

**HIGH COURT OF JAMMU AND KASHMIR  
AT JAMMU**

PIL No. 9/2012  
IA Nos. 24/2012, 817, 818 & 872/2013,  
45, 64, 135 & 224/2014, 2, 3 & 4/2016,  
1, 2, 4, 5 & 7/2018, CM No. 4955/2019  
c/w  
WP(C) PIL No. 14/2020  
CM Nos. 4671 & 4672/2020  
(Through Video Conferencing)

Sheikh Mohd. Shafi and another ...Petitioner(s)

Through:- None

v/s

Union of India and others ....Respondent(s)

Through:- Mrs. Seema Shekhar, Sr. AAG

**Coram: HON'BLE MR. JUSTICE RAJESH BINDAL, JUDGE  
HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE**

**ORDER**

1. Vide order dated 21.07.2020, certain information was asked from the respondents as it came to the notice of this court that there are number of FIRs registered for serious offences including under the Prevention of Corruption Act, where investigation had not been concluded and challans presented in courts for more than a decade. Additionally, information was also asked from the General Administration Department, Government of J&K regarding the present status of the employees involved in the criminal cases and also the benefits they may have been drawing.

2. In response, earlier status report dated 21.08.2020 was filed. The same was not exhaustive. More time was sought by the respondents to file a fresh status report. Subsequent thereto, the status report dated 01.09.2020

has been filed. The information as is forthcoming in the aforesaid report, is astonishing.

3. From the year 1998 to 2018, there were total 295 cases registered with the Anti-Corruption Bureau in Jammu and Kashmir and out of these, 31 cases are pending wherein either investigation could not be concluded or the challans could not be presented on account of the interim orders passed by this Court. The details thereof are as under:

**CASES IN WHICH INVESTIGATION HAS BEEN STAYED BY THE HIGH COURT, J&K (JAMMU WING)**

S.N	Case No.	Title	Next date of hearing
1.	OWP 171/2010	Prem Nath Vs State	06.11.2020
2.	CRM(M) 334/2019	Sewa Ram Vs State	29.12.2020
3.	CRM(M) 318/2019	S. P. Bhatti Vs State	Date not given
4.	CRMC 74/2016	Ashok Kumar vs State	07.12.2020
5.	CRMC 144/2015	Indra Thakur vs State	07.12.2020
6.	CRMC 06/2016	Kuldeep Singh vs State	06.10.2020
7.	CRMC 58/2016	Mohinder Singh vs State	23.10.2020
8.	CRMC 463/2017	Rajesh Gupta vs State	01.02.2021
9.	CRMC 307/2017	Naveen Sharma vs State	13.10.2020
10.	CRMC 703/2017	Gian Chand Khajuria vs State	26.11.2020
11.	CRMC 654/2017	Ashok Kumar vs State	28.10.2020
12.	CRMC 584/2017	Tarseem Raj Padha vs State	11.11.2020
13.	CRMC 598/2017	Dev Raj vs State	25.11.2020
14.	OWP 98/2018	Saima Bandey Patwari vs State	27.11.2020
15.	CRMC 493/2018	Noor Alam vs State	11.11.2020
16.	CRMC 215/2018	Shafiq Ahmed vs State	11.11.2020

**CASES IN WHICH FILING OF CHALLAN IS STAYED BY THE HIGH COURT, J&K (JAMMU WING)**

S.N	Case No.	Title	Next date of hearing
1.	CRMC 378/2018	Raj Kumar Nargotra vs State	08.12.2020
2.	CRMC 303/2012	Nazir Ahmed Choudhary vs State	18.12.2020
3.	CRMC 401/2017	Suhas Laxman Phadke vs State	11.12.2020

4.	CRMC 402/2017	Suprakash Kundu vs State	11.12.2020
5.	CRMC 409/2018	Faquir chand Bhagat vs State	08.12.2020
6.	CRMC 414/2017	Dr. Rakesh Verma vs State	21.12.2020
7.	CRMC 363/2017	Dr. Yashpal Sharma vs State	21.12.2020
8.	CRMC 408/2017	Dr. Rameshwar Dass Sharma vs State	21.12.2020
9.	CRMC 388/2017	Theon Pharmaceuticals vs State	21.12.2020
10.	CRMC 236/2018	Sher Singh vs State	17.11.2020
11.	CRMC 368/2018	Mahmood Ahmed Khan vs State	12.10.2020
12.	CRMC 588/2018	Mohd Shabir vs State	02.11.2020
13.	CRMC 779/2018	Abdul Gafoor vs State	21.11.2020

**CASES IN WHICH INVESTIGATION HAS BEEN STAYED BY THE HIGH COURT, J&K (SRINAGAR WING)**

S.N	Case No.	Title	Next date of hearing
1.	CRR 13/2017	Ghulam Hassan Sofi vs State	19.10.2020
2.	LPA(OW) 123/2015	Mohd Amin Bhat vs State and others	19.11.2020
3.	561-A 260/2018	Shokat Hussain Koul vs State and others	17.11.2020
4.	OWP 1702/2015	Fayaz Ahmed Malik vs State and others	19.11.2020

**CASES IN WHICH FILING OF CHALLAN STAYED BY THE HIGH COURT, J&K (SRINAGAR WING)**

S.N	Case No.	Title	Next date of hearing
1.	OWP 1706/2015	Bashir Ahmed Bhat vs State	24.11.2020
2.	CRMC 277/2016	Ghulam Mohd Lone vs State	12.11.2020

4. In 35 cases, the matter has been sent to the competent authority for sanction of prosecution for presentation of challan but the same is lingering on for years together, apparently, in some connivance. In 18 cases, final report has been submitted to the Central Office of the Anti-Corruption

Bureau but they are sitting tight over the matters. In 14 cases, directions have been issued for further reinvestigation but the same are pending. In about 2/3<sup>rd</sup> of the total cases i.e. 192 out of 295, the investigation is still in progress.

5. Coming to more details if seen with reference to cases pending in Jammu Region, there are FIRs of the years 2009, 2012, 2013, 2015 and 2016, where the matters were referred to the competent authority for sanction of prosecution, but no final decision. Investigation in FIR No. 1/2008 has been completed now and it is claimed that the closure report is under preparation and will be produced in the court shortly. One can easily imagine what kind of investigation is possible in a case, which remained under investigation for more than a decade.

6. In number of cases registered way back in the years 2012-13, the Presiding Officer of Anti-Corruption Bureau Court had issued directions for further investigation, more than three years back but still the investigating agency is sitting tight over the matter.

7. In FIRs registered way back in the year 2008 under the Prevention of Corruption Act pertaining to the Industries Department, the current status of the investigation is mentioned as 'posting details of the accused are being ascertained and some record is being obtained'. That shows in last 12 years even this information from the relevant record could not be procured by the investigating agency. It shows either unwillingness or incompetence and connivance of the persons at the helm of the affairs, also cannot be ruled out.

8. There is another FIR of 2009 against the then Vice Chancellor, Sher-e-Kashmir University of Agriculture Sciences and Technology, Jammu and other senior officers. After more than a decade, the status is that the case has been concluded and final report is under preparation. There cannot be any possible explanation for keeping the investigation pending for more than a decade. The benefit of that always goes to the accused. Anyone can imagine the result of a trial, investigation of which takes decades. This may be the apparent object. This only shows that there is no responsibility or accountability of any officer.

9. One FIR is registered in the year 2011 against the Former Minister of R&B, Managing Director of J&K Project Construction Corporation, the then Chief Engineer R&B Srinagar and Jammu, General Manager JKPCC, Jammu, Senior IAS/KAS Officers, CEO J&K CDA, Director Planning Department and other officers. The status is that the matter was submitted to the Central Office after conclusion of investigation in July, 2018 and was sent back in October, 2018 with certain observations but thereafter the matter has been put under the carpet apparently for the reason that high officials are involved. Such a system will certainly shatter faith of the public in the investigating agency.

10. Similar are the remarks pertaining to other FIRs registered against the functionaries in the Government, which include the then Vice Chairman, Jammu Development Authority, Joint Commissioner, Jammu Municipal Corporation, Managing Director of the State Financial Corporation, Executive Director, State Social Welfare Board, Executing Engineers, and other officers in the Revenue Department. In many of the

cases, with the passage of time, the accused have retired. May be investigations were kept pending to wait for that eventuality.

11. There are number of cases in which FIR's have been lodged way back in the year 2009, 2012 and 2013 but the unfortunate state of affairs would be evident from the fact that sanction for prosecution has been sought in the years 2017, 2018 and 2020, respectively.

12. As far as Srinagar province is concerned, there are cases pending for sanction of prosecution for more than two years. Apparent reason of sleeping over these matters is connivance with the accused. As a result, the conduct of these officers also need to be examined for abetting the crime and not letting the investigation reach the logical end.

13. The oldest FIRs pending for investigation pertains to the year 1998. The excuse given is that the relevant information is not being furnished by the offices concerned, as if the investigating agency is helpless against the accused or the persons who are conniving and siding with the accused. In many of the cases, the court had to send back these cases to the investigating agency for further investigation. It was only because of the shoddy work done with an idea to shield the accused and not bring the criminal to book. The reasons assigned for pendency of the investigation in the FIRs are flimsy, which no prudent person can accept especially from an agency which has been given the work of investigating serious crimes under the Prevention of Corruption Act. This is one of the reason that the corruption is rampant, as everyone knows that even if a case is registered, the same will not be taken to its logical conclusion for decades.

14. In some cases, investigation is pending for the reason that information from the Bank is not forthcoming. In one FIR registered in the year 2013 against the senior officers of Public Health Engineering department pertaining to allegations of 21 non-existing works, the scope was expanded to include 236 works but the investigation is still pending. Crores of public money must have been withdrawn from the treasury without authorization. In fact it was so stated by the Secretary of a department during hearing of a case filed for a direction for release of dues on completion of work. In one case pertaining to the Engineering Department where FIR is pending consideration from 2013 onwards, the reason assigned is non-cooperation of the concerned department. Apparently, they are all co-sharers in the loot. Hence, any cooperation in investigation cannot be to their benefit. The investigating agency has apparently surrendered before these unscrupulous corrupt persons in the system, who have either been directly arrayed as an accused in the FIR or conniving in not letting the investigation completed.

15. There are FIRs registered for irregularities and illegalities committed in transfer of land under the Roshni Scheme but investigation has still not concluded. The files apparently move from one office to another and then to the Central Office with different queries like of shuttle cock. Every one knows that shuttle cock has a life and thereafter it is dead and not worth use. In this manner lot of record may be misplaced as Durbar moves also come in between. Idea may be burry these investigations in this fashion, with no body being responsible.

16. Information sought from the General Administration Department has not been furnished till date, though it is said to be the



custodian of entire record. It may be uncomfortable to furnish information as many of the officers involved in the cases under PC Act may be enjoying plum postings even now and may have been granted all service benefits including promotions during the pendency of investigation. This is also a fact that in many cases the employees remain under suspension for decades with no charge sheet issued and suspension allowance being paid to them. They are finally reinstated because of delays in the processes and are paid all dues without working.

17. The manner in which FIRs with serious offences are being taken up does not inspire confidence. In case the Anti-Corruption Bureau is facing difficulty on account of incompetence to investigate these FIRs, the Court be apprised of the same so that alternative means can be explored to ensure that these cases are brought to the logical end at the earliest and not buried under the carpet.

18. Here we have referred to in brief status of FIRs registered under PC Act. There are other criminal cases also registered for heinous crimes, including under NDPS Act, investigation in which is pending for years. Regarding quality of investigation also this court had made observations in number of cases. For that also answer is required from the investigating agencies concerned.

19. Copy of this order be placed before Hon'ble the Chief Justice with reference to the details of the cases pending before the Srinagar and Jammu Wing of this court in which either investigation or presentation of the challan has been stayed so that the matter could be taken up on priority and disposed of. Judgment of Hon'ble the Supreme Court regarding life of interim orders is also relevant for these cases.



20. As far as the information from GAD is concerned, let the same be furnished before the next date of hearing. Upon failure, Secretary GAD will remain present in person in Court through VC.

21. Adjourned to 11.11.2020.

22. A copy of the order be placed on the file of the connected case.

**(SANJAY DHAR)**  
**JUDGE**

**(RAJESH BINDAL)**  
**JUDGE**

Jammu  
09.10.2020  
Vijay

