

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

CRMC No. 323/2018

Reserved on: 20.12.2025
Pronounced on : 29.12.2025
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Whether the operative part or
full judgment is pronounced: "FULL"

**Abdul Majid Bhat
S/o Khazir Mohammad Bhat
R/o Chursoo, Awantipora
A/p Bagh-e-Mehtab, Srinagar**

...Applicant(s)/Petitioner(s)

Through: - Ms. Sharaf Wani, Advocate with
Mr. Ahmad Basaud, Advocate

v/s

- 1. Commissioner/Secretary to Government,
General Administration Department,
Civil Secretariat, Jammu/Srinagar**
- 2. Commissioner, Vigilance Commission,
Srinagar**
- 3. Sr. Superintendent of Police,
Vigilance Organization, Kashmir, Srinagar**

...Respondent(s)

Through: - Mr. Mohsin Qadri, Sr. AAG with
Ms. Maha Majeed, Assisting Counsel

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

JUDGMENT

1. The petitioner, a public servant who at the relevant time was posted as Assistant Regional Transport Officer, Shopian, has challenged FIR No. 25/2018 dated 14-07-2018 registered against him for the alleged commission of offences under Section 5(1)(e) read with Section 5(2) of the J&K Prevention of Corruption Act, Svt. 2006. The challenge is founded on the assertion that the allegations levelled in the FIR are vague, baseless, and devoid of material particulars. It is contended that despite

the petitioner having sufficiently and satisfactorily explained the source and ownership of the properties alleged to be in his possession, the respondents have mechanically proceeded to accuse him of possessing assets disproportionate to his known sources of income. Allegations have also been made that the petitioner, in his capacity as registering authority, issued illegal licences, registrations, and payment vouchers; however, it is emphasized that till date not a single licence or registration certificate has either been investigated or found to be illegal.

2. It is further contended that the allegation regarding possession of cash amounting to ₹34,13,300/- is misconceived, as the said amount was seized from various persons including the petitioner's mother and aunt, and the same has been duly accounted for. As regards the immovable properties, the two houses at Srinagar alleged to have been purchased in the name of the petitioner's wife are stated not to be owned by the petitioner. The property falling under Khasra No. 673 at Rose Lane Colony, Bagh-e-Mehtab, Srinagar, alleged to have been purchased by the petitioner in the name of his wife, Nahida Parveen, is asserted to have been purchased by her father in the year 2005 and subsequently mutated in her name. Similarly, the industrial unit styled as "SSL Cardboard Factory" at Hariparigam is claimed to belong to a different partnership concern in which the petitioner has no role whatsoever. The allegation regarding ownership of "Dawut Restaurant" at Awantipora is also denied, the petitioner asserting that the said establishment is owned by one Ishtiaq Mehmood. The ownership of vehicles attributed to the petitioner has likewise been stated to have been satisfactorily explained.

3. The petitioner contends that mere possession of pecuniary resources does not constitute an offence under Section 5 of the Prevention of Corruption Act unless it is established that such possession could not be satisfactorily accounted for, which, according to him, is not the case here. It is alleged that despite submission of all relevant documents, the respondents have failed to take the same into consideration, thereby revealing a mala fide intent to falsely implicate and harass the petitioner. It is further urged that the FIR does not disclose the identity of the complainant, the material that led to initiation of inquiry, or the authority which ordered such inquiry and registration of the FIR. The respondents are accused of acting in violation of Rule 23 of the J&K State Vigilance Commission Rules, 2013, by failing to submit the secret verification report to the Vigilance Commission for approval prior to registration of the FIR. The petitioner also asserts that he was never associated with any inquiry preceding the registration of the FIR, rendering the entire exercise arbitrary and illegal. On these grounds, quashing of the FIR and all proceedings emanating therefrom has been sought.

4. The respondents, on the other hand, contend that the proceedings were initiated on the basis of a credible source report received by the Anti-Corruption Bureau, Kashmir, indicating that the petitioner, while holding various executive posts in the Motor Vehicles Department, had accumulated assets grossly disproportionate to his known and lawful sources of income. Pursuant thereto, a secret verification was conducted by the Vigilance Organization Kashmir (now ACB), which prima facie revealed that the petitioner had acquired extensive movable and

immovable properties. Although the petitioner entered government service in August 2000, the check period was primarily confined to the years 2008-2018, during which he functioned as In-charge ARTO, a post involving substantial executive authority.

5. During the course of inquiry, search warrants were obtained from the Special Court, and searches were conducted on 15-07-2018 and 16-07-2018 at six different locations. These searches resulted in the recovery of ₹34,13,300/- in Indian currency, ₹99,000/- in demonetised currency, gold ornaments weighing approximately 548-553 grams, thirteen gold coins, one licensed pistol along with magazines and forty-seven rounds of ammunition. All recoveries were seized on the spot and seizure memos were duly prepared. The secret verification further disclosed possession of various immovable assets, including a house and land at Chursoo Awantipora, a shopping complex at Chursoo, Housing Board Plots Nos. 711 and 712 at Bagh-e-Mehtab, a house at Rose Lane Colony valued at approximately ₹25.74 lakhs, land at Mirankot, Amritsar valued at around ₹15 lakhs, Dawat Restaurant, SSL Cardboard Factory, and five vehicles.
6. According to the respondents, the verification revealed disproportionate assets worth ₹1,39,36,445/-, amounting to 267.88% in excess of the petitioner's known sources of income, thereby constituting criminal misconduct, benami acquisition of properties, failure to declare assets, and failure to account for unaccounted cash. Consequently, FIR under Sections 5(1)(e) and 5(2) of the J&K Prevention of Corruption Act was registered. It is stated that the investigation has since been concluded, the petitioner has been prematurely retired, and the charge-sheet is ready for

presentation. The respondents deny any statutory violation, asserting that the Vigilance Organization is a designated police station empowered to register FIRs upon disclosure of cognizable offences and that Rule 23 of the Vigilance Rules, 2013 is inapplicable as the FIR was registered on the basis of a source report. It is further contended that the investigation was conducted under the supervision of senior officers and that the registration of the case does not amount to harassment or victimisation but is in furtherance of the statutory mandate to curb corruption among public servants.

7. Learned counsel for the petitioner, while contesting the stand of the respondents, argued that the respondents have failed to fairly assist this, Court. It was contended that initially the respondents asserted that the FIR was registered on the basis of a secret verification, whereas subsequently they improved their stand by claiming that the FIR was registered on the strength of a source report. This shift in stance, according to the learned counsel, clearly demonstrates that the investigation has been conducted in contravention of Rule 23 of the J&K State Vigilance Rules, 2013. It was argued that in order to circumvent the mandate of the said Rule, the respondents have abused the process of law and have falsely implicated the petitioner with the sole object of subjecting him to harassment and victimisation. Learned counsel further submitted that the allegations levelled in the FIR are general and vague in nature and do not disclose the essential ingredients of the offence alleged against the petitioner. It was urged that prior to registration of the FIR, the respondents were under a statutory obligation to conduct a preliminary inquiry, which admittedly

was not done, and that the investigation has been initiated without any tangible material. It was also pointed out that there is neither any allegation nor any evidence of the petitioner having accepted any bribe, and therefore the registration of the FIR is nothing but an abuse of the process of law, aimed at preventing the petitioner from discharging his lawful duties. On these premises, indulgence of this Court was sought to secure the ends of justice by protecting the rights of the petitioner.

8. Per contra, learned Senior Additional Advocate General, relying upon AIR 2000 SC 870, argued that technicalities of law should not be permitted to defeat the object and purpose for which anti-corruption laws have been enacted. It was submitted that while interpreting the provisions of the Prevention of Corruption Act, the larger public interest and the social object behind the legislation must be kept in mind. It was contended that the Vigilance Organization, being a competent authority and a designated police station, is empowered to take cognizance of offences under the Act and to register an FIR even on the basis of source information. It was further argued that for the purposes of verification and effecting searches, search warrants were duly obtained from the Court of the Special Judge, Anti-Corruption, Kashmir, Srinagar, pursuant to which searches were conducted on 15-07-2018 and 16-07-2018. These searches led to the recovery of substantial incriminating material; details whereof have been elaborately set out in the objections and synopsis placed on record. Learned Senior AAG submitted that the petitioner cannot feign ignorance, as he was associated with the investigation throughout, and that several properties which the petitioner was able to satisfactorily

account for were excluded from the ambit of investigation. It was thus contended that the petitioner cannot claim abuse of process, harassment, or victimisation.

9. I have heard learned counsel for the parties and have also perused the case diaries.

10. It emerges from the record that the FIR came to be registered on the basis of a source report, which led to secret verification conducted by the Vigilance Organization, Kashmir. Upon such verification, it was found that the petitioner had allegedly amassed ill-gotten wealth by abuse and misuse of his official position as a public servant, thereby disclosing commission of an offence under Section 5(1)(e) of the Prevention of Corruption Act, punishable under Section 5(2) thereof. Consequently, FIR No. 25/2018 was registered against the petitioner and the investigation was entrusted to Dy. Superintendent of Police. It is also evident from the record that several properties sought to be brought within the purview of investigation were subjected to attachment under the J&K Prevention of Corruption Act, 2006 (Svt.). सत्यमेव जयते

11. The investigation primarily focused on the period from 2008 to 2018; it being alleged that during this period the petitioner misused his official position and accumulated assets disproportionate to his known sources of income. Search operations conducted on 15-07-2018 and 16-07-2018 at six different locations resulted in the recovery of ₹34,13,300/- in cash, gold ornaments weighing approximately 548–553 grams, thirteen gold coins, a licensed pistol, and various incriminating documents including sale deeds and bank records.

12. During the course of investigation, a residential house with land at Rose Lane Colony, Bagh-e-Mehtab in the name of the petitioner's wife, Nahida Parveen; residential plots Nos. 711 and 712 at Bagh-e-Mehtab in the name of his 2nd wife, Shamima Akhtar; cash amounting to ₹34,13,300/-; and gold ornaments and coins valued at approximately ₹90 lakhs were attached, which attachment is stated to have been confirmed on 25-01-2020. Though initially the petitioner was alleged to be in possession of as many as seven immovable properties, the properties comprising house and land at Chursoo, Awantipora, shopping complex at Chursoo, Dawat Restaurant, and SSL Cardboard Factory were excluded from the purview of investigation, as no nexus could be established between the petitioner and those properties.

13. The remaining immovable properties forming the subject matter of investigation are stated to be Housing Board Plots Nos. 711 and 712 at Bagh-e-Mehtab along with structures raised thereon, allegedly purchased benami in the name of the petitioner's first wife; land and house at Rose Lane Colony in the name of his second wife; land at Mirankot, Amritsar; vehicles including Scorpio, Wagon-R and Scotty; cash and gold; and bank balances across various accounts. These assets have been attributed to the petitioner as having been acquired beyond his known sources of income.

14. According to the investigation conducted thus far, the petitioner has been prematurely retired from service and the charge-sheet is stated to be ready for presentation, there being no requirement of sanction for prosecution. The present proceedings seek quashment of an FIR arising out of allegations of criminal misconduct punishable under Section 5(1) of the

Prevention of Corruption Act. The scope of interference by this Court at the stage of investigation or prior to filing of the charge-sheet in such matters is well circumscribed.

15. In *R.S. Nayak v. A.R. Antulay*, AIR 1984 SC 684, the Hon'ble Supreme Court held that the power of quashing criminal proceedings should be exercised sparingly and with circumspection, particularly in cases involving serious allegations of corruption. It was observed that at the initial stage, the Court is not expected to meticulously examine the evidence or evaluate the merits of the accusations. If the allegations made in the FIR or the material collected during investigation disclose the commission of a cognizable offence, the proceedings ought not to be scuttled prematurely. The Court further held that issues relating to sufficiency or reliability of evidence are matters to be adjudicated during trial and not at the stage of quashing. The Supreme Court emphasized that corruption by public servants poses a grave threat to the rule of law and democratic governance, and therefore, courts must be slow in interfering with investigations or prosecutions at the threshold unless the allegations are patently absurd, inherently improbable, or manifestly attended with *mala fides*.

16. Reiterating the same legal position in *State of Madhya Pradesh v. Ram Singh*, AIR 2000 SC 870, while considering a petition seeking quashment of investigation and consequent proceedings against a public servant for an offence under Section 13 of the Prevention of Corruption Act, 1988, the Hon'ble Supreme Court emphatically underscored the gravity of

corruption and the need for judicial restraint at the threshold stage. The Court observed as under:

“Corruption in a civilized society is a disease like cancer, which if not detected in time, is sure to malign the polity of a country leading to disastrous consequences. It is termed as a plague which is not only contagious but, if not controlled, spreads like fire in a jungle. Its virus is compared with HIV leading to AIDS being incurable. It has also been termed as royal thievery. The socio-political system exposed to such a highly communicable disease is likely to crumble under its own weight. Corruption is opposed to democracy and social order, being not only anti-people but aimed and targeted against them. It affects the economy and destroys the cultural heritage. Unless nipped in the bud, it is likely to cause turbulence, shaking the socio-economic political system in an otherwise healthy, wealthy, effective and vibrant society.”

17. The Supreme Court further traced the historical background and legislative intent behind the enactment of the Prevention of Corruption Act, observing that procedural delays and technicalities of law should not be permitted to defeat the object sought to be achieved by the Act and that the overall public interest and social purpose must guide interpretation of its provisions. In that case, the High Court of Madhya Pradesh had quashed the investigation on the ground that it was not conducted by an authorised officer in terms of Section 17 of the Act.
18. Setting aside the order of the High Court, the Apex Court held that it was not persuaded by the reasoning that the authorisation granted by the Superintendent of Police was mechanical or reflected non-application of

mind merely because it was in a printed proforma. The Court observed that the authorisation order clearly disclosed the name of the accused, the FIR number, the nature of the offence, and the statutory power of the Superintendent of Police to authorise a subordinate officer to conduct investigation. The proximity in time between registration of the FIR and grant of authorisation, in terms of the second proviso to Section 17 of the Act, was held to be indicative of due application of mind and lawful exercise of discretion.

19. Relying upon *State of Haryana v. Bhajan Lal*, the petitioner sought to contend that the present case falls within the categories illustratively enumerated by the Supreme Court wherein the inherent power under Section 482 Cr.P.C. may be exercised either to prevent abuse of the process of the Court or to secure the ends of justice. The categories relied upon are as under:

“(a) where the allegations made in the FIR or complaint, even if taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the FIR and other material accompanying it do not disclose a cognizable offence justifying investigation by the police under Section 156(1) of the Code, except under an order of a Magistrate under Section 156(3) Cr.P.C.;

(c) where the uncontroverted allegations in the FIR or complaint and the evidence collected in support thereof do not disclose the commission of any offence and do not make out a case against the accused;

(d) where the allegations constitute only a non-cognizable offence and no investigation is permissible without an order of the Magistrate under Section 155(2) Cr.P.C.;

(e) where the allegations are so absurd and inherently improbable that no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there exists, an express legal bar engrafted in any provision of the Code or the concerned Act to the institution or continuance of the proceedings, or where a specific statutory remedy is provided for redressal of the grievance;

(g) where the criminal proceeding is manifestly attended with mala fides or is maliciously instituted with an ulterior motive for wreaking vengeance on the accused due to private or personal grudge.”

20. Given the aforesaid legal position, the present matter is required to be examined in the light of the settled principle that the inherent power under Section 482 Cr.P.C., being extraordinary in nature, is to be exercised sparingly, cautiously, and only to prevent abuse of the process of law or to secure the ends of justice. Post the pronouncements in *R.S. Nayak v. A.R. Antulay* and *State of M.P. v. Ram Singh* (supra), it has been repeatedly emphasized that where allegations are patently false, malicious, or do not disclose commission of any offence even after investigation, the Court may intervene. However, where, after registration of the FIR, investigation has proceeded and material has been collected which prima facie discloses commission of a cognizable offence, the Court would ordinarily refrain from quashing the proceedings, particularly when the offence alleged arises under Section 5 of the Prevention of Corruption Act.

21. Though initially the respondents had included certain other immovable properties in the disproportionate asset's calculation, four such properties were subsequently excluded upon investigation and not attributed to the petitioner. In that backdrop, it cannot be said that the proceedings were initiated vexatiously or with any oblique motive. The recoveries were effected pursuant to search warrants obtained from the competent court and searches conducted on 15-07-2018 and 16-07-2018, which prima facie demonstrates adherence to due process of law. The reliance placed on alleged violation of Rule 23 of the J&K State Vigilance Commission Rules, 2013 is misplaced, as the affidavit filed by respondent No. 2, Vigilance Commission, clarifies that compliance with Rule 23 was not required since the FIR was registered on the basis of a reliable source report concerning accumulation of disproportionate assets by a public servant. The authority of the respondents to investigate offences under Section 5(2) of the Act is not disputed, nor has the competence of the Investigating Officer been questioned. The FIR was registered by the Senior Superintendent of Police, Vigilance Organization, Srinagar, which is a designated police station, and given that the offence is cognizable, the respondents were fully empowered to investigate. The initial reference to secret verification cannot be overstretched to invalidate an otherwise lawful FIR followed by investigation in accordance with law.

22. In this regard, reliance may be placed on *State of Karnataka v. M. Devendrappa*, (2019) 9 SCC 24, wherein the Supreme Court reiterated that investigation into crime is the exclusive domain of the police and that courts should not ordinarily interfere at the investigation stage. Similar views were

expressed in *Dukhishyam Benupani v. Arun Kumar Bajoria*. The law has been further crystallized in *Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra*, (2021) 19 SCC 401, wherein the Supreme Court laid down exhaustive parameters governing the exercise of jurisdiction under Section 482 Cr.P.C., emphasizing that quashing of FIRs should be an exception and not the rule, and that courts should not stifle legitimate investigations at a nascent stage unless no cognizable offence is disclosed.

23. An FIR can validly be registered on the basis of reliable information, and a source report squarely falls within the ambit of such information. Admittedly, pursuant to the source report, a secret verification was conducted by the Vigilance Organization (now ACB), culminating in registration of FIR No. 25/2018 on 14-07-2018, a copy whereof was forwarded to the Special Judge, Anti-Corruption, Kashmir, Srinagar. Subsequent searches conducted on 15-07-2018 and 16-07-2018 led to recovery of incriminating material. Whether such recoveries are legally admissible or can ultimately be attributed to acts or omissions of the petitioner are matters to be adjudicated during trial.

24. The respondents have collected data for the check period from August 2000 to 14-07-2018, with primary emphasis on acquisition of assets during the period 2008 to 2018. At the relevant time, the petitioner was posted as ARTO, Shopian. While the prosecution alleges accumulation of disproportionate assets through misuse of official position, the petitioner contends that no licence or registration issued by him has been declared illegal. Such rival claims, however, cannot be adjudicated in proceedings under Section 482 Cr.P.C.

25. At the stage of quashment, this Court cannot conduct a mini-trial. The investigation stands concluded and offences under Sections 5(1)(e) and 5(2) of the Prevention of Corruption Act have been found made out. Additionally, offences under Sections 12 and 14 of the Public Men and Public Servants (Declaration of Assets and Other Provisions) Act have also been found established. The petitioner has since been prematurely retired on 16-02-2023 and, according to the prosecution, no prior sanction is required for filing of the charge-sheet. However, due to pendency of the present petition, the charge-sheet has not yet been presented.

26. Given the nature of allegations and the material collected during investigation, there are sufficient grounds to suspect commission of offences by the petitioner. The Court cannot, in quashment proceedings, assess the probative value or sufficiency of evidence. The petitioner has failed to demonstrate any legal infirmity or procedural illegality in registration of the FIR or conduct of investigation. Rule 23 of the J&K State Vigilance Commission Rules, 2013 has already been held to be inapplicable.

27. For the aforesaid reasons, this Court finds no merit in the petition, the case of the petitioner do not fall within any of the categories enumerated in *Bhajan Lal*(supra). There is no material to infer mala fides or abuse of process by the respondents. Interference at this stage would amount to usurping the statutory domain of the investigating agency. Accordingly, the petition is dismissed. The respondents shall proceed in accordance with law and file the charge sheet before the competent court, interim direction if any shall stand vacated. Nothing

stated hereinabove on the merits of the case shall influence further proceedings
laid against the petitioner before the Trial Court.

(Sanjay Parihar)
Judge

SRINAGAR

29.12.2025

Akshil Dev

Whether the order is speaking? : Yes

Whether the order is reportable? : Yes

