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

Reserved on: 11.08.2026
Pronounced on: 21.08.2026

Uploaded on: 21.08.2026

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

CRM(M) No.589/2025

M/S REACH DREDGING LIMITED

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

Through: - Mr. Shariq J. Reyaz, Advocate, with
Mr. Prabahar Mishra, Advocate &
Ms. Humaira, Advocate.

Vs.

DIRECTORATE OF ENFORCEMENT **...RESPONDENT(S)**

Through: - Ms. Masooda Jan, Sr. Advocate, with
Ms. Nazima, Advocate, &
Mr. Anup Pandey, Advocate.

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

JUDGMENT

1) The petitioner, through the medium of present petition, has challenged summons dated 17.09.2025 issued by the respondent as also the underlying proceedings including Enforcement Case Information Report (ECIR) registered against it.

2) As per case of the petitioner, pursuant to e-NIT No.1 of 2018-19 dated 17.07.2018 issued by the Executive Engineer, Flood Spill Channel, Narbal, followed by extension notice dated 23.07.2018, whereby bids were invited for construction of channel across Hokersar Wetland along old

alignment from RD 1318 M to RD 16713 M of Flood Spill Channel, including its side slope protection and dredging of drainage/escape channels flowing into Hokersar Wetland, the petitioner company submitted its bid, which was found to be the lowest one. The Letter of Intent was issued in favour of the petitioner on 15.09.2018, which was subsequently followed by an allotment order dated 01.02.2019. It has been submitted that the work was completed by the petitioner company in the year 2020 to the satisfaction of the intending department as well as the Wildlife Department. However, after a gap of five years from the date of completion of the project by the petitioner company, Police Station, Anti-Corruption Bureau, on 18.04.2025, registered FIR No.7/2025 for offences under Section 5(1)(d) of the J&K Prevention of Corruption Act (for short "the J&K PC Act") and Section 120-B of the RPC.

3) According to the petitioner, it has already challenged the aforesaid FIR by way of a petition under Section 528 of the BNSS bearing CRM(M) No.580/2025, and on 23.09.2025, this Court has passed an interim direction asking ACB, Srinagar, not to file the charge-sheet without permission of the Court.

4) It has been submitted that, during the interregnum, the petitioner company has been served with the impugned

summons dated 17.09.2025 under the provisions of Section 50 of the Prevention of Money Laundering Act, 2002 (hereinafter referred to as "PMLA"), in relation to FIR No.7/2025 registered with ACB, Srinagar. In terms of the impugned summons, the Director of the petitioner company has been asked to appear before the respondent agency on 07.10.2025.

5) It has been contended that the Enforcement Directorate assumes jurisdiction under PMLA only upon commission of a scheduled offence as defined under Section 2(1)(y) of the PMLA and if the offence committed is not a scheduled offence, the Enforcement Directorate cannot assume jurisdiction in law to investigate or even issue summons in furtherance of the said investigation. It has been contended that unless the underlying offence committed is a scheduled offence, the respondent agency cannot assume jurisdiction.

6) The contention of the petitioner is that, in the present case, the offences made punishable under Section 5(1)(d) of the J&K PC Act and Section 120-B of the RPC are not scheduled offences under the scheme of the PMLA but by taking aid of Section 2(2) of PMLA, these offences can become scheduled offences if they correspond to relevant Central legislations. It has been submitted that Section 5(1)(d) of the

J&K PC Act had a corresponding provision Section 13(1)(d) of the Central Prevention of Corruption Act, 1988 (hereinafter "the Central PC Act"), but the same was omitted on 26.07.2018, vide Prevention of Corruption (Amendment) Act, 2018.

7) According to the petitioner, the alleged predicate offence was committed after the Letter of Intent was issued on 15.09.2018, but because after 26.07.2018, there was no provision of corresponding law in the Central PC Act akin to Section 5(1)(d) of the J&K PC Act, the said offence under the J&K PC Act could not be deemed to be a scheduled offence even while resorting to the enabling provision contained in Section 2(2) of PMLA.

8) It has been contended that, in view of the aforesaid legal position, the respondent, in law, cannot assume jurisdiction with respect to an offence which, on the date of commission of the said offence, was not a scheduled offence under the Central Act.

9) It has been further contended that after the Amendment Act of 2018 to the Central PC Act, the offence under Section 13(1)(d) of the said Act stood obliterated as if it never existed and, as such, there was no law corresponding to Section 5(1)(d) of the J&K PC Act in the

Central PC Act on or after 15.09.2018, when the Letter of Intent was issued in favour of the petitioner company.

10) On the basis of aforesaid ground, it has been submitted that issuance of the impugned summons, while assuming jurisdiction with respect to offences that are not scheduled offences, is wholly illegal and unlawful and, therefore, all underlying proceedings, including registration of the ECIR, suffer from lack of jurisdiction and, as such, deserve to be quashed.

11) Counter/reply affidavit has been filed by the respondent agency in which, while giving the background facts leading to lodging of the FIR for the predicate offence against the petitioner, it has been submitted that Section 5(1)(d) read with Section 5(2) of the J&K PC Act is in *pari-materia* with Section 13(b) read with Section 13(2) of the Central PC Act, which are scheduled offences in terms of Section 2(1)(x) & (y) of PMLA, therefore, the respondent Enforcement Directorate gets jurisdiction to record ECIR and initiate investigation under PMLA to ascertain the proceeds of crime involved in money laundering. It has been submitted that ECIR No.SRZO/08/2025 dated 30.07.2025 stands registered in the present case.

12) I have heard learned counsel for the parties and perused record of the case.

13) The following important questions of law have been raised by the petitioner in the instant case which are required to be determined:

(i) Whether, upon repeal of the provisions contained in Section 13(1)(d) of the Central PC Act, there is no corresponding provision in the Central PC Act in *pari materia* with the provisions contained in Section 5(1)(d) of the J&K PC Act?

(ii) If the answer to the aforesaid question is in affirmative, whether, after coming into force of the Amendment Act No.16 of 2018, whereby the provisions contained in Section 13(1)(d) of the Central PC Act have been omitted and Section 13 of the Central Act has been recast, the proceedings launched by the Enforcement Directorate under the provisions of the PMLA can be sustained?

14) For the purpose of deciding the aforesaid issues, it would be necessary to first understand the legal position with regard to assumption of jurisdiction by the Enforcement Directorate for proceeding under the PMLA against a person, who is accused of having indulged in the offence of money

laundering. In this regard, relevant provisions of the PMLA are required to be noticed.

15) Section 3 of the PMLA defines the offence of money laundering as indulging in any process or activity connected with the proceeds of crime, including its concealment, possession, acquisition or use, and projecting or claiming it as untainted property. The expression "proceeds of crime" has been defined in Section 2(u) of the PMLA. As per the said provision, the "proceeds of crime" means any property derived or obtained, directly or indirectly, by any person as a result of criminal activity relating to a scheduled offence, or the value of any such property, or where such property is taken or held outside the country, then the property equivalent in value held within the country or abroad. This, in other words, means the property derived by any person as a result of criminal activity relating to a scheduled offence.

16) Thus, there has to be a scheduled offence from which property is stated to have been derived, directly or indirectly, for constituting the proceeds of crime. Therefore, commission of a scheduled offence is *sine qua non* for existence of proceeds of crime and commission of the offence of money laundering under Section 3 of the PMLA. In this regard, the statement of law declared by the Supreme Court in the case of **Vijay Madanlal Choudhary v. Union of India**

and others, 2022 SCC OnLine SC 929, as contained in paragraph (253) of the said judgment, is reproduced as under:

> *"**253.** Tersely put, it is only such property which is derived or obtained, directly or indirectly, as a result of criminal activity relating to a scheduled offence can be regarded as proceeds of crime. The authorities under the 2002 Act cannot resort to action against any person for money-laundering on an assumption that the property recovered by them must be proceeds of crime and that a scheduled offence has been committed, unless the same is registered with the jurisdictional police or pending inquiry by way of complaint before the competent forum. For, the expression "derived or obtained" is indicative of criminal activity relating to a scheduled offence already accomplished. Similarly, in the event the person named in the criminal activity relating to a scheduled offence is finally absolved by a Court of competent jurisdiction owing to an order of discharge, acquittal or because of quashing of the criminal case (scheduled offence) against him/her, there can be no action for money-laundering against such a person or person claiming through him in relation to the property linked to the stated scheduled offence. This interpretation alone can be countenanced on the basis of the provisions of the 2002 Act, in particular Section 2(1)(u) read with Section 3. Taking any other view would be rewriting of these provisions and disregarding the express language of definition clause "proceeds of crime", as it obtains as of now."*

17) From the foregoing position of law, it is clear that the Enforcement Directorate can proceed against a person for the offence of money laundering only if the proceeds of crime are connected with the scheduled offence, directly or indirectly.

18) The offences under the PC Act, 1988, fall in Paragraph (8) of the Schedule to PMLA. Section 13 of the said Act, which defines the criminal misconduct by a public servant, also falls within the definition of scheduled offence. It is pertinent to note here that the J&K PC Act does not fall under the Schedule to the PMLA. However, sub-section (2) of Section 2 of the PMLA provides that any reference in the said Act or in the Schedule to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law or the relevant provisions of the corresponding law, if any, in force in that area. By virtue of this provision, even if the J&K PC Act does not fall under the Schedule to PMLA, any Act or provision of the Central PC Act in relation to Jammu and Kashmir, where the said enactment was not in force at the relevant time, has to be construed as a reference to the corresponding law or the relevant provisions of the J&K PC Act.

19) Mr. Shariq J. Reyaz, ld. counsel appearing for the petitioner has, in his impressive and eloquent style, contended that after coming into effect of the Amendment Act of 2018, the provisions contained in Section 13(1)(d) of Central PC Act, which are in *pari materia* with the provisions contained in Section 5(1)(d) of the J&K PC Act, were omitted,

therefore, there is no provision corresponding to Section 5(1)(d) of the J&K PC Act in the Central PC Act and, as such, an offence defined under Section 5(1)(d) of the J&K PC Act no longer qualifies to be a scheduled offence.

20) The argument, at its first blush, appears to be attractive, but when closely scrutinized in the context of an overall analysis of the provisions contained in the J&K PC Act and the Central PC Act read with the statement of Objects and Reasons pertaining to the Amendment Act of 2018, the contention of the petitioner appears to be misconceived.

21) For reaching the aforesaid conclusion and understanding the position of law, it would be necessary to notice the provisions contained in Section 5(1)(d) of the J&K PC Act and Section 13(1)(d) of the Central PC Act as it existed prior to the Amendment Act of 2018:

Section 5(1)(d) of J&K PC Act	Section 13(1)(d) of Central PC Act.
5. Criminal misconduct.—(1) A public is said to commit the offence of criminal misconduct.-- xxx xxx xxxx xxx xxx xxxx xxx xxx xxxx (d) If he, by corrupt or illegal means or by otherwise abusing his position as public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage,	13. **Criminal misconduct by a public servant.**—(1) A public servant is said to commit the offence of criminal misconduct,-- xxx xxx xxxx xxx xxx xxxx xxx xxx xxxx (d) if he,-- (i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or (ii) by abusing his position as a public servant, obtains for any person any valuable thing or pecuniary advantage; or

	(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest;

22) From a comparison of the aforesaid provisions, it is clear that Section 5(1)(d) of the J&K PC Act is in *pari-materia* with Section 13(1)(d) of the Prevention of Corruption Act, 1988, with slight difference between the two.

23) At this stage, it would be necessary to go into the Statement of Objects and Reasons of Prevention of Corruption (Amendment) Act, 2018, which led to omission of the provisions contained in Section 13(1)(d) of the Central PC Act. The relevant extracts of the Statement of Objects and Reasons are reproduced as under:

> *"(a) section 7 of the Act at present covers the offence of public servant taking gratification other than legal remuneration in respect of an official act. The definition of offence is proposed to be substituted by a new comprehensive definition which covers all aspects of passive bribery, including the solicitation and acceptance of bribe through intermediaries and also acts of public servants acting outside their competence.*
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> *(b) the Act at present does not contain any provisions directly dealing with active domestic bribery, that is, the offence of giving bribe. Section 12 of the Act which provides for punishment for abetment of offences defined in section 7 or section 11. covers the offence indirectly. Section 24 provides that a statement made by a bribe-giver in any proceeding against a public servant for an offence under sections 7 to 11, 13 and 15 of the Act shall not subject him to prosecution under section 12. Experience has*

> *shown that in a vast majority of cases, the bribe-giver goes scot free by taking resort to the provisions of section 24 and it becomes increasingly difficult to tackle consensual bribery. The aforesaid Convention enjoins that the promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties, be made a criminal offence. Accordingly, it is proposed to substitute a new section 8 to meet the said obligation;*
>
> *(c) as the proposed new definitions of bribery, both as regards the solicitation and acceptance of undue advantage and as regards the promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, are found to be comprehensive enough to cover all offences presently provided in section 8 which covers taking gratification, in order, by corrupt or illegal means, to influence public servant; section 9 which covers taking gratification, for exercise of personal influence with public servant; section 10 which provides for punishment for abetment by public servant of offences defined in section & or section 9: and section 11 which provides for public servant obtaining valuable thing without consideration from person concerned in proceeding or business transacted by such public servant; and also the offences presently defined in clauses (a), (b) and (d) of sub-section (1) of section 13 of the Act which covers criminal misconduct by a public servant it is proposed to omit the said sections;"*

24) From a plain reading of the afore-quoted Objects and Reasons, it is clear that the legislature intended to omit the provisions contained in Section 13(1)(a), (b) and (d) of the Central PC Act, as the proposed new definition of 'bribery', both as regards solicitation and acceptance of undue advantage and as regards the promise, offering or giving to a public official, directly or indirectly, of any undue advantage,

are found to be comprehensive enough to cover all offences, *inter alia*, under the aforesaid provisions contained in Section 13(1)(a), (b) and (d). It is also gatherable from the Statement of Objects and Reasons that the legislature noted that Section 7 of the Central PC Act at present covers the offence of a public servant taking gratification other than legal remuneration in respect of an official act and the said provision was proposed to be substituted by a new comprehensive definition which covers all aspects of passive bribery, including the solicitation and acceptance of bribe through intermediaries and also acts of public servants acting outside their competence.

25) Thus, the Legislature, on the one hand, intended to expand the scope of Section 7 of the Central PC Act so as to include even the offences which are covered under Section 13(1)(d) of the said Act, on the other it proposed to delete the provisions contained in Section 13(1)(d) of the Central PC Act, as the same had been rendered superfluous in view of the proposed amendment of Section 7 of the Act.

26) In the above context, it would be profitable to notice the provisions contained in amended Section 7 of the Central Prevention of Corruption Act. It read as under:

> ***7. Offence relating to public servant being bribed.****-- Any public servant who,--*

(a) obtains or accepts or attempts to obtain from any person, an undue advantage, with the intention to perform or cause performance of public duty improperly or dishonestly or to forbear or cause forbearance to perform such duty either by himself or by another public servant; or

(b) obtains or accepts or attempts to obtain, an undue advantage from any person as a reward for the improper or dishonest performance of a public duty or for forbearing to perform such duty either by himself or another public servant; or

(c) performs or induces another public servant to perform improperly or dishonestly a public duty or to forbear performance of such duty in anticipation of or in consequence of accepting an undue advantage from any person,

shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

Explanation 1.--For the purpose of this section, the obtaining, accepting, or the attempting to obtain an undue advantage shall itself constitute an offence even if the performance of a public duty by public servant, is not or has not been improper.

Illustration.--A public servant, 'S' asks a person, 'P' to give him an amount of five thousand rupees to process his routine ration card application on time. 'S' is guilty of an offence under this section.

Explanation 2.--For the purpose of this section,--

(i) the expressions "obtains" or "accepts" or "attempts to obtain" shall cover cases where a person being a public servant, obtains or "accepts" or attempts to obtain, any undue advantage for himself or for another person, by abusing his position as a public servant or by using his personal influence over another public servant; or by any other corrupt or illegal means;

> *(ii) it shall be immaterial whether such person being a public servant obtains or accepts, or attempts to obtain the undue advantage directly or through a third party."*

27) Explanation-2 to the new Section 7, as quoted above, provides that, for the purposes of the said Section, the expressions "obtains", "accepts" or "attempts to obtain" would cover all cases where a person, being a public servant, obtains, accepts or attempts to obtain any undue advantage for himself or for another person by abusing his position as a public servant, or by using his personal influence over another public servant or by any other corrupt or illegal means. Thus, the offence relating to public servant being bribed, has been made comprehensive enough to cover even cases where a public servant obtains or accepts an undue advantage either for himself or for another person by abusing his position as a public servant or by any other corrupt or illegal means.

28) If we have a look at the provisions contained in the repealed Section 13(1)(d), it also covers an offence where a public servant, by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage, or if he does so by abusing his position as a public servant. Thus, amended Section 7 covers the offence which is defined under the repealed Section 13(1)(d).

It is for this reason that the Legislature deleted Section 13(1)(d) of the Central PC Act, as the same was superfluous. As a corollary, the offence defined under Section 5(1)(d) of the J&K PC Act would now be covered by an offence as defined under Section 7 of the Central PC Act.

29) Learned counsel appearing for the petitioner has contended that Section 7 of the Central PC Act corresponds to Section 4-A of the J&K PC Act. The contention of learned counsel appears to be misconceived for the reason that Section 4-A of the J&K PC Act is not comprehensive enough to include the acts and omissions which come within the mischief of amended Section 7 of the Central PC Act. To explain this, the provisions contained in Section 4-A of the J&K PC Act are required to be noticed, which read as under:

> ***4-A. Public servant taking gratification other than legal remuneration in respect of an official act***. – *Whoever, being, or expected to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Government or the State Legislature or with any local authority, Corporation or corporate body referred to in clause (c) of section 2, or with any public servant, shall be punishable with imprisonment which shall be not less than one year but which may extend to five years and shall also be liable to fine.*
>
> *Explanations:-*

(a) "Expecting to be a public servant" if a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

(b) "Gratification" the word "gratification" is not restricted to pecuniary gratifications or to gratifications estimable in money.

(c) "Legal remuneration" the words "legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government or the organisation, which he serves, to accept.

(d) "A motive or reward for doing" a person who receives a gratification as a motive or reward for doing what he does not intend or is not in a position to do, or has not done, comes within this expression.

(e) Where a public servant induces a person erroneously to believe that his influence with the Government has obtained a title for that person and thus induces that person to give the public servant, money or any other gratification as a reward for this service, the public servant has committed an offence under this section."

30) From a perusal of the aforesaid provision, it is clear that an act of a public servant obtaining or accepting an undue advantage for himself or for another person by abusing his position as a public servant or by any other corrupt or illegal means, which is an offence under amended Section 7 of the Central PC Act, is not covered under Section 4-A of the J&K PC Act. Therefore, amended Section 7 of the Central Act is not in *pari materia* with Section 4-A of the J&K PC Act, but it does correspond with Section 5(1)(d) of the J&K PC Act.

31) In Paragraph (8) of the Schedule to PMLA, offence under Section 7 of the Central PC Act is included. It is pertinent to mention here that Paragraph (8) has been substituted by Act No.16 of 2018, as such, the offence under Section 7 of the Central PC Act, which finds mention in Paragraph (8) of the Schedule to PMLA, would be the offence as defined under amended Section 7 of the Central PC Act, which is more comprehensive than the unamended Section 7.

32) From the foregoing analysis of the legal position, it is clear that after coming into effect of amendment Act of 2018, amended Section 7 of the Central PC Act is the provision corresponding to Section 5(1)(d) of the J&K PC Act. Since amended Section 7 of the Central PC Act is a Scheduled offence, therefore, offence under Section 5(1)(d) of the J&K PC Act would also fall within the definition of a scheduled offence in the light of the provisions contained in Section 2(2) of the PMLA. Thus, it cannot be stated that no scheduled offence is registered against the petitioner so as to hold that the respondent Enforcement Directorate does not have jurisdiction to proceed against the petitioner for investigating the offence of money laundering.

33) The answer to the first question formulated above would, therefore, be in the negative and once this Court has reached the said conclusion, no fault can be found in the

jurisdiction exercised by the respondent-Enforcement Directorate in issuing summons and registering the ECIR against the petitioner.

34) For what has been discussed hereinabove, I do not find any merit in this petition. The same is dismissed, accordingly.

(Sanjay Dhar)
Judge

Srinagar
21.08.2026
"Bhat Altaf-Secretary"

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