Serial No. 31

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

CRM(M) No. 884/2021

Pronounced on: 20.02.2026
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…..Appellant(s)/Petitioner(s)

Mohd. Saleem Banday
S/o Mohd Din Banday
R/o House No. 22, Ward No. 17, Talab
Salian, Udhampur

Through: Mr. M. K. Bhardwaj, Sr. Advocate with
Mr. Gagan Kohli, Advocate

vs

1. Union Territory of Jammu and Kashmir ….. Respondent(s)
Through Police Station Vigilance
Organization, Jammu
2. Macotam Dass, S/o Late Basant Ram
R/o Village Ckakrakwala, Tehsil and
District: Udhampur

Through: Mr. Raman Sharma, AAG with
Ms. Saliqa Sheikh, Advocate
I.O. is present along with C.D. file.

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

ORDER

1. Heard both the counsels and have examined material placed on record.
2. From the rival submissions advanced at the Bar and upon careful perusal of the record produced, this Court is called upon to examine the scope of its jurisdiction in relation to the prayer for quashing of FIR No. 33/2017 registered by the Vigilance Organization, Jammu for alleged commission of offences under Section 5(1)(d) of the J&K Prevention of Corruption Act Samvat, 2006 and Section 102-B RPC.
3. At the outset, it requires to be reiterated that the power of judicial review in matters seeking quashing of an FIR or criminal proceedings is

extraordinary in nature and is to be exercised with great caution and circumspection. The Court, at this stage, is not expected to embark upon a roving enquiry into the correctness or otherwise of the allegations, nor is it required to meticulously analyse the evidence collected during investigation. The settled principle of law is that where the allegations in the FIR, read in conjunction with the material collected during investigation, prima facie disclose the commission of a cognizable offence, the proceedings ought not to be scuttled at the threshold. The defence of the accused, howsoever plausible, cannot be examined in depth at this preliminary stage.

4. In the case at hand, the core allegation against the petitioner is that, while functioning as Patwari Halqa, Mand, he processed and entered mutation No. 2338 under Section 6 of the Agrarian Reforms Act in respect of Khasra No. 871 min, thereby facilitating the attestation of mutation in favour of certain private beneficiaries in utter violation of the statutory scheme. The investigation, as stated by the respondent, has revealed that the land in question was not a "dwelling house" within the meaning and scope of Section 6 of the Act, but rather comprised pakka and kachha shops, described as "Gair Mumkin Dukan." Section 6 of the Agrarian Reforms Act is confined to conferment of ownership rights in respect of dwelling houses and land appurtenant thereto, subject to strict statutory conditions. If, as alleged, the land was commercial in nature and did not fall within the ambit of Section 6, the very foundation of the mutation proceedings becomes legally untenable.

5. The petitioner does not dispute that he entered the relevant mutation entries and processed the case, though he has sought to shift the ultimate responsibility upon the attesting authority, namely the then Naib Tehsildar, who has since expired. It is, however, not in dispute that the petitioner, being the Patwari Halqa, was the primary custodian of revenue records and was duty-bound, in terms of Standing Order 23-A, to correctly reflect the factual position, verify the spot, and ensure that the mutation proposal presented before the attesting authority was in consonance with law. The plea that he merely acted on directions and had no authority to attest the mutation cannot, at this stage, absolve him of potential criminal liability, particularly when the allegation is not of mere procedural lapse but of dishonest processing with the intent to confer undue benefit.

6. The material placed before the Court indicates that during investigation, a DastiNaksha was procured and the spot position verified, revealing that portions of the land were in physical possession of different individuals and that no dwelling house, as contemplated under Section 6, existed on the relevant date. The investigation further records that the mutation was processed with the motive to extend undue benefits to named beneficiaries. These findings, if ultimately established during trial, would squarely attract the ingredients of criminal misconduct as defined under Section 5(1)(d) of the Prevention of Corruption Act, which encompasses abuse of official position to obtain for any person any valuable thing or pecuniary advantage.

7. The contention of the learned Senior Counsel for the petitioner that the matter involves mere misinterpretation of statutory provisions, relying upon

the Division Bench judgment in *"Ashok Parmar vs. State of J&K and others,"* [OWP No. 726/2008 along with other connected matters decided on 14.05.2018] does not persuade this Court at this stage. In the cited case, the Court found absence of any allegation of corrupt motive or dishonest intention, and the proceedings were essentially departmental in nature. In contradistinction, the present case involves allegations of criminal conspiracy, dishonest processing of official record, and conferral of undue benefit upon private parties, which, according to the respondent, stand substantiated by material collected during investigation. Therefore, the factual matrix herein is clearly distinguishable.

8. The submission that the FIR has been registered after an inordinate delay of more than eleven years also cannot, by itself, be a ground to quash the proceedings at this stage. Delay in lodging an FIR or in initiating investigation may be a matter for appreciation during trial, particularly in corruption cases where irregularities often surface upon audit or subsequent scrutiny. Unless such delay demonstrably causes prejudice or renders the prosecution inherently improbable, which is not evident on the face of the record, it cannot be treated as fatal in proceedings for quashing.

9. It is further borne out from the record that sanction for prosecution has been accorded by the competent authority. The validity or sufficiency of such sanction is again a matter which can be examined during trial, but its existence at this stage fortifies the respondent's contention that the competent authority, upon due consideration of the material, found a prima facie case for prosecution.

10. This Court is mindful of the principle that criminal law ought not to be set in motion for settling scores or harassing public servants for bona fide decisions taken in discharge of official duty. At the same time, where the material collected during investigation prima facie indicates abuse of official position and dishonest conduct resulting in undue advantage to private parties, the Court would be loath to interdict the prosecution at its inception.

11. In view of the totality of circumstances, the nature of allegations, the material gathered during investigation, and the legal principles governing exercise of jurisdiction to quash criminal proceedings, it cannot be said that the FIR is manifestly frivolous, vexatious, or devoid of substance. The questions raised by the petitioner involve disputed facts and appreciation of evidence, which fall squarely within the domain of the trial Court. Consequently, this Court finds no exceptional circumstance warranting interference. The petition, being without merit, is accordingly dismissed. Interim directions, if any, shall stand vacated.

(Sanjay Parihar)
Judge

Jammu
20.02.2026
Vishal Sharma

Whether the order is reportable?	Yes
Whether the order is speaking?	Yes