

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

LPA No. 193/2025

IRFAN RASHID

...Petitioner/Appellant(s)

Through: Mr. Muzaffar Hamid Bhat, Advocate (*through VC*)

Vs.

ANANCHAL CHAMBYAL & ORS

...Respondent(s)

Through: Mr. Sumant Suden, Advocate vice
Mr. Vishal Sharma, DSGI (*through VC*)

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDE R

28.04.2026

1. Impugned in this petition filed by one Irfan Rashid is an order and judgment dated 9th July 2025 passed by the learned Single Judge of this Court in CRM(M) No. 491/2022 titled "*Ananchal Chambyal & Ors. Vs. Irfan Rashid & Ors.*", whereby the learned Single Judge has allowed the petition filed by the respondents under Section 482 Cr.P.C and quashed the order dated 27th August, 2022 passed by the Judicial Magistrate 1st Class, Srinagar ["the 2nd Additional Munsiff"], on an application moved by the appellant herein under Section 156(3) of the Cr.P.C.
2. Learned counsel appearing for the respondents has taken a preliminary objection to the maintainability of this appeal under Clause 12 of the Letters Patent on the ground that the order impugned has been passed by the learned Single Judge in the exercise of criminal jurisdiction.
3. Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the impugned judgment has been passed by the learned Single Judge in the exercise of criminal jurisdiction and, therefore, intra-court appeal under Clause 12 of the Letters Patent is not maintainable.
4. There are numerous judgments of the Coordinate Benches of this Court setting the controversy at rest with regard to the

maintainability of the appeal arising from an order and judgment of the learned Single Judge passed in the exercise of criminal jurisdiction under Clause 12 of the Letters Patent. The judgments rendered by the various Benches are as under:-

“(i) LPA No. 80/2020 titled “Shamshada Akhter Vs. Aijaz Parvaiz Shah” decided on 16th August, 2021, (ii) LPA No. 204/2023 titled “Khursheed Ahmad Chohan Vs. Union Territory of J&K and Ors.” decided on 19th September, 2024 and (iii) LPA No. 154/2023 titled “Rohit Sharma Vs. Rukhsana Begum and Anr.”, decided on 04th December, 2023.”

5. From the reading of the aforesaid judgments, it is settled that an appeal under Clause 12 of the Letters Patent of this Court is not maintainable against an order or judgment passed by a learned Single Judge in the exercise of criminal jurisdiction.
6. It is true that though the position with regard to the maintainability of the Letters Patent against the order of the learned Single Judge passed in the exercise of criminal jurisdiction was fairly settled but a Division Bench of this Court doubted the earlier decisions rendered by a Coordinate Bench in LPA No. 23/2018 titled “Dr. Sumit Sabarwal. Vs Dr. Om Parkash Gupta and Ors..” and referred the matter to larger Bench. A Full Bench of this Court is presently seized of the matter.
7. It is in this background, the learned counsel appearing for the appellant would submit that the consideration of this matter may be deferred till the decision from the Full Bench comes. We are afraid we cannot accept such submission. It is trite law that where a reference to a larger Bench on a question of law is pending adjudication, the position of law which is doubted by the Bench referring the matter to the larger Bench, must prevail. The pending review or reference does not make the existing judgments ineffective or non-binding. The judgment doubted by the referring Bench must be followed unless or until the larger Bench hearing reference overrules it.

8. In view of the aforesaid, we are of the considered opinion that this appeal under Clause 12 of the Letters Patent seeking to challenge a judgment passed by the learned Single Judge in the exercise of criminal jurisdiction is clearly not maintainable. This appeal is accordingly, **dismissed**.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR:

28.04.2026

"ARIF

