

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

CRM(M) No. 985/2024

Reserved on: 15.07.2026

Pronounced on: 23.07.2026

Uploaded on: 23.07.2026

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

**Inder Krishan Raina
S/O Bhagwan Dass Raina,
R/O Mohinder Nagar,
Canal Road, Jammu.**

...Petitioner(s)

Through: Mr. Ayushman Kotwal, Advocate.

Vs.

**Union Territory of J&K through
SHO Police Station,
Nawabad, Jammu.**

...Respondent(s)

Through: Mr. Pawan Dev Singh, Dy. AG.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

JUDGMENT

1. The present petition has been filed by the petitioner in terms of Section 528 of the BNSS, 2023, seeking quashment of FIR No. 115/2024 dated 08.08.2024 registered at Police Station, Nawabad, Jammu for offences punishable under Section 14 read with Section 7 of The Foreigners Act, 1946.
2. The respondent-police registered the case vide impugned FIR at Police Station, Nowabad on 08.8.2024, on receipt of a communication from Jammu District Police Headquarters of J&K Police vide No. CRB/2023/2800-01/DPOJ dated 11.01.2023 with regard to legal action against the petitioner

herein stated to be Member Management Committee of Ishwar Ashram Trust located at H. No. 02, Mohinder Nagar, Canal Road, Jammu, with the charge for concealment of the information regarding visit and stay of an Argentine, namely, Lara Hiopec D/O Ricardo Hiopec during the year 2021-2022, who had arrived from Ishwar Ashram Trust, Nishtat Srinagar to Jammu and stayed at Jammu branch of Ishwar Ashram Trust located at H. No. 02, Mohinder Nagar, Canal Road, Jammu upto 30.01.2022 after which she had checked out and moved to some other destination; that the said Argentina national had her date of birth as 14.08.1992 and she had passport No. 9028FBFEJ valid upto 04.12.2020 with her tourist visa valid upto 04.12.2020; that it was imperative to inform the arrival of a foreign national to the concerned administrative authorities through the medium of C-Form online under Immigration, Visa, Foreigners, Registration and Tracking (IVFRT) Project with Bureau of Immigration website www.boi.gov.in under which it was obligatory on the part of the Hotels/Guest House Keepers and others to furnish the detailed information in respect of foreigners accommodated in their premises under Foreigners Act, 1946 now called as The Foreigners (Amendment) Act, 2004 and Registration of The Foreigners' Rules, 1932;

3. The name of Ishwar Trust Ashram has now been changed to Kashmir Shaiva Institute by the Management Committee headed and supervised by the petitioner-Inder Kumar Raina;

that the Jammu Ashram Trust has currently been looked after by a caretaker, namely, Mr. Ram Pal S/O Gian Chand R/O Balihote Ramban; that in view of the lapse on the part of the petitioner being on the Board of Management of the Ishwar Trust Ashram (now Kashmir Shaiva Institute), he was found to have committed offence punishable under Section 7/14 of the Foreigners Act and, as such, impugned FIR was registered.

4. Pursuant to notice, reply has been filed by the respondent asserting therein that any attempt on the part of the petitioner to insist this Court to embark upon an enquiry into the allegations should be discouraged and that the remedy under Section 482 CrPC is not available to those who come with oblique motive in order to circumvent the procedure prescribed under law and to frustrate the trial or win over the witnesses, thereby resulting in the miscarriage of justice. It is submitted that the role of the petitioner, being associated with the Trust managing the Ashram, cannot be ruled out and, therefore, interference by this Court would not be warranted at this stage.
5. Learned counsel appearing for the petitioner submits that the allegations contained in the impugned FIR, even if taken at their face value and accepted in their entirety, do not constitute the ingredients of any offence under Section 7 punishable under Section 14 of the Foreigners Act, 1946 against the petitioner, who is merely one of the members of

the Board of Trustees of the Trust, managing the Ashram and is neither the keeper of the premises nor responsible for day-to-day management or accommodation arrangements. According to learned counsel, the petitioner does not fall within the meaning of the term “keeper” as contemplated under Section 7 of the Foreigners Act. It is further argued that even assuming that the petitioner was associated with the management committee of the Trust, such association by itself would not make the petitioner liable under Section 7, which specifically fastens obligations upon the ‘keeper’ of the premises.

6. Learned counsel for the petitioner further submits that continuation of criminal proceedings against the petitioner, despite absence of any specific allegation attributing the essential ingredients of the offence, would result in unnecessary harassment, amounting to abuse of the process of law. In order to buttress his submissions, learned counsel for the petitioner has placed reliance upon the judgments of the High Court of Kerala in a case titled as “Vijukumar Vs. State of Kerala’ reported as 2009 (3) KLT 684 and ‘Manjit Singh Vs. State of Kerala’ decided on 22.11.2018.
7. This Court has considered the rival submissions and perused the material available on record.
8. Before examining the allegations, it would be appropriate to refer to the relevant statutory provisions. Section 7 of the Foreigners Act, 1946 reads as under:

“7. Obligation of hotel keepers and others to furnish particulars.—

(1) It shall be the duty of the keeper of any premises whether furnished or unfurnished where lodging or sleeping accommodation is provided for reward, to submit to such person and in such manner such information in respect of foreigners accommodated in such premises, as may be prescribed.

(2) Every person accommodated in any such premises shall furnish to the keeper thereof a statement containing such particulars as may be required by the keeper for the purpose of furnishing the information referred to in sub-section (1).

(3) The keeper of every such premises shall maintain a record of the information furnished by him under sub-section (1) and of the information obtained by him under sub-section (2) and such record shall be maintained in such manner and preserved for such period as may be prescribed, and shall at all times be open to inspection by any police officer or by a person authorised in this behalf by the District Magistrate.

(4) If in any area prescribed in this behalf the prescribed authority by notice published in such manner as may in the opinion of the authority be best adapted for informing the persons concerned so directs, it shall be the duty of every person occupying or having under his control any residential premises to submit to such person and in such manner such information in respect of foreigners accommodated in such premises as may be specified; and the provisions of sub-section (2) shall apply to every person accommodated in any such premises.”

9. Section 14 of the Foreigners Act, 1946 also reads as under:

“14. Penalty for contravention of provisions of the Act, etc. —

Whoever. —

- (a) remains in any area in India for a period exceeding the period for which the visa was issued to him;**
- (b) does any act in violation of the conditions of the valid visa issued to him for his entry and stay in India or any part thereunder;**
- (c) contravenes the provisions of this Act or of any order made thereunder or any direction given in pursuance of this Act or such order for which no specific punishment is provided under this Act, shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine; and if he has entered into a bond in pursuance of clause (f) of sub-section (2) of section 3, his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof or show cause to the satisfaction of the convicting Court why such penalty should not be paid by him.”**

10. A perusal of the aforesaid provision makes it evident that the liability under Section 7 of the Foreigners Act is attracted against a person who falls within the category of a “keeper” of the premises being subject to the statutory obligations prescribed under the provision. The provision cannot be invoked merely on the basis that a person is a trustee, office bearer, or member of an organization owning or managing the premises, unless specific allegations demonstrate that such person was acting in the capacity of a “keeper” or was responsible for the obligations contemplated under the said provision.
11. In the present case, the allegations contained in the impugned FIR do not disclose that the petitioner was the

keeper of the Ashram premises where foreign national stayed. There is no specific allegation that the petitioner was responsible for providing accommodation to the foreign national, maintaining records relating to her stay, or performing any statutory obligation imposed upon a keeper under Section 7 of The Foreigners Act.

12. The mere fact that the petitioner happens to be one of the members of the Board of Trustees of the Trust cannot, by itself, result in criminal liability. Criminal liability is personal in nature and cannot be fastened merely on account of an individual's association with an institution, management or organization, unless there are specific allegations establishing the commission of the offence and the role of such individual therein.

13. In "Vijukumar Vs. State of Kerala" reported as **2009 (3) KLT 684**, the High Court of Kerala, while dealing with the same question of law, in paragraph 11, observed as under:

"11. When a person, who is not a citizen of India, who is the foreigner as defined under the [Foreigners Act, 1946](#) and [Registration of Foreigners Act, 1939](#), is accommodated in a hotel or resort, a report as provided under [Section 7](#) of the Foreigners Act is to be furnished and if not it is punishable under [Section 14\(c\)](#) of the Act. But, the obligation under the Section and consequent culpability is only on the keeper of the premises. If we go by dictionary meaning, keeper could only be someone in charge of the hotel or resort. If an attendant or manager is appointed in charge of the hotel or resort, then the owner or owners will not be the keeper and it so, it is the person

in charge of the resort or hotel, who is obliged under the Section to furnish the information provided under [Section 7](#) of the Act. If so, the owner of the resort or hotel cannot be prosecuted for the offence under [section 14\(c\)](#) of the Act.”

14. In ‘Manjit Singh Vs. State of Kerala’ (CRR No. 1310 of 2018) decided on 22.11.2018, the High Court of Kerala, while placing reliance upon the aforesaid judgment of the High Court of Kerala, has further observed as under:

“Taking view from the decision having persuasive effect this Court is in full agreement with the submission made by the learned counsel for the parties and accordingly I find that there will be an abuse of process of the court to allow the proceeding to go on against the petitioner as the allegation made against the petitioner by the investigating officer in the charge-sheet reveals malicious proceeding against the petitioner.”

15. The power of this Court to interfere in criminal proceedings is exercised to prevent abuse of the process of law and to secure the ends of justice. Where the allegations in the FIR, even if accepted in their entirety, do not constitute the ingredients of the alleged offence against a particular accused, continuation of criminal proceedings against such person would amount to an abuse of the process of law.
16. In the present case, allowing the criminal proceedings to continue against the petitioner, who has not been attributed with any specific role satisfying the ingredients of Section 7 of the Foreigners Act, would serve no meaningful purpose

and would subject the petitioner to unnecessary harassment, resulting into abuse of process.

17. Accordingly, the present petition is allowed. FIR No. 115/2024 dated 08.08.2024 registered at Police Station Nawabad, Jammu for offences under Section 7 read with Section 14 of the Foreigners Act, 1946 is hereby quashed qua the petitioner only. It is clarified that this Court has examined only the role attributed to the present petitioner, the Investigating Agency, however, shall be at liberty to charge the person/s against whom offence is/are made out for prosecution.
18. The petition stands disposed of as allowed in the above terms.

(M A CHOWDHARY)
JUDGE

JAMMU
23.07.2026
Naresh/Secy.

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