

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

CRM(M) 157/2024 CrIM(406/2024)

HEMANT KUMAR BATRA

...Petitioner(s)/appellant(s)

Through: Mr. Anil Bhan, Sr. Advocate with
Mr. Danish Majid, Advocate

Vs.

UNION OF INDIA AND ORS

...Respondent(s)

Through: Mr. T. M. Shamsi, DSGI with
Mr. Faizan Ganai, CGC &
Ms. Yasmeen Jan, Advocate

CORAM:

HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER
11-08-2026

1. The petitioner, through the medium of present petition, has challenged order dated 10-10-2023 passed by the learned Chief Judicial Magistrate, Srinagar, whereby the learned Magistrate, in a case arising out of FIR No. RC 1232015A0002/CBI/ACB/SGR for offences under Sections 408, 420, 120B RPC, registered with Police Station, Anti-Corruption Branch, CBI, Srinagar, has framed charges for offences under Sections 420, 408 read with 120B RPC against the petitioner and the co-accused.

2. Heard and considered.

3. Learned Senior Counsel appearing for the petitioner has contended that the investigating agency, in the charge sheet itself, has admitted that there is possibility that the petitioner may not have been in knowledge of the opening of bank accounts in the name of M/s Super Gas Service by the co-accused persons, namely, Abdul Rehman Nath, Tanveer Ahmad, Showkat Mohammad Hussain and Owais Ahmad, as proprietors of the gas

agency. It has been contended that the petitioner continues to be the proprietor of the gas agency, which is admitted in the charge sheet, and if at all any cheating has been committed by co-accused Abdul Rehman Nath and the other co-accused with a motive to sell the subsidized gas cylinders in the open market at non-subsidized rates for gaining pecuniary advantage, the petitioner cannot be held responsible for the same.

4. Per contra, learned DSGI has submitted that there is sufficient material on record in the charge sheet to show the complicity of the petitioner in the alleged acts, which amount to offences of cheating and criminal breach of trust.

5. Without going into the merits of the rival contentions of the parties, one thing which comes to the fore from perusal of the impugned order passed by the learned Trial Magistrate, whereby charges have been framed against the petitioner is that the same is cryptic in nature and it does not reflect application of mind by the learned Trial Magistrate. This Court is conscious of the legal position that at the time of framing of charge, a Magistrate is not expected to give elaborate reasons for framing charges against the accused, but nonetheless, the order framing a charge has to reflect application of mind to the contentions raised by the accused and the prosecution, and it should also reflect that the learned Magistrate has applied its mind to the material collected by the investigating agency.

6. Brief reasons for framing charges were required to be recorded by the learned Magistrate, especially in a case like present one where in the charge sheet itself it is recorded that there are possibilities that the accused/petitioner may or may not be in knowledge of the opening of bank accounts in the name of the gas agency and serious contentions with regard to involvement of the petitioner were raised by him. In the instant case, the

learned Trial Magistrate has failed to apply its mind to the material on record and has proceeded mechanically to pass the impugned order, which is not sustainable in law.

7. For what has been discussed hereinabove, the impugned order passed by the learned Trial Magistrate to the extent of the petitioner is set aside, and a direction is issued to the learned Magistrate to pass a fresh order on the question of framing of charges after hearing the accused/petitioner as well as the prosecution afresh. While passing a fresh order, the learned Trial Magistrate shall accord due consideration to the contentions that have been raised by the petitioner in the present petition and that may be raised by him before the said court at the time of hearing.

8. The petition is, accordingly, disposed of with the aforesaid directions. The parties shall appear before the learned Trial Magistrate on 1st of September 2026.

9. A copy of this order be sent to the learned Magistrate.

(SANJAY DHAR)
JUDGE

SRINAGAR
11-08-2026
Aamir