

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

Reserved on: 14.09.2026

Pronounced on: 28.09.2026

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Whether the operative part or
full judgment is pronounced: Full

CRM(M) No. 281/2020

CrlM No. (1087/2020)

- (1). Shree Pal Singh the then Executive Engineer, Srinagar Central Division, ...Petitioner/Appellant(s)
CPWD, Humhama Srinagar (now retired)
S/o Mool Chandra R/o Village Ghoshi
Post Belain District Fethepur, UP.
- (2). Hardeep Singh the then Assistant Engineer Srinagar Central Division,
CPWD, Humhama Srinagar A/O Sardar
Gurdhian Singh R/o (Nz-1) Kencrya
Sadhan Sector 09 Chandrigarh House
No.4015, Sector 68 Mohali.
- (3). Rakesh Sharma the then Assistant Engineer, Srinagar Central Division,
CPWD, Humhama Srinagar S/o Keshav
Dutt Sharma R/o House No.7/27 1st Floor
Sector-05 Rajendra Nagar Sahibabad
Gaziabad, UP.
- (4). Umesh Chandra Tripathi the then Assistant Engineer Srinagar Central Division , CPWD Humhama Srinagar S/o
Shree Dutt R/o House No.J-36/A, Pandav
Nagar, Near Mother Diary, Delhi-92.

Through: Mr. Syed Faisal Qadri, Sr. Advocate with
Ms. Shaifta Balkhi, Advocate and
Ms. Sameena Altaf, Advocate

Vs.

Central Bureau of Investigation ...Respondent(s)
Anti-Corruption Branch
Srinagar

Through: Mr. T. M. Shamsi, DSGI with
Ms. Bisma Ali, Advocate

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

JUDGMENT

1. The petitioners stand charged with the commission of offences under Section 120-B read with Section 420 of the RPC and Section 5(2) read with Section 5(1)(d) of the J&K Prevention of Corruption Act, Svt. 2006, besides the offence under Section 4-H of the J&K Prevention of Corruption Act, arising out of an incident which occurred on 25.07.2017. At the relevant time, petitioner No. 1 was serving as Executive Engineer in the Central Public Works Department, Srinagar, whereas petitioner No. 2 was serving as Assistant Executive Engineer. Petitioner Nos. 3 and 4 were also serving as Assistant Executive Engineers in the Central Public Works Department. The FIR came to be registered on the basis of a preliminary inquiry conducted by the respondent. It was alleged that the petitioners had entered into a criminal conspiracy with the contractor, M/s Sheikh & Sons, with the object of causing wrongful loss to the public exchequer and corresponding wrongful gain to themselves in connection with the contract for construction of a 9.1-km boundary wall for the Central University of Kashmir, Ganderbal, thereby causing a loss of Rs. 3.4 crore to the public exchequer. The work had been allotted to M/s Sheikh & Sons at a cost of Rs. 9.38 crore. The stipulated date of commencement of the work was 19.05.2013 and the date of completion was 11.08.2014. However, it was revealed that the contractor, in connivance with the public servants of the Central Public Works Department, Srinagar, did not execute the work in accordance with the approved specifications and drawings.

2. It was further alleged that defective work was found in 34 columns extending from village Tulmulla to Barsoo along the left side of the road and in 40 columns in the prefab area on the right side of the road. In addition, two plinth beams, each measuring approximately 2.70 metres in length, were found tilted. About seven wall panels, out of a total of 150 panels in the Tulmulla area on the left-hand side, were also found tilted inwards. It was further alleged that, even after the expiry of the stipulated period for completion of the work, only 16% of the work had been executed by the contractor, and even that work was defective and of poor quality. Notwithstanding the same, the petitioners had passed bills corresponding to 36% of the work, amounting to Rs. 3.4 crore out of the total contract value of Rs. 9.38 crore, which was claimed by the Central Public Works Department authorities and paid to the contractor.
3. It was alleged that the accused public servants had released payments in respect of the defective work through various Running Account Bills after maintaining false entries in the Measurement Books and other official records.
4. Upon completion of the investigation, on 21.12.2018, a charge-sheet under Section 173 Cr.P.C. was presented before the Court of the learned Special Judge, Anti-Corruption (CBI), Kashmir, against petitioners and the co-accused, with a prayer that they be tried for the offences punishable under Section 120-B read with Section 420 RPC and Sections 4-H and 5(2) read with Section 5(1)(d) of the J&K Prevention of Corruption Act, Svt. 2006. Thereafter, the Trial Court

proceeded to frame charges against the accused by passing the order which is impugned in the present petition.

5. Learned counsel for the petitioners primarily contended that, insofar as the offence under Section 4-H of the J&K Prevention of Corruption Act is concerned, the charge is unsustainable in the absence of a valid previous sanction for prosecution. It was submitted that such sanction could neither be presumed nor enlarged by the Trial Court at the stage of framing of charge. Learned counsel further argued that the statutory discretion vested in the sanctioning authority cannot be exercised, supplemented, reconstructed, or deemed to have been exercised by the Trial Court at the stage of framing of charge. It was, therefore, contended that a charge under Section 4-H could not be sustained merely on the ground that the ingredients of the said offence could otherwise be discerned from the allegations contained in the charge-sheet.
6. The principal contention of learned counsel for the petitioners is that, while granting sanction for prosecution of the petitioners, the competent authority did not accord sanction for their prosecution for the offence under Section 4-H of the J&K Prevention of Corruption Act. Thus, according to learned counsel, the charge framed to that extent is legally unsustainable. It was accordingly prayed that the present petition be allowed and the charge, insofar as it relates to Section 4-H of the J&K Prevention of Corruption Act, be quashed.
7. Per contra, the counsel for the respondent, while drawing the attention of this Court to the judgment rendered by a Co-ordinate Bench in CRM(M) No. 406/2021, argued that a petition filed by the co-accused, Ram Gopal Meena, had already been dismissed. It was argued that,

while dismissing the said petition, the Co-ordinate Bench had considered the legal position governing the controversy and had held that the Trial Court's order framing a charge under Section 4-H could not be vitiated merely because the sanction order did not specifically mention the said provision. Such omission, it was submitted, would not vitiate the criminal proceedings, as the same did not go to the root of the jurisdiction of the Court. When confronted with the aforesaid position, learned counsel for the petitioners sought to contend that the case projected by the present petitioners was distinguishable from that of the co-accused.

8. I have heard learned counsel for the parties and examined the record.
9. The petitioner in CRM(M) No. 406/2021 was one Ram Gopal Meena, who figured as accused No. 1 in case RC1232017A0001. The present case also arises out of the same FIR registered by the CBI. The order dated 05.09.2020 passed by the Trial Court framing charges was also called into question in the said petition.
10. The dismissal of the petition filed by the co-accused by this Court vide judgment dated 02.12.2022 has not been challenged by the said accused. The findings recorded therein would, therefore, also govern the case of the present petitioners, as the facts and legal issues involved are substantially identical. Petitioners along with Ram Gopal Meena, belonged to the same Department, namely, the Central Public Works Department, Srinagar, and all were accused of having misused their official positions by entering into a criminal conspiracy with the contractor with the object of causing wrongful loss to the public exchequer and corresponding wrongful gain to themselves in connection with the contract for construction of the boundary wall.

When confronted with this aspect of the matter, the counsel for the petitioners was unable to satisfactorily distinguish the case of the present petitioners.

11. Framing of charge is an important stage in a criminal trial at which the Court is required to apply its mind to the material on record and the documents placed before it. The Co-ordinate Bench, while considering the merits of the case, had also examined the plea raised with regard to the applicability of Section 4-H of the J&K Prevention of Corruption Act. The said issue was dealt with in paragraphs 22 and 23 of the judgment, wherein it was held that the mere omission to specifically mention a particular offence in the sanction order would not render the sanction invalid if the allegations and material referred to in the sanction order otherwise disclose the ingredients constituting such offence. In arriving at the said conclusion, the Co-ordinate Bench relied upon the judgments rendered in **Prakash Singh Badal v. State of Punjab and Others 2007 1 SCC 1** and **State of Bihar and Others v. Raj Mangal Ram 2014 11 SCC 388**. The view taken by the Co-ordinate Bench is the view applicable to the facts of the present case and is, accordingly, reaffirmed by this Court.
12. The case of the present petitioners is squarely covered by the aforesaid judgment, which has attained finality. This Court, in exercise of its inherent jurisdiction, cannot be called upon to return a finding contrary to that already rendered by the Co-ordinate Bench in respect of the same controversy arising out of the same criminal case. The facts of both cases are *pari materia*. In fact, the present petitioners as well as the petitioner in CRM(M) No. 406/2021 are jointly facing trial pursuant to the same FIR. Therefore, the findings returned in the aforesaid

judgment apply with equal force to the present case. Consequently, this Court finds no merit in the present petition. The same is, accordingly, **dismissed**, leaving the Trial Court free to proceed with the trial in accordance with law, interim directions if any shall stand vacated.

(SANJAY PARIHAR)
JUDGE

SRINAGAR:

28.09.2026

Akshil Dev

Whether the order is speaking? Yes
Whether the order is reportable? No

