

HIGH COURT OF JAMMU & KASHMIR AND LADAKH  
AT SRINAGAR

Crl R No.23/2020

State Through Police Station  
Vigilance Organization Kashmir

...Petitioner(s)

Through: Mr. Mohsin Qadiri, Sr. AAG with  
Mr. Haris Ahmad, Assisting Counsel.

Vs.

Ashiq Ali Khan and Anr

...Respondent(s)

Through: Mr. Jaffer Nazir, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER

28.09.2026

1. Heard the counsel for the parties and examined the record of proceedings.
2. The present proceedings arise out of FIR No. 19/2013, registered for the commission of offences punishable under Section 5(1)(d) read with Section 5(2) of the Prevention of Corruption Act. Upon conclusion of the investigation, a charge-sheet came to be presented alleging, inter alia, that co-accused Patwari Ashiq Ali had demanded and accepted an amount of Rs. 2,500/- as illegal gratification from the complainant in consideration of processing an application submitted by him for issuance of a revenue extract and for carrying out correction in the revenue record. The said application had been marked to the accused Patwari by the Office Qanungo.

3. The prosecution case, in substance, is that the accused Patwari demanded the aforesaid amount from the complainant as illegal gratification. The complainant arranged the amount and, pursuant to the trap proceedings laid by the Anti-Corruption Bureau, the tainted money was allegedly recovered from the possession of the said accused.
4. It was further alleged that the respondent, who was serving as an Additional Patwari, was also present at the relevant time. According to the prosecution, prior to the culmination of the trap proceedings, the co-accused had sent the respondent to Bhatt Tea Stall for collecting the bribe amount from the complainant. The complainant, however, declined to hand over the money to the respondent.
5. The prosecution further alleged that, thereafter, the respondent and the co-accused proceeded to Bhatt Tea Stall, where the trap was ultimately laid successfully. On the basis thereof, it was sought to be alleged that the respondent was fully aware of the demand for illegal gratification and had facilitated the co-accused in the commission of the offence. Consequently, the respondent was also alleged to have committed an offence punishable under Section 5(2) read with Sections 4-A and 4-F of the Prevention of Corruption Act.
6. The trial Court, upon consideration of the material collected during investigation and after hearing the parties, proceeded to frame charge against the co-accused, against whom there was material not only with regard to the demand of illegal

gratification but also its acceptance and recovery in the presence of the trap witnesses.

7. Insofar as the respondent is concerned, however, the trial Court found no material on record to indicate that he had, at any point of time, approached the complainant or demanded any illegal gratification, either for himself or on behalf of the co-accused. The mere presence of the respondent in the company of the co-accused at the time when the tainted money was allegedly demanded and accepted at the tea stall could not, in the absence of any other incriminating material, give rise to a presumption that the respondent had aided or facilitated the commission of the offence.

8. The trial Court, accordingly, came to the conclusion that there were no sufficient grounds for presuming that the respondent had committed the offence alleged against him and, consequently, discharged him. The said order has been assailed by the Anti-Corruption Bureau primarily on the ground that the learned trial Court had fallen into error in discharging the respondent despite the existence, according to the petitioner, of sufficient prima facie material warranting the framing of charge against him.

9. Having considered the matter and examined the material available on record in its entirety, this Court finds no ground warranting interference with the order passed by the learned trial Court. The mere fact that the respondent had been charge-sheeted along with the co-accused could not, by itself, constitute sufficient basis for framing a charge against him.

This is particularly so when there is no material indicating that the respondent had demanded any illegal gratification from the complainant or that any official act was required to be performed by him in relation to the complainant's application, which could have furnished any occasion or motive for seeking a pecuniary advantage from the complainant.

10. On the contrary, the material on record indicates that the alleged demand and acceptance of illegal gratification emanated from the co-accused. Significantly, the statement of the complainant recorded under Section 164-A Cr. PC does not attribute any incriminating role to the respondent. There is not even a whisper therein to suggest that, prior to the trap being successfully laid, the respondent had approached the complainant for receiving the bribe amount for or on behalf of the co-accused.

11. It is well settled that, at the stage of consideration of charge, the trial Court is not expected to act merely as a post office and mechanically accept the case projected by the prosecution. While a meticulous appreciation of evidence or a roving enquiry into its probative value is impermissible at that stage, the Court is nevertheless required to examine the material placed before it for the limited purpose of determining whether sufficient grounds exist for presuming that the accused has committed the offence alleged against him. Where the material, taken at its face value, fails to disclose the essential ingredients of the alleged offence or to

raise the requisite prima facie inference against an accused, the Court would not be justified in mechanically framing a charge.

12. Viewed in the aforesaid legal perspective, the trial Court cannot be said to have committed any error in appreciating the nature of the allegations and the material collected during investigation. The material available on record falls short of establishing, even prima facie, the respondent's participation in, or facilitation of, the alleged demand and acceptance of illegal gratification by the co-accused. No sufficient ground, therefore, exists for presuming that the respondent committed the offence alleged against him. For the foregoing reasons, this Court finds no illegality, perversity or jurisdictional error in the order of discharge passed by the trial Court warranting interference in the exercise of the jurisdiction of this Court. The petition, being devoid of merit, is, accordingly, **dismissed**, and the order passed by the Id. trial Court is upheld.

13. Any interim direction subsisting as on date shall stand vacated.

(Sanjay Parihar)  
Judge

SRINAGAR:  
28.09.2026  
Shaista-PS