stage. Unless the case of the petitioner falls within any of the well-recognised categories carved out in Bhajan Lal (supra) such as where the allegations even if taken

at face value do not constitute any offence, or are absurd and inherently improbable, the Court would not interdict the investigation.

9. In view of the settled legal principles governing interference at the stage of investigation, once the complaint and the communication addressed by the Deputy Commissioner prima facie disclose allegations of cheating and forgery in securing public employment, the impugned FIR cannot be termed as being without jurisdiction nor can it be said that it fails to disclose commission of a cognizable offence. The test at this stage is not the sufficiency of evidence but the existence of allegations which, if taken at face value, constitute an offence under law.

10. Learned counsel for the petitioner, however, contended that even assuming the complaint discloses a cognizable offence, the Crime Branch lacked jurisdiction to register the FIR and undertake investigation. Reliance was placed upon SRO 202 of 1999 dated 03.06.1999 to argue that the Crime Branch, though designated as a Police Station, was empowered to investigate only those offences specifically enumerated in the annexure thereto. It was further submitted that the offences alleged in the present case do not fall within the categories mentioned therein. Per contra, learned counsel for the respondents argued that SRO 202 of 1999 stood superseded by SO 232 dated 09.05.2022, whereby the Crime Branch was empowered to investigate economic offences including those relating to documents, property marks, and employment racketeering.

11. In the precedent relied upon by the petitioner (**2023 JKJ 194**), the Crime Branch had registered a case under Sections 420, 465, 467, 468, 471 and 120-B RPC pursuant to a direction for re-investigation by the

Magistrate. The Court held that the Crime Branch was not competent under the then prevailing SRO to investigate offences relating to forgery of certificates, and further observed that the Magistrate lacked jurisdiction to direct re-investigation in such manner. Consequently, the charge-sheet filed by the Crime Branch was quashed for want of jurisdiction.

12. In the present case, the occurrence was reported by the Deputy Commissioner, Samba on 21.11. 2021. On that date, SRO 202 of 1999 was admittedly in force, as SO 232 superseding it came into effect only on 09.05.2022. A perusal of SRO 202 of 1999 reveals that although the Crime Branch was constituted as a Police Station and empowered to investigate offences specified in the annexure, cases relating to fabrication of false documents simpliciter were not included therein. The annexure primarily covered note forgery and allied offences, to which the present allegations do not strictly correspond.

13. In that backdrop, the contention of the petitioner that the Crime Branch lacked jurisdiction to investigate the matter merits acceptance. However, that conclusion does not ipso facto invalidate the FIR or extinguish the criminal proceedings. The complaint lodged by the Deputy Commissioner, Samba unmistakably discloses commission of cognizable offences. The Crime Branch, being subject to the Jammu & Kashmir Police Rules, 1960, was required to act in terms of Rule 581, which mandates that where information regarding a cognizable offence is received by a Police Station having no territorial jurisdiction, such information must be entered in the daily diary and transmitted to the Police Station having jurisdiction. Simultaneously, necessary measures may be taken to secure the offender or

preserve evidence. Further, Rule 582 provides that if during investigation it emerges that the offence was committed within the jurisdiction of another Police Station, immediate intimation must be sent to the concerned Station House Officer, who shall thereafter proceed with the investigation.

14. Therefore, while this Court agrees with the petitioner that the Crime Branch was not the competent agency to undertake investigation under the prevailing SRO at the relevant time, the mere act of registration of FIR by it cannot be rendered void ab initio. The statutory mechanism under Rules 581 and 582 adequately addresses such contingencies and ensures continuity of lawful investigation. A cognizable offence having been disclosed, the proceedings cannot be scuttled solely on technical grounds relating to initial assumption of jurisdiction.

15. Consequently, this Court holds that although the Crime Branch lacked the authority to conduct the investigation in the present matter, the FIR itself does not warrant quashing, as it prima facie discloses commission of cognizable offences. The appropriate course, therefore, is not to annul the proceedings but to rectify the procedural irregularity. Accordingly, the impugned FIR shall be treated as a *Zero FIR* and shall be transmitted to the Station House Officer, Police Station Samba, within whose territorial jurisdiction the alleged offence has been committed. The SHO, Police Station Samba, shall re-register the case in accordance with law and proceed with the investigation from the stage permissible under the Code.

16. The reliance placed by the respondents upon SO 232 dated 09.05.2022 is misconceived, as the said notification was not in force at the

time of registration of the FIR. In view of the foregoing discussion, the petition seeking quashing of the FIR at the threshold is dismissed. The investigation shall henceforth be conducted and carried to its logical conclusion by the SHO, Police Station Samba, strictly in accordance with law. Any interim direction operating in the matter shall stand vacated.

Ordered accordingly.

(SANJAY PARIHAR)
Judge

JAMMU
RAM MURTI
20.02.2026

