

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

Reserved on: 20.08.2026

Pronounced on: 30.09.2026

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

OWP No.1577/2013

ASHOK SINGH MANHAS

...PETITIONER(S)/ APPELLANT(S)

Through: - Mr. Himanshu Beotra, Advocate.

Vs.

UNION OF INDIA & ORS.

...RESPONDENT(S)

*Through: - Ms. Monika Kohli, Sr. AAG, with
Ms. Sagira Jaffer, Advocate.*

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

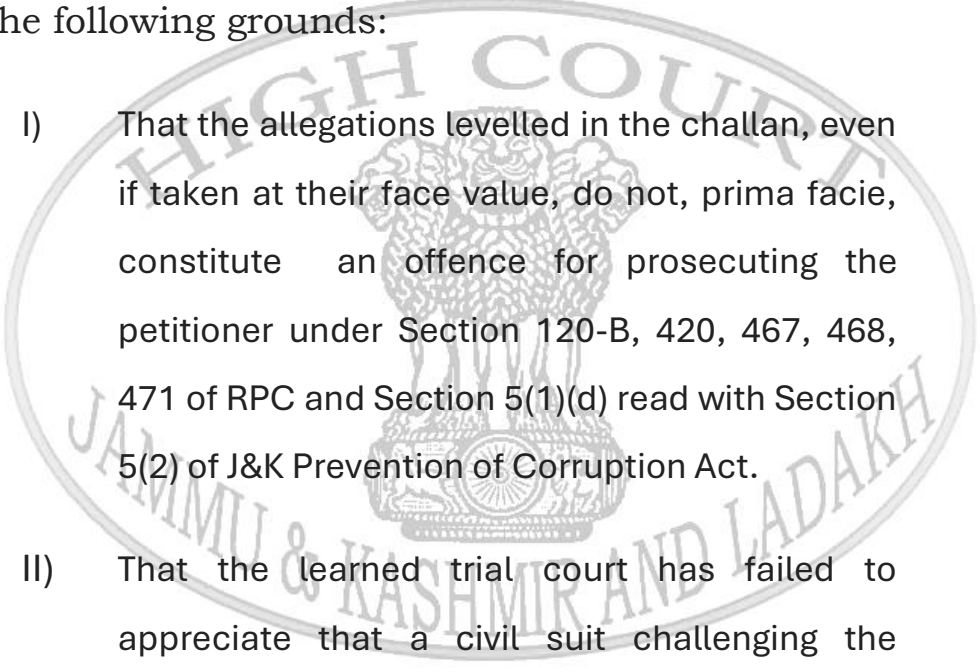
JUDGMENT

1) The petitioner, who is arrayed as an accused in the chargesheet titled "State vs. Uttam Chand and others", has filed this petition for quashing FIR No.RC0042011A0003 CBI/ACB/Jammu dated 30th May, 2011 registered by respondent No.2 under Section 120-B, 420, 467, 468, 471 of RPC and Section 5(1)(d) read with Section 5(2) of J&K Prevention of Corruption Act, charge sheet arising out of FIR mentioned above and for quashing the order dated 4th September, 2013 passed by the Court of Special Judge, Anti-

Corruption (CBI Cases), Jammu (for short "the trial court"),
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whereby the petitioner has been charged for commission of offences under Section 120-B, 420, 467, 468, 471 of RPC and Section 5(1)(d) read with Section 5(2) of J&K Prevention of Corruption Act. The petitioner has also sought the quashing of resolution No.4/31/61-T dated 01.04.1963 as ultra-vires to Constitution of India read with Constitution of Jammu and Kashmir. It is pertinent to note that the Constitution of Jammu and Kashmir is no longer in force.

2) The petitioner has sought the abovementioned reliefs on the following grounds:

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- I) That the allegations levelled in the challan, even if taken at their face value, do not, prima facie, constitute an offence for prosecuting the petitioner under Section 120-B, 420, 467, 468, 471 of RPC and Section 5(1)(d) read with Section 5(2) of J&K Prevention of Corruption Act.
 - II) That the learned trial court has failed to appreciate that a civil suit challenging the mortgage deed regarding the land, was already pending disposal before the learned Sub Judge, Jammu, much prior to the registration of FIR, which fact was deliberately not taken into consideration either by the Investigating Officer at the time of filing of charge sheet or by the learned trial court while charging the petitioner for commission of aforementioned offences.

- III) That the CBI cannot be called to investigate any or all controversies arising in a particular State in a routine manner, nor the CBI can be called upon to take cognizance of any offence for the purpose of lodging of FIR and investigation on the mere allegation against the private person or state Govt. employee.
- IV) That the learned trial court failed to appreciate that the respondent No.2 lodged an FIR and started investigating the crime of its own which was exclusively the prerogative of the State agency and if the present FIR, and challan produced are not quashed, then it would be a clear case of conflict of interest between the State on the one hand and the Union Government on the other hand. It is only in special cases, where the state requires the assistance of central agency or for that matter the competent court of law feels the necessity of investigation by central agency in addition to or in exclusion to the state agency, the central agency can exercise its jurisdiction.
- V) That CBI is not a creation of statute, having legal standing and it has been created by an executive order/resolution No.4/31/61-T dated 01.04.1963 issued by Secretary to Govt. of India and the said resolution, being merely an executive order, does not specify the source of executive power which created it. Further the resolution is neither the

result of delegated legislation nor the same has been even produced before the President of India. As per the provision of criminal Procedure code, the CBI is neither an organ of Delhi Special Police Investigation Act 1946 nor the same is police force within the meaning of said Act. The "police functioning' falls within entry-II of List II of Constitution of India read with Constitution of J&K and to legislate upon the same is only the prerogative of the State. It is stated that the Centre has no power or jurisdiction to legislate upon the same, as such, functioning of CBI in term of resolution supra in the State of J&K is unconstitutional and ultra vires, more particularly when it is not a Union Territory.

3) Respondent-CBI has filed the response stating therein the factual aspects of the case. It is stated that UCO Bank has been established under Reserve Bank of India rules by the Ministry of Finance, Govt. of India, and its officials are Central Govt. public servants not of State Govt. Moreover, the Govt. of J&K has accorded consent to Delhi Special Police Establishment Act and by virtue of the said consent, CBI is registering, investigating and prosecuting cases in the State of J&K since 1958 and till date the consent has not been withdrawn by the J&K Govt. and the accused involved were/are being tried and convicted by the Special Courts of Anti-Corruption, Special Court CBI and CJM Court. All the

three Special Courts/Chief Judicial Magistrates have been duly notified by the Govt. of J&K, Department of Justice under J&K PC Act, 2006 and Criminal Law Amendment Act, 1958 and the High Court has posted Special Judges for conducting the proceedings of CBI cases. Further, the Hon'ble Apex Court of India has also directed all the States to establish 71 CBI Special Courts for the speedy trial and disposal of CBI cases. In J&K, one such Special Court for the trial of CBI cases has been established headquartered at Jammu. Therefore, this petition is misleading and baseless. It is further stated that resolution No.4/31/61-1 dated 01.04.1963 has been discussed by the Guwahati High Court and the judgment has been stayed by the Hon'ble Apex Court of India and till this matter is not decided finally by the Hon'ble Supreme Court, the same cannot be agitated and adjudicated upon by this Court, therefore, the petition deserves to be dismissed. It is further submitted that DSPE Act till date has neither been quashed by any High Court nor repealed by the Parliament. Moreover, its constitutional validity has been upheld by Hon'ble Apex Court of India in **Vineet Narian** judgment, **Common Cause** judgment and other catena of judgments. Besides, this Court has upheld the constitutional validity of DSPE Act and the consent accorded to CBI by the Govt. of J&K in the judgment titled

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Susheel Kumar Khajuria Vs CBI and other two judgments referred in the said judgment. Therefore, this matter once settled by the Hon'ble Apex Court and this Court, cannot be re-agitated and reopened.

4) Rejoinder affidavit has been filed by the petitioner stating therein that at the time of filing of challan by the respondent No.2 against the petitioner and other accused persons, neither any Bank official was made as accused nor any other Central Government employee was the accused in the said charge sheet and all the accused persons, against whom the respondent No.2 filed charge sheet, were either the private persons or State government employees, therefore, there was absolutely no reason for the respondent No.2 to transgress into the spheres and boundaries of State agencies, specifically when the respondent CBI was neither invited by this Court nor by the State agencies to intervene in the said matter. The petitioner has referred to letter issued by Additional Secretary to Government of J&K, General Administration Department, to assert that the consent was given on case-to-case basis.

5) Learned counsel for the petitioner has argued, primarily, on the ground that the constitution of CBI is bad in law and once the CBI is not validly constituted, it has no

jurisdiction to register and investigate any FIR. He has argued that offences under Section 120-B, 420, 467, 468, 471 of RPC and Section 5(1)(d) read with Section 5(2) of J&K Prevention of Corruption Act are not made out against the petitioner. He has relied upon the judgments of the Hon'ble Apex Court in "**Md. Ibrahim & Ors. Vs. State of Bihar & Ors**, 2010(2) Cr.L.J 2223, "**Guru Bipin Singh Vs. Chongtham Manihar Singh**" 1996(4) Crimes 135.

6) *Per contra*, Ms. Monika Kohli, learned Senior AAG, has submitted that the Hon'ble Supreme Court of India has stayed the judgment of the Guwahati High Court and once the matter is subjudice before the Hon'ble Supreme Court of India and the judgment of the Guwahati High Court has been stayed, the petitioner cannot raise a similar plea before this court and propriety demands that the said issue should be left subject to outcome of the decision of the Hon'ble Apex Court and the trial be allowed to continue. She has further argued that the petitioner has raised disputed questions of fact that cannot be considered at the stage of framing charges or considering discharge, and the same must be agitated during the trial.

7) Heard learned and perused the record.

8) The first issue raised by the petitioner is with regard to validity of establishment/constitution of the CBI. Learned counsel for the parties were at *ad idem* that the judgment of the Guwahati High Court has been stayed by the Hon'ble Supreme Court of India, meaning thereby that the CBI can register and investigate an FIR and file the charge sheet if the offence/s is/are proved. It needs to be noted that the proceedings of the trial court were stayed in terms of order dated 14.11.2013.

9) This Court agrees with the submission made by Ms. Kohli, Sr. AAG, that the contention raised by the petitioner regarding the validity of the constitution of the CBI be deferred to await the decision of the Hon'ble Supreme Court of India. Otherwise, also no prejudice shall be caused to the petitioner, if this issue is left subject to outcome of the matter pending before Hon'ble the Apex Court. Consequently, it is directed that further proceedings arising from the chargesheet shall remain subject to the outcome of the SLP, wherein the judgment of the Gauhati High Court currently stands stayed.

10) It was next contended that there are no allegations levelled against the petitioner for commission of offences under Section 120-B, 420, 467, 468, 471 of RPC and Section

5(1)(d) read with Section 5(2) of J&K Prevention of Corruption Act. In this regard, the chargesheet reveals that a reliable information was received that Sh. Uttam Chand S/o Shri Balu Ram R/o village-Dadwara, Tehsil- Billwar, Distt. Kathua (J&K) and Sh. Ashok Singh Manhas (petitioner herein), both partners of M/s Shiva Overseas, located at Mandir Market, Opp: Ram Darbar, Shastri Nagar, Jammu, in connivance with unknown persons/bank officials of UCO Bank, Ashok Market, Raghunath Bazar, Jammu, committed the offences of cheating and forgery and by abuse of their official position caused undue loss to the bank and undue gain to the beneficiaries/loanees. The information further disclosed that M/S Shiva Overseas is partnership firm in which Sh. Uttam Chand is a partner holding 85% share and Ashok Singh Manhas is holding 15% share, and both applied for a CC limit to the tune of Rs.50 lacs vide application dated 13.03. 2008 duly signed by them. The land measuring 04 kanals and 05 marlas comprising khasra No. 90 min, khata No. 12, khewat No.1, situated at village Chak Changerwan was said to be owned by Ashok Singh Manhas and the same was offered as collateral security but the said land actually did not belong to Sh. Ashok Singh Manhas and documents relating to the same were forged/fabricated. Shri Ashok

documents prepared in connivance with some unknown persons in support of their claim. Thereafter, unknown bank officials of UCO Bank, Ashok Market, Raghunath Bazar, Jammu, in criminal conspiracy with Shri Ashok Singh Manhas and Uttam Chand processed the loan on the basis of these false documents. The concerned Branch Manager did not make any pre-sanction visit as per the Bank rules before the sanction of CC limit/loan. The loan proposal of CC limit for Rs.35 lacs was sanctioned by the Zonal New Business Committee, Delhi on the basis of recommendation of the bank officials vide sanction dated 22.05.2008. One Sh. Ramesh Koul, DIG PS (Retd) was the guarantor for the said loan facilities as per agreement of guarantee duly executed by him towards the bank. The accused borrowers exhausted the CC limit of Rs.35 lacs in September, 2008, and thereafter, Shri Uttam Chand requested the bank vide application dated 10.9.2008 to allow an overdraft of Rs.10 lacs in the CC account. On the same day, the accused bank officials conceded to his request and, accordingly, another account No.01660610000908 was opened in the name of M/S Shiva Overseas and on the same day, overdraft of Rs.10 lacs was allowed from CC limit and transferred to another account. The borrowers did not repay the loan in both the accounts and used the money for their personal ends. As a

result of the criminal conspiracy, abuse of official position and fabrication/forgery of documents, both the loans turned NPA on 18.12.2009 with a total outstanding of Rs. 50,31,214/- causing undue loss to exchequer and corresponding undue gain to the accused persons. Further the concerned bank officials misused their official position as public servants by processing the said loan/CC limit case on the basis of fake/false documents, and also failed to get the lien entered in the revenue records.

11) On the basis of above allegations, FIR No.RC0042011A0003 CBI/ACB/Jammu was registered for commission of offences under Section 120-B, 420, 467, 468, 471 of RPC and 5(1)(d) r/w 5(2) of J&K PC Act.

12) During investigation, it was found that the revenue documents were forged and Mohd. Maqbool, the then Halqa Patwari, Chack Changerwan, was the author of the said forged documents. An amount of 40,000/- had been paid to him as bribe by Ashok Singh Manhas, partner, M/S Shiva Overseas as revealed by Ashok Singh Manhas. The statement of Shri Anayat Ali, Halqa Patwari, Chack Changerwan, revealed that whole area under Survey No.90 min was fully inhabited by constructed houses and no vacant plot existed in the name of Ashok Singh Manhas in

the said Khasra. Record revealed that a total of 36 kanals and 12 marlas land existed in the name of ancestors of Ashok Singh Manhas. While 30 Kanals and 15½ marlas was sold/transferred in the names of other persons, the remaining portion of the land existed in the name of the entire joint family. Ashok Singh Manhas was only a co-sharer in the said property. However, through the forged revenue records, Ashok Singh Manhas fraudulently claimed to be in exclusive ownership of the remaining portion of the land, when, in reality, he was only a minor co-sharer of the said land, along with other relatives. The record further reveals that after having sold 30 kanals 15½ marlas land out of khasra No.90-min, the land measuring 5 kanals 8 marlas was not entered in the revenue records because the same was used as the paths/roads by the inhabitants of khasra No.90-min. There was no plot existing in the said survey number as shown in the forged revenue records. The investigation established that Shri Girdhari Lal, Ex-Girdawar and Shri Jagdish Singh (since expired) had prepared the two forged Fard Intekhab and Dasti Khakas (one for 2 kanals and another for 2 kanals 5 marlas) dated 30.11.08 at the behest of Mohd Maqbool, the then Patwari-Chak Changarwan. The records of the Nakulat Register

kanals under khasra No.90min has been issued by Mohd Maqbool, the then Halqa Patwari, in the name of Ashok Singh Manhas and received by him against entry No. 22 in the said Nakulat Register. The investigation further established that the said forged Fard Intekhabs/Dasti Khakas were signed by Mohd Maqbool, the then Halqa Patwari, Chack Changerwan, Mohd Bashir, the then Naib Tehsildar, Bhalwal, attested the above forged revenue documents and forwarded the same for countersignature of Sh. Gias-ud-din, the then Tehsildar, Jammu.

13) The investigation also revealed that Ashok Singh Manhas had shown a plot comprising Survey No.14, situated at Chack Changerwan, the actual owner of which is Sh. Prem Nath S/o Tirath Ram, as Survey No.90-min to approved Valuer as his own land and, thus, fraudulently got the wrong site evaluated. It was also established during investigation that during pre-sanction visit to the proposed collateral property undertaken by bank official, accused Ashok Singh Manhas showed a vacant plot with a boundary wall/iron gate fixed, at village Chak Changerwan, as his own comprising Survey No.90 min, though the same fell in SruveyNo.14 and was not owned by him. The property identified by the valuer was tallied with the site plan which

tallied but Anayat Ali (Patwari Halqa Chack Changerwan,) after consulting the revenue records, stated that the said property does not belong to Ashok Singh Manhas and does not exist in Survey No.90-min. As already mentioned, the property was owned by Prem Nath. During joint inspection, Joint Inspection Memo dated 28.07.2011 was drawn and all the team members signed the same in token of its correctness and genuineness. The revenue officers also furnished the original Naqal Jamabandi/detailed report/location etc. showing the actual position of Survey No.90.

14) After conclusion of the investigation, charge sheet was filed against Uttam Chand, Ashok Singh Manhas, Mohd. Maqbool (Patwari) and the empanelled advocate. However, in terms of order dated 4th September, 2013, the empanelled advocate was discharged of the offences, but the petitioner along with others was charged for commission of offences under Sections 120-B, 420, 467, 468, 471 of RPC and 5(2) read with 5(1)(d) of J&K PC Act.

15) The contention of the petitioner is that no offence of forgery has been committed. The investigation establishes that the two revenue extracts were issued in favour of the petitioner showing him to be the owner of land measuring

04 kanals and 05 marlas comprising Survey No.90-min,

whereas in terms of the revenue record, Ashok Singh (petitioner herein) was one of the co-sharers, having minor share only. The statement of Anayat Ali, Patwari Halqa Chack Changerwan, reveals that Survey No.90 comprises 36 kanals and 10 marlas of land owned by Romal Singh and others, in which late Sardar Singh f/o Ashok Singh was one of the shareholders. After the death of Sardar Singh, his share was transferred in the name of his legal heirs i.e. Balbir Singh, Ashok Singh(petitioner), Parshotam Singh, Jhankar Singh, Surinder Singh (sons) in four equal shares and daughters, namely, Pushpa Devi and Nirmala Devi in two equal shares vide mutation No.3027 and out of above mentioned land, land measuring 30 kanals and 15½ marlas was already sold to different people, who established a private colony by constructing houses, boundary walls/plinths and the remaining 05 kanals and 08 marlas of land was used as path and road by the owners of the land in the said survey number, which was not reflected in the revenue record. Further, as per spot verification, it was found that no land existed on ground in the name of Ashok Singh Manhas.

16) The accused Patwari issued a *Fard Intikhab Jamabandi* (revenue extract) contrary to the official revenue records, falsely portraying the petitioner as the owner-in-possession

of land measuring 04 Kanals and 05 Marlas. Furthermore, the accused Patwari issued extracts depicting the petitioner as the exclusive owner of land measuring 4 Kanals and 5 Marlas, whereas the petitioner was merely a minor co-sharer. In connivance with the petitioner and co-accused, the Patwari fabricated false documents to enable the petitioner and his partner to obtain a bank loan by mortgaging property that was neither owned by the petitioner nor in existence on the spot.

17) The 'making of false document' in terms of section 464, is an essential ingredient of offence of forgery as defined under section 463 R.P.C. Illustration (h) and Explanation 1 with illustration (e) to section 464 R.P.C are extracted as under:

(h) A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate, executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z. A has committed forgery.

Explanation 1. — A man's signature of his own name may amount to forgery.

(e) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit, and with intent to defraud his creditors; and in order to give a colour to the transaction, writes a promissory note binding himself to pay to B a sum for value received, and antedates the note, intending that it may be believed to have been made before. A was on the point of

insolvency. A has committed forgery under the first head of the definition.

18) Thus, an accused need not forge another person's signature; signing one's own name can still amount to forgery under certain circumstances. Furthermore, illustrations (e) and (h) make it clear that a person can commit forgery in respect of a document executed by himself.

19) In the present case, the allegations against the Patwari are that he issued revenue extracts contrary to the record of Revenue Department, which were used by the petitioner and other accused for availing loan. By issuing these fraudulent revenue extracts in violation of official records, the accused Patwari committed the offence of making a false document within the meaning of Section 464 of the R.P.C. The petitioner has been arrayed as an accused by invoking section 120-B R.P.C. At this stage, there is nothing to establish that the accused has not committed any offence of forgery in connivance with the Patwari.

20) This view of the court finds support from the judgment of the Bombay High Court in case titled “**Bharat Hiralal Sheth and others Vs. Jaysin Amarsinh Sampat and**

another”, 1997 CRI. L.J. 2509, where in it has been held as under:

“11. From these two Illustrations (h) and (e) and Explanation 1 it will be clear that legislature intended to cover cases under the offence of forgery whenever the person was the creator of, a document even though the document was made by himself in his own name and signed in his own name. These two illustrations with Explanation 1, therefore, make the scope of the definition "Making a false document" very wide and it cannot be said that part 1st of 464 is the only provision defining words "Making the false document".

21) This is also the prosecution case that the petitioner misrepresented the plot under Survey No. 14 as his own property situated in Survey No. 90-min. Consequently, it cannot be held that the petitioner is innocent or that no offence is made out. This act prima facie establishes the offence of cheating. Furthermore, the authorities relied upon by the petitioner are distinguishable and inapplicable to the facts and circumstances of the present case.

22) This Court has examined the order passed by the learned trial court dated 4th September, 2013 and is of the considered view that the learned trial court has rightly charged the petitioner for the commission of above-mentioned offences.

23) In view of the above, the present petition is disposed of with an observation that the issue of constitution of C.B.I

shall remain subject to the decision of Hon'ble the Apex Court, in a pending matter and the trial court shall proceed with the trial of the case. As the trial has remained stayed for nearly 13 years, no unnecessary adjournments be granted to the parties.

(Rajnish Oswal)
Judge

Srinagar,
30.09.2026

"Bhat Altaf-Secretary"

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

