HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CRM(M) No. 234/2022

Reserved on: 14.10.2026
Pronounced on: 23.10.2026
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Operative part or full Judgement: Full

Burhan Ahmad Beigh

...Petitioner(s)

Through: Mr. Ateeb Kanth, Advocate

Vs.

UT of J&K and Ors.

...Respondent(s)

Through: Mr. Haris Khan, Assisting Counsel vice
Mr. Mohsin S. Qadri, Sr. AAG for R-1 to R-4
Mr. Z. A.Qureshi, Sr. Advocate with
Mr. Athar Rashid, Advocate for R-5

CORAM:
HON'BLE MR. JUSTICE YASH PAUL BOURNEY, JUDGE

JUDGEMENT

1. The genesis of the dispute lies in the rent agreement entered into between the parties on 25.08.2017, whereby the petitioner was inducted as a tenant in respect of an area measuring approximately 4,000 square feet on the third floor (top floor) of Block-B, Hadika Complex, Bhagat Barzulla, to be used as office space for a period of ninety-six (96) months with effect from November

2017. It appears that, shortly after the commencement of the tenancy, disputes arose between the parties, with each side advancing its own version leading to the present controversy.

2. Respondent No. 5 went to lodge a report with the In-charge, Police Station Sadder, alleging therein that the petitioner, by projecting himself as the Assistant General Manager in AMITY University, Gurgaon, Delhi, approached him for acquiring space in his building for setting up an office to facilitate the admissions of boys and girls to AMITY University and other colleges situated outside the erstwhile State of Jammu and Kashmir. It was further alleged that the petitioner subsequently conveyed that the entire space in the building was required by him for setting up an office to conduct business for Big Basket and Pacific Group Companies, located at Gopal Dass Complex, Connaught Place, New Delhi, for which an area measuring approximately 20,000 square feet would be required. In response, respondent No. 5 initially offered space measuring approximately 13,000 square feet, which was

allegedly accepted by the petitioner, whereafter a draft agreement was prepared and approved for finalization by the parties.

3. It is further alleged that, pursuant to the proposed arrangement and the specific requirements as conveyed by the petitioner, respondent No. 5 invested approximately Rs. 25.00 lakhs towards carrying out necessary additions, alterations, modifications etc. in the building and thereby making all the five floors ready for occupation and for establishing a fully equipped canteen. Thereafter, the petitioner took possession of the third floor of the building on a monthly rent of Rs. 1.40 lakhs. However, when the final agreement was presented, respondent No. 5 allegedly discovered several changes and deviations from the original draft approved. Nevertheless, on the assurance of the petitioner that the discrepancies would be rectified, respondent No. 5 signed the agreement.

4. It was further alleged that, upon becoming suspicious, respondent No. 5 approached AMITY University and came to learn that the petitioner

was neither an official of nor associated with the said University. On the basis of these allegations, respondent No. 5 claimed to have been misled and induced by the petitioner to part with possession of the premises, which the petitioner thereafter allegedly never used but locked unlawfully with the intention of wrongfully occupying and grabbing the property. On the basis of the aforesaid complaint, FIR No. 207/2018 came to be registered at Police Station Sadder for the commission of offences punishable under Sections 419 and 420 RPC. Investigation was accordingly undertaken and, upon its completion, the charge-sheet was presented before the competent court. It is also pertinent to note that, as reflected in the record, the petitioner neither appeared before the Investigating Agency nor has surrendered before the court below and the Investigating Agency has sought appropriate action for declaring him an absconder.

5. Against the aforesaid backdrop, the petitioner has invoked the inherent jurisdiction of this Court seeking quashment of the FIR in question as well

as the charge-sheet, primarily on the ground that the dispute between the parties is purely of civil nature and has been given the colour of a criminal offence allegedly with an object of harassing and intimidating the petitioner and compelling him to accede to the demands of respondent No. 5.

6. In support of his submissions, learned counsel for the petitioner has placed reliance upon the judgments titled *Naresh Aneja @ Naresh Kumar Aneja v. State of Uttar Pradesh*, 2025 INSC 19, *Deepak Kumar Shrivas and Another v. State of Chhattisgarh and Others*, 2024 INSC 117, decided on 19th February 2024, *Anukul Singh v. State of Uttar Pradesh and Another*, 2025 INSC 1153, decided on 24th December 2025 and V. *Ganesan v. State represented by the Sub-Inspector of Police and Another*, 2026 INSC 265, decided on 19th March 2026 during the course of arguments.

7. Learned counsel has contended that criminal proceedings ought not to be permitted to continue where the allegations, even if taken at their face value, essentially disclose a civil or contractual dispute and do not satisfy the ingredients of the

offences invoked. It is further contended that, for making out an offence of cheating, the dishonest or fraudulent intention must be shown to exist right from the inception of the transaction. Any subsequent disagreement or breach of contractual obligations, by itself, would not constitute the offence of cheating. Learned counsel has urged accordingly that the inherent jurisdiction vested in this Court may be exercised to prevent abuse of the process of law, particularly since criminal proceedings appear to have been initiated to exert pressure in a dispute which is essentially civil in nature having arisen out of a contractual transaction.

8. Per contra, learned senior counsel appearing for the respondent No.5 has submitted that the allegations levelled against the petitioner stand substantiated by the material collected during the course of investigation. It is contended that the Investigating Agency, after conducting a thorough and objective investigation, has collected sufficient materials to warrant the prosecution of the petitioner and has accordingly laid the charge-

sheet before the competent court. Learned senior counsel has further argued that the grounds raised by the petitioner involved appreciation of disputed questions of fact which cannot be gone into and dealt appropriately by this Court in inherent jurisdiction seeking quashment of the FIR and charge-sheet. According to learned senior counsel, the petitioner can raise all permissible defences before the trial court, which is competent to consider the same in accordance with law. It is further submitted that the present petition has been filed with the sole object of delaying and protracting the criminal proceedings and that no ground for exercise of the extraordinary or inherent jurisdiction of this Court is made out. On these grounds, dismissal of the petition has been sought.

9. Heard learned counsel for the parties and perused the material on record.

10. It is no longer *res integra* that the extraordinary jurisdiction of this Court is to be exercised sparingly and with circumspection, particularly where the allegations are required to be examined

in the course of regular proceedings and no exceptional circumstances warranting interference are made out. The petitioner has challenged the FIR in question, the charge-sheet and all consequential proceedings, primarily on the ground that the allegations contained in the complaint and the charge-sheet do not disclose the commission of any offence, much less the offences alleged therein, and that the dispute is purely civil in nature, to which a criminal colour has been imparted only to pressurize the petitioner to accede to the demands of respondent No. 5.

11. It needs to be borne in mind that, while examining a prayer for quashing of criminal proceedings, this Court is required to consider the allegations in the complaint/FIR and the material collected during investigation, without embarking upon a detailed examination of the merits of the case. If, upon a plain reading of the allegations, the essential ingredients of the alleged offences are not disclosed, interference may be warranted. However, when the allegations, taken at their face

value, prima facie disclose the commission of an offence, the proceedings cannot be quashed merely because the dispute may also give rise to remedy under civil law.

12. A perusal of the complaint and the report of the Investigating Officer reveals that the petitioner allegedly represented himself to be an Assistant General Manager of AMITY University, Gurugram, with a view to gain the confidence of respondent No.5 and inducing him to let out his commercial premises. The said representation is alleged to have turned out to be false. By that time, however, respondent No. 5 had already let out approximately 4,000 square feet of accommodation situated on the third floor of the complex to the petitioner for setting up an office.

13. It is further alleged that the petitioner represented that he would require the entire accommodation in the building for establishing the office of the private companies, Big Basket and Pacific Group, stated to be located at Gopal Dass Complex, Connaught Place, New Delhi. Acting upon such representations, respondent No. 5 allegedly

incurred expenditure of approximately Rs.25.00 lakh on modifications to the premises in accordance with the requirements conveyed by the petitioner. The petitioner is alleged not to have subsequently taken the entire premises as represented and, even in respect of the premises actually taken on rent, defaulted in payment of rent from the very next month. It is further alleged that he continued to retain possession of the premises by keeping them under his lock and key, without paying rent or other charges, including electricity charges.

14. Thus, on a *prima facie* consideration of the allegations, it emerges that the petitioner is alleged to have made false representations concerning his status, the purpose for which the premises were required and the proposed use thereof, thereby inducing respondent No. 5 to part with possession of the premises and incur substantial expenditure which he might not otherwise have incurred. The question whether the petitioner possessed a dishonest intention at the inception of the transaction, and whether the

allegations are ultimately established, are matters to be examined in accordance with law. At this stage, however, the allegations cannot be treated as disclosing merely a subsequent breach of contractual obligations, divorced from the alleged initial representations.

15. In these circumstances, the allegations, taken at their face value, *prima facie* warrant examination with reference to the ingredients of cheating as defined under Section 419 RPC and made punishable under Section 420 RPC. It cannot, therefore, be held at this stage that the charge-sheet does not disclose the commission of any offence. The first contention raised on behalf of the petitioner, accordingly, does not merit acceptance.

16. Adverting to the judgment cited by learned counsel for the petitioner in ***Naresh Aneja @ Naresh Kumar Aneja v. State of Uttar Pradesh***, the facts and circumstances of the said case are distinguishable from those of the case in hand. In that case, respondent No. 2 had initially submitted a complaint before the Senior

Superintendent of Police, Janpad, alleging inappropriate conduct at the workplace and threats to commit murder. A preliminary inquiry was conducted and a report was submitted to the competent authority. Thereafter, the complainant approached the Chief Judicial Magistrate, Gautambuddh Nagar, by way of an application under Section 156(3) Cr.P.C., alleging that the complaint had not been acted upon and that no investigation had been conducted. Pursuant to the directions of the Magistrate, FIR No. 1074/2019 was registered for offences under Sections 354 and 506 IPC, followed by the filing of a charge-sheet. The earlier complaint made to the Senior Superintendent of Police had not been disclosed.

17. In the peculiar factual circumstances of that case, the Hon'ble Supreme Court found that the allegations did not satisfy the ingredients of the offences alleged and also took note of the suppression of material information regarding the earlier complaint. The said judgment, therefore, does not advance the petitioner's case in the facts

and circumstances presently under consideration, where the allegations of inducement and the consequential acts attributed to the petitioner are required to be examined on their own merits.

18. In ***Anukul Singh v. State of Uttar Pradesh and Another***, the Hon'ble Supreme Court reiterated the settled principles governing the exercise of inherent jurisdiction under Section 482 Cr.P.C. The Court emphasized that such jurisdiction, though wide, is subject to self-imposed restraints and must be exercised sparingly. It was further reiterated that criminal proceedings may be quashed where the allegations, even if accepted in their entirety, do not disclose the essential ingredients of an offence, or where the proceedings are manifestly attended by mala fides and amount to an abuse of the process of law.

19. The said judgment, however, arose from a materially different factual background, in which the allegations were found to disclose a civil dispute concerning a loan transaction and the execution of documents as well as the surrounding circumstances supported the

conclusion that prosecution had been launched maliciously. However, in the present case, the allegations extend beyond a mere default in payment of rent and include specific allegations of false representation purposely made for inducing the respondent No. 5 to part with possession of the premises and incur substantial expenditure on the modification therein.

20. In the case in hand, the allegations taken in totality on the face value, sufficiently disclose *prima facie* the necessary ingredients of the offences invoked in charge sheet.

21. In ***V. Ganesan v. State***, the applicability of the principles laid down therein is required to be considered in the context of the factual matrix of the case to the extent that the said judgment reiterates the settled position that criminal proceedings ought not to be permitted to continue where the allegations do not disclose an offence or where the process of law is being abused, the principle is unexceptionable. However, the specific allegations of inducement and misrepresentation made in the present case does not help the

petitioner in establishing that the proceedings are liable to be quashed at the threshold.

22. The other judgment relied upon by learned counsel for the petitioner is also distinguishable, insofar as the factual circumstances and the nature of the allegations considered therein are materially different from those arising in the present case. The mere availability of a civil remedy does not, by itself, preclude the institution or continuation of criminal proceedings where the allegations also *prima facie* disclose the commission of a criminal offence. The applicability of the said judgment must, therefore, be assessed in the light of the allegations and material forming the basis of the present prosecution.

23. It is also submitted on behalf of respondent No. 5 that the petitioner has not appeared before the Investigating Agency to explain his position or extend cooperation in the investigation. The petitioner has, likewise, not appeared before the Trial Court, and the charge-sheet is stated to be at its initial stage. While the aforesaid circumstances cannot, by themselves, determine

the merits of the prayer for quashing, they do not furnish any ground for granting the relief sought in the present petition.

24. The petitioner is at liberty to raise all permissible factual and legal pleas before the Trial Court, including such pleas as may be available to him in an application seeking discharge, in accordance with law. This Court, in proceedings of the present nature, cannot undertake a detailed appreciation of disputed facts or assess the evidentiary worth of the material collected during investigation, particularly when the allegations, taken at their face value, *prima facie* disclose the commission of the alleged offence.

25. For the foregoing reasons, no case for interference by this Court in the exercise of its extraordinary jurisdiction is made out and the present petition is **dismissed**. It is, however, clarified that the observations made hereinabove are confined to the adjudication of the present petition and shall not be construed as an expression of opinion on the ultimate merits of the case. The Trial Court shall proceed with the matter independently, in

accordance with law, without being influenced by any observation made in this order.

26. A copy of this order shall be forwarded to the Trial Court for information and compliance forthwith.

(YASH PAUL BOURNEY)
JUDGE

SRINAGAR
23.10.2026
"Dar Manzoor"

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No.