

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH**

**AT SRINAGAR**

**CRM(M) 769/2024**

**CrIM(1783/2024)**

GHULAM MOHAMMAD SHEIKH

...Appellant(s)/Petitioner(s)

Through: Mr. Mir Umar, Advocate

**Vs.**

UNION TERRITORY THROUGH

POLICE STATION BUDGAM AND ...Respondent(s)

ANR

Through: Ms. Nowbahar Khan, Assisting counsel

Ms. Insha Rashid, Advocate

**CORAM:**

**HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

**ORDER**

**21.09.2026**

1. Having regard to the nature of the accusations levelled in FIR No. 82/2019, registered for offences under Sections 420, 467 and 468 RPC, in which the petitioner has also been implicated with the aid of Section 109 RPC, and considering the status report wherein the aforesaid offences are stated to have been established against the petitioner as well as the co-accused, it is evident that, on account of the order passed in the present petition, the charge-sheet, insofar as it pertains to the petitioner, could not be laid before the competent Court. The petitioner, however, contends that the FIR has emanated

from a civil dispute wherein the co-accused had sought a decree for specific performance of contract and that, during the pendency of an application under Order XXXIX Rule 2 CPC, it was the District Judge, Budgam, who directed registration of the FIR.

2. It appears from the material on record that the property of the complainant was sold by the petitioner and the co-accused pursuant to an alleged deliberate conspiracy, thereby giving rise to the aforesaid offences. The principal contention of the petitioner is that, since a civil dispute existed inter se the parties, the same could not have been given a criminal colour. The said contention, on the face of it, does not appear to be tenable at this stage, particularly when the documents relied upon by the co-accused before the Trial Court in support of the relief of specific performance are alleged to have emanated from fraud. The allegation is that the property of the complainant was sold by the co-accused in conspiracy with the petitioner. Having regard to the nature of the accusations, which, according to the investigating agency, have been substantiated during the course of investigation, this Court, while exercising jurisdiction in quashment proceedings, would not be justified in embarking upon an appreciation of disputed questions of fact.

4. In view of the status report and the material collected during investigation, the appropriate course available to the petitioner is to raise all permissible defences before the Trial Court at the stage of consideration of charge. If the petitioner succeeds in satisfying the

Trial Court that no offence is made out against him, it shall be open to the Trial Court to pass an appropriate order of discharge in accordance with law. The petitioner, however, cannot, under the guise of the present proceedings, stall either the conclusion of the investigation or the filing of the charge-sheet.

5. For the foregoing reasons, this Court finds no merit in the present petition. The same is, accordingly, dismissed, leaving the investigating agency at liberty to proceed with the investigation and file the charge-sheet in accordance with law. However, in the event the petitioner is unable to persuade the Trial Court on the basis of the defences available to him, it shall remain open to the petitioner to avail such appropriate remedy as may be available to him in accordance with law. Accordingly, the petition is **dismissed**, along with the connected CrIM (s).

(SANJAY PARIHAR)  
JUDGE

*Srinagar*  
*21.09.202*  
*“Imtiyaz”*