



**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR
(THROUGH VIRTUAL MODE)**

Case:- CRMC No. 70/2018

Reserved on: 24.04.2026

Pronounced on: 06.05.2026

Uploaded on: 06.05.2026

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

**Aijaz Hussain Sahaf S/O
Late Mohammad Hussain
Sahaf, R/O Karan Nagar,
Srinagar (Kashmir)**



.....Petitioner(s)

Through: Mr. I. Sofi, Advocate.

Vs

- 1.State of J&K through
Senior Superintendent of
Police, Crime Branch,
Kashmir-Srinagar.**
- 2.Station House Officer,
Police Station, Crime
Branch, Srinagar.**

..... Respondents

Through: Mr. Mohsin S. Qadri, Sr. Advocate with
Ms. Maha Majeed, Assisting Counsel

CORAM: HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE

(JUDGMENT)

1. The petitioner has invoked the extra-ordinary jurisdiction of this Court under Section 561-A of Code of Criminal Procedure, Svt. 1989 (Cr.PC), as was applicable to the erstwhile State of Jammu & Kashmir seeking quashing of F.I.R No. 09 of 2015 registered at Police Station, Crime Branch, Kashmir under Sections 420, 467, 468 & 471 of the Ranbir Penal Code (RPC).



2. Briefly stated, the allegation against the petitioner which led to the registration of the impugned FIR is that he alleged to have manipulated the first page of his service-book by forging his date of birth as 28 August 1958 instead of his actual date of birth, 28 August 1955, which was recorded at the time of entry into service. A complaint was received by the Crime Branch, Kashmir against the petitioner, who at the relevant time, was serving as Executive Engineer. It was alleged that he had tampered with his date of birth in the service-book.

3. A preliminary inquiry was conducted by the Crime Branch which was closed as “not proved”. However, SSP, Crime Branch, Kashmir addressed a communication to the Chief Engineer, Irrigation & Flood Control Department, Kashmir (Srinagar) recommending a departmental inquiry into the matter. Pursuant to the direction issued by Commissioner/Secretary to Government, PHE/Irrigation & Flood Control, a departmental inquiry was conducted and the petitioner vide order dated 16 July 2012 was directed to record his actual date of birth i.e. 28 August 1955 on first page of his service-book. The aforesaid order was challenged by the petitioner before this Court by way of SWP No. 1448/2012 and the Court inter-alia, ordered that competent authority shall be at liberty to hold a proper inquiry in accordance



with the rules. Thereafter, the Government initiated an inquiry against the petitioner. On conclusion of the inquiry, it was established that the petitioner had tampered with his service records and changed his date of birth from 28 August 1955 to 28 August 1958.

4. Besides proposing the disciplinary action under the relevant rules, the Under Secretary to Government, vide communication dated 16 February 2015, referred the entire matter alongwith reports and supporting material to Crime Branch, Kashmir for appropriate action under law. On the basis of material so recorded, a prima-facie commission of cognizable offences punishable under Sections 420, 467, 468 & 471 RPC was disclosed, leading to the registration of FIR No 9/2015 and investigation was taken up.

5. The petitioner has assailed the impugned FIR primarily on the grounds: (i) The FIR is motivated and lodged just to harass him, as the inquiry officer was inimical to him; ii) Under Secretary had no locus standi to lodge the FIR against him; iii) on same facts, this Court has quashed the order of his compulsory retirement, hence, lodging of FIR amounts to abuse of process of the Court and iv) Crime Branch had earlier conducted an inquiry



and given a clean chit to the petitioner, therefore, on same facts, second FIR is not legally sustainable.

6. *Per contra*, the respondents have filed reply and have narrated the sequence of events leading to the registration of FIR. It is submitted that during investigation, prima-facie commission of cognizable offences are established against the petitioner and, therefore, the present petition under Section 561-A Cr.PC is not maintainable.

7. Heard learned counsel for the parties and perused the case diary.

8. At the outset, it is clarified that the initial preliminary verification conducted by the Crime Branch was closed, but the matter was simultaneously recommended to department for holding a departmental inquiry. Therefore, the plea of the petitioner that once an preliminary inquiry was closed, a second FIR could not be registered, is totally mis-placed. It is equally true that mere assertion, in absence of any material to show that FIR is outcome of malafide or same is lodged by an incompetent officer, is not sufficient on the ground that there is presumption that all the official acts are done rightly and regularly until contrary is proved.



9. Perusal of the case diary reveals that during investigation, the Investigating Officer has collected the matriculation certificate, result registers, admission and withdrawal registers, National High School records and the service-book of the petitioner. Statements of several witnesses, including Rajinder Kumar Dogra, Head Assistant, Industries and Commerce Department, Vinod Pandita, Junior Assistant, PHE and I&FC, Hafiz-Ullah Shah, S.O, PHE/IFC, Mohd. Sayed Shah and Abdul Aziz Thoker, Principal, National High School, etc have been recorded.

10. During investigation, a letter dated 18 May 2015 was received from Joint Secretary, (Verification), J&K Board of School Education (BOSE), Kashmir Division, authenticating that the date of birth of the petitioner is 28 August 1955. As per the departmental record, the petitioner figures at Serial No. 160, with the same date of birth (28 August 1955).

11. The most crucial piece of evidence is the FSL report dated 18.07.2014, which opines that the original date of birth of petitioner is 28 August 1955 and not 28 August 1958, thereby confirming tampering in the service record. Equally important is the material collected regarding the petitioner's brother working in



the New Ganderbal Hydro Electric Power Project. His matriculation certification and first page of the service-book reflect his date of birth as 01 January 1959. The petitioner is shown to be only four months younger than his elder brother, which further corroborates the tampering of the service-book.

12. From the material collected during investigation, prima-facie commission of cognizable offences has been disclosed, which necessitated the registration of the FIR mandatorily, therefore, no illegality has been committed in registering the FIR and proceeding with the investigation.

13. Hon'ble Supreme Court in ***Vinod Kumar Pandey & Anr. Vs. Seesh Ram Saini and ors.***; ***AIR 2025 SC 4186*** held thus:-

“In Pradeep Nirankarnath Sharma v. State of Gujarat,⁷ this Court, in a very recent judgment held, that where the allegations pertain to the abuse of official position and corrupt practices while holding public office, such actions fall squarely within category of cognizable offences and therefore, they are to be inquired into, and holding of any preliminary inquiry before the registration of the FIR is not necessary. If the information provided to the police or the preliminary report discloses a commission of a cognizable offence, the police is duty bound under Section 154 Cr.P.C. to register an FIR without any delay. ”

14. The High Court cannot interfere under its inherent jurisdiction to quash an FIR, merely because a preliminary verification had earlier recommended closure, when subsequent



material collected during inquiry discloses commission of a cognizable offence. Registration of FIR under Section 154 Cr.PC is mandatory and no preliminary inquiry is required in such cases.

15. It appears that the petitioner has sought to take advantage of the findings returned in the writ petitions filed by the petitioner from time to time. However, once the information discloses the commission of a cognizable offence, registration of an FIR, becomes mandatory under Section 154 Cr.PC.

16. The petitioner has also tried to derive benefit from the judgment passed by the learned writ Court in SWP No. 2200/2014 titled Aijaz Hussain Sahaf Vs. State of J&K and ors, whereby the order of his compulsory retirement was quashed. However, it has been brought to the notice of the Court that said judgment was set aside in the Letters Patent Appeal No. 86/2017. Even otherwise, exoneration in disciplinary proceedings which are decided on the basis of preponderance of probabilities, does not ipso facto entitle a person to claim quashing of criminal proceedings, which require proof beyond reasonable doubt.

17. The material collected during investigation which has been extensively referred to above, prima-facie discloses commission of cognizable offences, therefore, the High Court under



its inherent jurisdiction is not supposed to conduct a mini trial or re-weigh the evidence collected during investigation, as same falls within the domain of the trial Court.

18. Much stress is laid on the point that once preliminary verification resulted in closure of the case, thereafter, no second FIR was permissible. In this regard, be it noted that a preliminary verification closure measurely requires supplying brief reasons to the informant. It does not amount to a closure report under Section 154/170 Cr.PC nor does it have the sanctity of a judicial order. Subsequent prima-facie material can always trigger fresh action. The preliminary verification report is non-conclusive material, therefore, it cannot prevent registration of FIR, if cognizable offences are made out on fresh/relevant material. The scope of preliminary verification is only to check whether a cognizable offence is prima-facie disclosed and not to finally adjudicate that allegations either “proved” or “not proved”. Therefore, once on the basis of material collected during inquiry, the commission of cognizable offence is disclosed, registration of FIR is the mandate of law.

19. The power of the High Court under 561-A Cr.PC can be exercised only to prevent the abuse of process of the Court or to



secure the ends of justice and not to shield an accused from the penal consequences when prima-facie material shows his complicity in the commission of cognizable offence.

20. For above reasons and in view of the material collected during investigation, no case is made out for exercise of inherent jurisdiction. Accordingly, the petition being devoid of merit is dismissed. Interim direction(s) shall stand vacated. The Investigating Officer shall be at liberty to proceed in accordance with law.

21. CD file be returned to the concerned against proper receipt.

**(SHAHZAD AZEEM)
JUDGE**

JAMMU
06.05.2026
Tarun/PS

Whether order is speaking: Yes
Whether order is reportable: Yes