

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT
JAMMU**

Reserved on: 06.07.2026

Pronounced on: 10.07.2026

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*Whether the operative part or full
judgment is pronounced: **Full***

Crl R No.18/2020

UT OF J&K

...PETITIONER(S)

*Through: - Mr. Mohsin Qadiri, Sr. AAG, with
Mr. Haaris Khan, Assisting Counsel.*

Vs.

NAZIR AHMAD WANI & ORS.

...RESPONDENT(S)

Through: - Ms. Saniya Qadir, Advocate.

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

JUDGMENT

1) The petitioner has challenged order dated 14.12.2019 passed by the learned Special Judge, Anti-Corruption, Baramulla, whereby respondent No.2 has been discharged in a case arising out of FIR No.24/2012 for offences under Section 5(1)(d) read with 5(2) of J&K Prevention of Corruption Act and Section 201, 109 and 120-B RPC registered with Police Station, VOK.

2) It appears that a verification was conducted into the allegation of demand and acceptance of illegal gratification by accused Nazir Ahmad Wani, the then Office Qanungo, and accused Syed Shabir Ahmad Andrabi, the then Tehsildar

Sumbal Sonawari, from complainant Haji Abdul Aziz Dar for implementation of order passed by the Joint Financial Commissioner (AR), in respect of mutation No.400 dated 12.01.1989 and mutation No.401 dated 13.01.1989 relating to land measuring 23.4 kanals situated at Village Sarie Dangerpora, Tehsil Sonawari. After conducting verification, it was revealed that accused Nazir Ahmad Wani, the then Office Qanungo, had demanded illegal gratification of Rs.40,000 from the complainant on the plea that the same is to be paid to the accused Shabir Ahmad Andrabi, the then Tehsildar Sumbal Sonawari, for implementation of the order passed by the Joint Financial Commissioner. It was found that out of Rs.40,000, an amount of Rs.35,000 was paid by the complainant to accused Nazir Ahmed Wani through cheque No.1774193 dated 08.08.2011, and he had handed over the said cheque to accused Manzoor Ahmad Dar, the then Orderly, who got the same encashed.

3) After investigation of the case, offences under Section 5(1)(d) read with 5(2) of the J&K PC Act and Sections 201, 109 and 120-B RPC were found established against the accused, including respondent No.2 herein and the charge sheet was laid before the learned Special Judge Anti-Corruption, Baramulla.

4) The learned Special Judge, after considering the material annexed to the charge sheet and after hearing the parties proceeded to pass the impugned order whereby charges for offences under Section (5)(1)(d) read with 5(2) of J&K PC Act and Sections 201, 109, 120-B RPC were framed against accused Nazir Ahmed Wani and Syed Shabir Ahmad Andrabi whereas accused Manzoor Ahmad Dar (respondent No.2 herein) was discharged.

5) The petitioner Investigating Agency has challenged the impugned order to the extent of discharge of accused Manzoor Ahmad Dar (respondent No.2 herein), on the grounds that the same is perverse, both on facts as well as on law. It has been contended that there is enough material on record of the charge sheet to *prima facie* connect accused Manzoor Ahmed Dar with the crime, as it stands established that he had received the cheque for an amount of Rs.35,000 from accused Nazir Ahmed Wani and after putting his signatures on the said cheque, he withdrew the cash from J&K Bank, Sumbal. It has been submitted that, as per opinion of the FSL, it has been established that accused Manzoor Ahmed Dar had appended his signatures on the cheque at the time of its presentation and encashment before the bank and, therefore, there is sufficient material on record to show his complicity in the crime. It has been contended that accused Manzoor

Ahmad Dar, while encashing the cheque, was not performing any official duty and he was expected to encash the cheque which had been handed over by the complainant to the accused Nazir Ahmad Wani.

6) I have heard learned counsel for the parties and perused record of the case including record of the trial court.

7) Before proceedings to analyze the factual aspects of the case, it would be necessary to notice the legal position as regards the scope and power of the Court to analyze the material annexed with the charge sheet for the purpose of determining whether or not an offence is made out against the accused against whom the charge sheet has been filed. Section 251-A of J&K Cr. P. C, which is applicable to the present case, provides the procedure for framing of charges in a warrant trial case instituted on a police report. As per the said provision, if the Court, upon consideration of all documents referred to in Section 173 of the Cr. P. C and after giving prosecution and the accused an opportunity of being heard, considers the charge against the accused to be groundless, it has to discharge the accused but if, upon consideration of such documents and after giving an opportunity of hearing to accused and the prosecution, the Court is of the opinion that there is ground for presuming that

the accused has committed the offence, it has to frame charge in writing against the accused.

8) It is to be noted that at the time of considering the case for the purpose of charge/discharge of an accused, the Court is not expected to meticulously analyze the material on record but it has to sift the evidence in order to find out whether or not the allegations made in the charge sheet are groundless so as to pass an order of discharge. The Court has to proceed on the assumption that the material brought on record by the prosecution is true and the same has to be accepted at its face value at the time of framing of the charge. Probative value of the material cannot be gone into by the Court and it is not expected to deeply analyze the material with a view to frame an opinion whether, on the basis of the said material, accused can be convicted. Even a grave suspicion against the accused on the basis of the material annexed to the charge sheet would warrant framing of charge. However, the Court cannot act as a mouthpiece of the prosecution but it has to independently apply its mind to the material on record and frame an opinion whether or not the charge against the accused is groundless.

9) With the aforesaid position of law in mind, let us now analyze the facts and the material in the present case. The allegations in the charge sheet against respondent No.2, who

has been discharged by virtue of the impugned order, are that he has collected the cheque in the amount of Rs.35,000 from co-accused Nazir Ahmad Wani which had been tendered by the complainant to said Nazir Ahmad Wani as illegal gratification. It is allegation of the prosecution that accused Manzoor Ahmad Dar, after collecting the cheque from Nazir Ahmad Wani, put his signatures on the reverse of the cheque leaf and encashed the same from the bank. According to the prosecution, the cheque in question was bearer and it was not drawn in the name of any person.

10) In order to find an answer to the question as to whether on the basis of these allegations, it can be stated that accused Manzoor Ahmed Dar had connived with other two accused in demanding and accepting the bribe money from the complainant, the statements of witnesses recorded during investigation of the case are required to be noticed.

11) If we go to the statement of the complainant recorded under Section 161 Cr. P. C during investigation of the case, he has stated that accused Nazir Ahmad Wani, Office Qanungo, went to Tehsil office on 09.08.2011 at about 8.30 hours but found the Tehsil office closed, whereafter he called accused Nazir Ahmad Wani on telephone, who advised him to hand over the cheque to one photostat shopkeeper, Muhammad Sultan and, accordingly, the complainant

handed over the cheque to Muhammad Sultan and asked him to hand over the same to accused Nazir Ahmed Wani. He has further stated that Muhammad Sultan also contacted accused Nazir Ahmad Wani and confirmed that he has received a cheque for an amount of Rs.35,000 from the complainant. It has been further stated by the complainant that in the evening on the same day, he contacted accused Nazir Ahmad Wani on phone and confirmed from him whether he has received the cheque for an amount of Rs.35,000 from Muhammad Sultan. He was informed by accused Nazir Ahmad Wani that he has received the cheque and he further told him that he had deputed accused Manzoor Ahmad Dar, Orderly of Tehsil office, to J&K Bank Branch Sumbal. After a few days, Nazir Ahmad Wani confirmed to the complainant that the cheque was encashed and the money was paid to Tehsildar accused Syed Shabir Ahmad Andrabi. The complainant was also informed that an amount of Rs.30,000 was paid to the Tehsildar whereas accused Nazir Ahmad Wani had retained a sum of Rs.5,000 for himself.

12) PW Muhammad Sultan Khan, photostat shopkeeper, has, in his statement under Section 161 Cr. P. C, submitted that under the instructions of accused Nazir Ahmad Wani, he received a cheque worth Rs.35,000 from the complainant. According to him, the cheque did not bear name of the payee.

He further stated that he handed over the said cheque to Nazir Ahmad Wani.

13) In addition to the aforesaid statements, the Investigating Agency has seized the cheque in question, which is shown to have been signed by accused Manzoor Ahmed Dar at the time of its encashment.

14) Thus, from the material collected by the Investigating Agency during the course of investigation, it has been established that accused Manzoor Ahmed Dar, who was working as an Orderly, after collecting the cheque in respect of illegal gratification of Rs.35,000 from accused Nazir Ahmad Wani, encashed the same under the directions of the said accused. There is also material on record to show that accused Manzoor Ahmad Dar has not retained any amount out of the cheque amount and instead he has handed over whole cash to accused Nazir Ahmad Wani. The complainant has nowhere alleged that he had any contact with accused Manzoor Ahmad Dar or that he was in picture at any stage of the transaction relating to demand and acceptance of the bribe money. Merely because accused Manzoor Ahmed Dar has, under the instructions of his superior officer, encashed the cheque relating to the bribe money, does not show even *prima facie* that he has either connived with other two accused or he was part of the conspiracy. There is no material

on record to show that accused Manzoor Ahmad Dar was having any knowledge about the transaction of bribe between the complainant and the other two accused nor is there any material on record to show that he was having knowledge that the amount of cheque constituted illegal gratification. In the absence of any such material on record, it cannot be stated that accused Manzoor Ahmad Dar was in any manner involved in the alleged crime. Thus, the charge against the said accused is groundless.

15) Thus, the learned trial court while discharging accused Manzoor Ahmad Dar has exercised its jurisdiction perfectly in accordance with law. The conclusion drawn by the trial court is based upon proper analysis of the material collected by the Investigating Agency during investigation of the case. The impugned order, therefore, does not call for any interference from this Court.

16) For the foregoing reasons, the petition lacks merit and is dismissed accordingly.

(Sanjay Dhar)
Judge

SRINAGAR

10.07.2026

“Bhat Altaf-Shergatiary”

Whether the **judgment** is reportable: **YES/NO**