

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

Reserved on: 19.09.2026

Pronounced on: 26.09.2026

Uploaded on: 26.09.2026

*Whether the operative part
or full judgment is
pronounced: **Full***

CRM(M) No.1295/2025

JAYDEEP SINGH JADEJA

...PETITIONER(S)

Through: - Mr. Akeel Wani, Advocate.

Vs.

UT OF J&K

...RESPONDENT(S)

*Through: - Ms. Monika Kohli, Sr. AAG, with
Ms. Priyanka Bhat, Advocate.*

CORAM: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

JUDGMENT

1) The instant petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) for quashing the complaint titled “**Crime Branch v. Jaydeep Singh Jadeja**”, under Section 175 of IPC, pending before the Court of learned Special Mobile Magistrate, Passenger Tax and Shops and Establishment Act, Jammu (hereinafter referred to as the “trial court”), and also for quashing the order dated 27th February, 2024, whereby process has been issued against him for commission of the under Section 175 of IPC.

2) It is stated that one Mohd. Shafiq Sohil filed a written complaint with the Crime Branch, alleging that the petitioner, Jaydeep Singh Jadeja, Director of M/S Ashpura Road Lines, duped him of ₹40 lakhs in connection with a sub-contract. The sub-contract, awarded under the NHDP Phase-II project, was for the EPC-mode construction of a section of National Highway-1 (now NH-44) from Kilometer 172 to 182 in J&K.

3) It is alleged in the complaint that during the preliminary inquiry, the Crime Branch sought specific records and information held by the petitioner. Although repeatedly called upon, both telephonically and in writing, to appear before the Crime Branch, Jammu, for the recording of his statement and the production of requisite documents, the petitioner failed to comply. Subsequently, a notice dated 19th May 2023 was issued under Section 91 CrPC; however, the petitioner submitted irrelevant materials in an attempt to mislead the investigating agency. It is further averred that on 18th July 2023, a subsequent notice under Section 91 CrPC was dispatched to the petitioner. The petitioner neither produced the requisite records nor appeared before the investigating authority, thereby obstructing the Crime Branch, Jammu, from ascertaining his involvement and that

of other company employees. Accordingly, the respondent instituted a complaint against the petitioner for the commission of an offense under Section 175 IPC.

4) The petitioner has sought quashing of the complaint as well as order dated 27th February, 2024, passed by the learned trial court, *inter alia*, on the grounds that the Crime Branch had no jurisdiction to entertain the impugned complaint as the allegations levelled therein did not fall under the categories of offences laid down in para No.1 of Annexure to S.O. 232, issued by the Government of Jammu and Kashmir, Civil Secretariat, Home Department, through Financial Commissioner (Additional Chief Secretary) and no offence under Section 175 of IPC is made out against the petitioner because he had submitted a detailed reply, along with the relevant documents, in response to the notice issued by the respondents seeking the information as required. It is further contended that the learned trial court has issued process against the petitioner without application of mind and without considering the fact that the petitioner had already submitted his detailed reply, along with the relevant documents, before the Crime Branch.

5) The respondent has filed a reply setting forth the factual matrix of the case as recounted above, emphasizing

the petitioner's failure to respond to the notices issued to him and his non-appearance before the Crime Branch.

6) Learned counsel for the petitioner has submitted that a notice under Section 91 CrPC could not lawfully be issued to the petitioner, given that the Crime Branch was not conducting an investigation or inquiry under the Code, which constitutes a *sine qua non* for the exercise of power under the said Section. He further submitted that whatever records were in the petitioner's possession had duly been furnished to the Crime Branch.

7) *Per contra*, Ms. Monika Kohli, learned Senior Additional Advocate General, has submitted that the notice was issued only during the course of preliminary verification of the complaint lodged by Mohd. Shafi Sohil, but the petitioner did not cooperate during the preliminary verification and as such complaint was filed.

8) Heard and perused the record.

9) In order to appreciate the contention raised by the petitioner, it would be apposite to take note of Section 91 of the Cr.P.C, which is extracted hereinbelow:

91. Summons to produce document or other thing.

(1) Whenever any Court or any officer-in-charge of a police station considers that the production of any

document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Code by or before such Court or officer, such Court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(2) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be deemed –

- (a) to affect sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), or the Banker's Books Evidence Act, 1891 (13 of 1891); or
- (b) to apply to a letter, postcard, telegram or other document or any parcel or thing in the custody of the postal or telegram authority.

10) A perusal of Section 91 CrPC reveals that a Court or an officer-in-charge of a police station may issue a written order or summons directing the production of any document or thing in a person's possession only when doing so is necessary or desirable for an investigation, inquiry, trial, or other proceeding under the Code.

11) It is candidly admitted by Ms. Monika Kohli, learned Senior AAG, no formal investigation or inquiry under the Code is currently underway by the Crime Branch; rather, the agency is engaged solely in a preliminary verification to ascertain whether the registration of an FIR is warranted.

12) In the present case, admittedly, the summons/notice was issued at the time when the BNSS was not in operation. Section 173(3) of the BNSS contemplates a preliminary enquiry to be conducted by the officer in charge of a police station but with prior permission of an officer not below the rank of Deputy Commissioner of Police, in a case where the allegations relate to the commission of a cognizable offence punishable with imprisonment for a term of three years or more but less than seven years. The purpose of enquiry is only to ascertain whether prima facie case exists to proceed further in the matter. There is no such provision in the Code of Criminal Procedure. In ***Lalita Kumari v. Govt. of U.P., (2014) 2 SCC 1***, the Hon'ble Apex Court has held that the scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence, and what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are (a) Matrimonial disputes/family disputes; (b) Commercial offences; (c) Medical negligence cases; (d) Corruption cases; (e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for

without satisfactorily explaining the reasons for delay. But at the same time, the Hon'ble Apex Court has observed that the aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

13) In the present case, the summons was issued strictly under Section 91 CrPC. Furthermore, the expression 'other proceeding' appearing in Section 91 must be construed *ejusdem generis* with the preceding words 'investigation, inquiry, or trial.' Once it is conceded by the respondent that no investigation or inquiry under the Code of Criminal Procedure had been initiated, the authority could not have lawfully resorted to Section 91 CrPC.

14) Be that as it may, the object of a preliminary verification is strictly limited to ascertain whether the allegations disclose the commission of a cognizable offence. The preliminary verification cannot partake the character of investigation to ascertain veracity of the allegations and the enquiry officer cannot compel the proposed accused to share documents or information.

15) This Court has examined the order passed by the learned trial court and finds that the learned trial court has issued process against the petitioner in a mechanical manner. Even otherwise, where recourse to Section 91 CrPC

was impermissible in law, the respondent could not have maintained a complaint under Section 175 of IPC against the petitioner.

16) In view of the above, this Court is of the considered view that the continuance of proceedings against the petitioner would be nothing but an abuse of the process of law. Accordingly, the proceedings in the impugned complaint titled **Crime Branch v. Jaydeep Singh Jadeja**, pending before the learned trial court, as well as the order dated 27th February, 2024, are hereby quashed. The Enquiry Officer shall be, however, at liberty to proceed with the complaint filed by the complainant in accordance with law.

Srinagar,
26.09.2026

“Bhat Altaf-Secretary”

(Rajnish Oswal)
Judge

Whether the **judgment** is reportable: **YES**