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

Reserved on: 13.08.2026
Pronounced on: 29.08.2026
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Whether the operative part or full judgment is pronounced: __Full__

CRM(M) No.403/2025

QULSUM AKHTER

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

Through: - Mr. Pranav Kohli, Sr. Advocate, with Mr. Mudasir Zubair, Advocate.

Vs.

UT OF J&K AND ANR. **...RESPONDENT(S)**

Through: - None for R1 & R2.
Ms. Sara, Advocate, vice Mr. F. A. Bhat, Advocate-for R3.

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

JUDGMENT

1) The petitioner, through the medium of present petition, has challenged FIR No.9/2025 for offences under Sections 420, 467, 468, 471 and 120-B of RPC and Section 5(2) of the Prevention of Corruption Act, registered with Police Station Economic Offences Wing (Crime Branch), Srinagar.

2) As per the impugned FIR, a written complaint was received from respondent No. 3-complainant, namely, Altaf Ahmad Ganai, alleging therein that the petitioner, who has been selected as Assistant Professor in Biochemistry under RBA category vide Notification No.35-PSC (DR-S) of 2019

dated 15.03.2019, has managed an RBA certificate fraudulently. On the basis of the said complaint, a preliminary verification was initiated by Police Station Economic Offences Wing, Srinagar, and during the probe it surfaced that the petitioner had entered into wedlock with Riyaz Ahmad Mir, a resident of Handwara, in the year 2011, and within two years of her marriage, she has managed an RBA certificate in her favour illegally vide No.422/OQ dated 27.06.2013 from Tehsil Office Handwara. It was also found that the RBA certificate was issued in favour of the petitioner by the concerned revenue authorities by abuse and misuse of their official position. Thus, offences punishable under Sections 420, 467, 468, 471 and 120-B of RPC read with Section 5(2) of the Prevention of Corruption Act were found disclosed and, accordingly, the impugned FIR was registered.

3) The petitioner has challenged the impugned FIR on the ground that the same has been lodged after a delay of 12 years from the date of issuance of the RBA certificate and the complainant has failed to explain the delay in registration of the FIR. It has further been contended that the contents of the impugned FIR do not disclose commission of offences of cheating, forgery or misrepresentation of facts.

4) According to the petitioner, she had *bona fidely* applied for issuance of the certificate in question and the competent authority had every right to reject her case, but the competent authority, after following due process of law and verification, issued the certificate. Thus, no offence is disclosed. It has also been contended that there is no allegation in the impugned FIR that the revenue officials, by corrupt or illegal means, abused their official position while issuing the RBA certificate in favour of the petitioner. Thus, offence under Section 5(2) of the Prevention of Corruption Act is also not made out.

5) The respondent-Investigating Agency has filed its reply and respondent No.3/complainant has also filed his reply to the petition. In its reply, the respondent Investigating Agency has furnished the status of investigation and has submitted that after investigation of the case, offences under Sections 420, 120-B and 167 RPC read with Section 5(2) of the Prevention of Corruption Act stand established against Patwari Mohammad Shafi Wani, Girdawar Farooq Ahmad Khan, Naib Tehsildar Bashir Ahmad War and Tehsildar Ghulam Ahmad Khan whereas offences under Section 420, 468, 471, 120-B and 201 of RPC read with Section 5(2) of the Prevention of Corruption Act stand established against the record keepers/custodians, namely, Bashir Ahmad

Sheikh, Saif-ud-din Qureshi and John Muhammad Mir. Against the petitioner also all the aforesaid offences stand established as she has been found to be a part of the criminal conspiracy with the afore-named revenue officials for obtaining the RBA certificate illegally.

6) I have heard learned Senior Counsel appearing for the petitioner and learned counsel appearing for respondent No.3 and perused record of the case including the Case Diary.

7) Learned Senior Counsel appearing for the petitioner has raised a preliminary objection with regard to jurisdiction of the respondent investigating agency to register the impugned FIR and undertake its investigation. It has been contended that it is only in respect of the subjects mentioned in Annexure to Notification SO 232 dated 9th May, 2022, that the respondent investigating agency can register an FIR and undertake investigation. According to learned Senior Counsel, the offences of the nature which are mentioned in the impugned FIR do not fall in the list of subjects mentioned in the Annexure to SO 232 dated 9th May, 2022. Thus, according to him, the respondent investigating agency does not have jurisdiction to undertake investigation in the present case. To support his contention, learned Senior Counsel has relied upon the judgments of this Court in the

cases of **State** v. **Muneer Ahmad and others**, 2016 (4) JKJ 99, and **Kamlesh Devi & Ors. v. State of J&K & Ors.** 2023 (2) JKJ 194.

8) A plain reading of Notification SO 232 dated 9th May, 2022, reveals that the Government has declared offices of the of Crime Branch, J&K, including the Economic Offences Wings, Jammu and Srinagar, as 'Police Stations'. It has been further provided in the said Notification that the Police Stations constituted in terms of the said Notification shall, for purposes of registration and investigation of offences, exercise territorial jurisdiction within their respective units at the divisional level in respect of the offences specified in Column (3) of the Annexure to the said Notification. It also provides that any other cases, as may be deemed necessary, may be referred by the Government or the Director General of Police, J&K, to the Head of the Crime Branch for registration and investigation by the respective Police Stations. Column (3) of the Annexure to SO 232 in respect of Police Station Economic Offences Wing reads as under:

S. No.	Name of the Police Station	Offences to be registered and investigated.
1.	P/S Economic Offences Wing (EOW), Jammu	1. Cases of preparation and circulation of Fake Indian Currency Notes and other valuable securities. 2. Frauds by means of advertisements by bogus Finance Companies, Service Consultancies and professional criminals personating as public

		servants involving an amount of and above Rs. 20.00 lacs. 3. Offences relating to documents and property marks. 4. Money Lenders and Accredited Loan Provides Act, 2010. 5. Offences relating to Coins and Stamps (e-Stamps). 6. Cases of fraud and cheating of a peculiar nature which has ramification in more than one district, involving an amount of and above Rs. 20.00 lacs. 7. Misappropriation of public funds and cases of Criminal Breach of trust by public servants. 8. Cultural Objects Theft. 9. Trade in Human Body Parts. 10. Land Grabbing/Real Estate Frauds. 11. Bank/Insurance Frauds. 12. Racketeering in false Travel Documents. 13. Reacketeering in Employment. 14. Credit Card/Debit Card Frauds. 15. Corporate and company frauds. 16. Theft of Intellectual Property/Trade Mark and Copy Rights. 17. Any other offence which is found to be made out during the course of investigation.
2.	P/S Economic Offences, Wing (EOW), Srinagar.	As at S. No.(1) above.

9) The entry (3) quoted above, pertains to offences relating to documents and property marks. This corresponds to Chapter XVIII of IPC. In the said Chapter, the offences from Section 463 to Section 498E are covered. The impugned FIR has been registered in respect of offences under Sections 420, 467, 468, 471 and 120-B of RPC and Section 5(2) of the Prevention of Corruption Act. Out of these offences, the

offences under Section 467, 468 and 471 fall within Chapter XVIII of IPC and, therefore, would come within entry (3) of column (3) of the Annexure to SO 232. It is a different question as to whether offences under Sections 467, 468 and 471 RPC would ultimately be made out after investigation of the case, but the jurisdiction of the Economic Offences Wing of the Crime Branch to register an FIR in respect of the aforesaid offences and to undertake investigation thereof is not barred but is clearly vested in it in terms of entry (3) of column (3) of the Annexure to SO 232.

10) The jurisdiction of an investigating agency is not dependent upon the nature of the offences that may ultimately be established after investigation of the case but it is dependent upon the nature of offences which are disclosed from the first information report. If the offences disclosed in the FIR at the time of its registration, fall within the purview of jurisdiction of the investigating agency, it can proceed to investigate the matter even though ultimately certain offences, which are not initially disclosed from the FIR, are found established. Therefore, the contention of learned Senior Counsel for the petitioner that the respondent investigating agency is not vested with jurisdiction to register the impugned FIR and to undertake its investigation is misconceived.

11) That takes us to the merits of the case. It has been contended by learned Senior Counsel appearing for the petitioner that in terms of the Reservation Act, an aggrieved person has the remedy of filing an appeal against an order of the competent authority relating to issuance of a category certificate and, similarly, under the relevant provisions of the Act, the appellate authority also has the power, *suo motu* or on an application made to it, to exercise revisional jurisdiction against the orders made by the competent authority while issuing or refusing to issue a category certificate. It has been contended that even if the RBA certificate issued in favour of the petitioner has been issued in violation of some rule or statute, it can only give rise to a cause to an aggrieved person to seek its cancellation and it cannot give rise to a criminal prosecution. The learned Senior Counsel, in this regard, has relied upon the judgment of this Court in the case of **Indra Thakur** v. **State and another** (CRMC No.144 of 2015 decided on 17.10.2022).

12) Before going into the merits of the contention raised by learned Senior Counsel appearing for the petitioner, it would be necessary to notice the facts established during investigation of the case, which are discernible from a perusal of the Case Diary.

13) The material collected by the investigating agency during investigation reveals that the petitioner had secured appointment as Assistant Professor in terms of Government Order No.255-HE of 2019 dated 26.04.2019 under RBA category on the strength of an RBA certificate issued by Tehsildar, Handwara, vide No.422/OQ dated 27.06.2013. During investigation of the case, it was found that before her marriage, the petitioner was residing in Srinagar and she had also received education from various educational institutions located at Srinagar. Her marriage was solemnized on 07.07.2011 with one Shri Riyaz Ahmad Mir, who is a resident of Baki Akhar, Handwara, and within two years of her marriage, the petitioner obtained an RBA certificate by claiming herself to have resided in the backward area of Tehsil Handwara. It has been found that as per SRO 294 dated 21.11.2005, whereby the Jammu and Kashmir Reservation Rules, 2005, were notified, a person claiming the benefit of being the resident of a backward area has to establish that he or she has resided in the area for a period of not less than 15 years before the date of application and is actually residing in the said area.

14) In the instant case, the petitioner had resided in the backward area only for two years when she had applied for the RBA certificate. It was found that the certificate was

issued illegally and fraudulently and by misuse of official position by the concerned Patwari, Girdawar, Naib Tehsildar and Tehsildar of Handwara. The investigating agency further found that the petitioner, who was a resident of Eidgah, Srinagar, was married to Riyaz Ahmad Mir of Handwara on 07.07.2011 and she obtained the RBA certificate on 27.06.2013, two years after her marriage, which is in violation of SRO 294 of 2005. Thus, she was allegedly ineligible for obtaining the RBA category certificate. Despite this, she obtained the said certificate and produced the same before the Jammu and Kashmir Public Service Commission and, on the strength of the said certificate, she was appointed to the post of Assistant Professor, Biochemistry, in terms of the notification dated 15.03.2019. Thus, she is alleged to have secured appointment by deception.

15) It was also found that the RBA certificate was wrongly and illegally prepared by the then revenue officials, including Patwari Mohammad Shafi Wani, Girdawar Farooq Ahmad Khan, Naib Tehsildar Bashir Ahmad War and Tehsildar Ghulam Ahmad Khan, by abusing their official position and knowingly preparing the incorrect documents. Thus, offences under Sections 420, 120-B and 167 of RPC read with Section 5(2) of the Prevention of Corruption Act are

stated to have been established against the concerned officials.

16) It has further been found that the file relating to the RBA category certificate of the petitioner has been knowingly misplaced from the office of Tehsildar, Handwara. It was also found that the signatures appearing on the renewal of the RBA certificate were not the signatures of the concerned Tehsildar and that insertions have been made by accused John Mohammad Mir in the dispatch register showing the dispatch of the renewed RBA certificate in favour of the petitioner under No.425/N/TH/019 dated 29.06.2019, through the original dispatch number was with regard to remittance for the month of June, 2019.

17) From the aforesaid facts which have been established during investigation of the case, the offence of forgery in respect of the original RBA certificate issued in the year 2013 has not been established, inasmuch as the said certificate has been issued by the competent authority, though in violation of the rules. To that extent the offence of forgery and the offence relating to use of forged document may not be made out against the petitioner but since the said certificate is alleged to have been issued on the basis of incorrect and false reports of the revenue authorities, as also on the basis of incorrect and false claim made by the

petitioner, the ingredients of offences under Sections 420 and 167 of RPC are definitely attracted to the facts of the present case. The offence under Section 5(2) of the Prevention of Corruption Act is also prima facie made out against the public servants involved in the case, who are alleged to have misused their official position by facilitating issuance of an RBA certificate in favour of the petitioner within two years of her marriage in a backward area, which is in violation of SRO 294 of 2005.

18) Besides this, the material collected by the investigating agency also shows that the renewed RBA certificate issued in favour of the petitioner is forged one, inasmuch as it has been established that the same has not been issued under the signatures of the concerned Tehsildar. It has also been found that the dispatch register has been tampered with by one of the accused for showing that the renewed RBA certificate has actually been issued from the office of the Tehsildar, Handwara. To the extent of the petitioner and to the extent of those officials who have managed forgery of the record, including the renewed RBA certificate and dispatch register, the offence of forgery is also prima facie made out. There is also material on record to show that the original RBA certificate file and even the file relating to renewal of the

RBA certificate of the petitioner are not available in Tehsil office.

19) All the aforesaid established facts prima facie go on to show that the petitioner has, in league with other officials of the Revenue Department, fraudulently managed issuance of the RBA certificate in her favour as also its renewal, which she produced before the Jammu and Kashmir Public Service Commission for obtaining public employment. Thus, it cannot be stated that it is only a case of violation of rules but it appears to be a case of obtainment of the RBA certificate in a fraudulent manner.

20) So far as the ratio laid down by this Court in the case of **Indira Thakur** (supra) is concerned, the same is not applicable to the facts of the present case. In that case, the concerned Tehsildar had, on the basis of a particular interpretation of clause (3) of Rule 21 of the Reservation Rules, which was one of the possible interpretations of the said Rule, issued the backward area certificate in favour of the petitioner therein. It is on that basis that this Court had come to the conclusion that on the basis of an erroneous interpretation of a statute or rule, particularly when there is no allegation in the FIR or any other material collected by the investigating agency to show that the competent authority has either adopted any corrupt means or obtained

any pecuniary advantage for itself while issuing the certificate in question, the offence under Section 5 of the Prevention of Corruption Act would not be made out.

21) In the instant case, the situation is entirely different. Not only the RBA certificate in question has been issued in gross violation of Clause (3) of Rule 21 of the Jammu and Kashmir Reservation Rules, 2005, but there is also material on record to show that the same has been issued on the basis of false information and incorrect reports and besides this, the renewed RBA certificate is also forged in nature. In these circumstances, *prima facie*, it appears that cognizable offences are made out against the petitioner and there is material on record of the case diary to support this conclusion.

22) For the foregoing reasons, it would not be open to this Court to exercise its inherent jurisdiction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, to quash the impugned FIR and the proceedings emanating therefrom. The petition lacks merit and is dismissed accordingly.

23) The Case Diary be returned to the investigating agency.

(Sanjay Dhar)
Judge

Srinagar
29.08.2026
"Bhat Altaf-Secretary"

*Whether the **judgment** is reportable:* ***Yes/No***