

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

CRMC No. 1/2019

Reserved on: 27.02.2026
Pronounced on: 10.04.2026
Uploaded on: 10.04.2026

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

1. **Jasmeet Singh,**
Age 43 years S/O Man Singh R/O H. No.
200, Digiana Opposite Ashram Jammu
Presently posted as Branch Manager,
Kotranka, Rajouri Branch of Jammu and
Kashmir Bank Ltd.
2. **Mohd. Shafi Salroo,**
Age 57 years S/O Gh. Nabi Salroo R/O
Padshahi Colony, Bij Behara, Anantnag,
Kashmir
Presently posted as Zonal Head, Jammu
West Zone, Rajouri, The Jammu and
Kashmir Bank Ltd. Zonal Office
Muradpur, Tehsil and District Rajouri.Appellant(s)/Petitioner(s)

Through: Mr. Ajay K. Gandotra, Advocate.

Vs

1. **Shafi Ahmed S/O Ghulam Nabi, Caste
Kashmiri R/o Ward No. 8, Tehsil
Rajouri.** Respondent(s)

Through: Mr. Waqar Hussain Shah, Advocate.

Coram: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

JUDGMENT

1. The petitioners (petitioner No. 1, the then Branch Manager, Kotranka, Rajouri Branch of J&K Bank Ltd. and petitioner No. 2, Zonal Head, Jammu West Zone, Rajouri of J&K Bank Ltd.) have filed the instant

petition for quashing the proceedings of the complaint No. 77/complaint, titled “*Shafiq Ahmed vs. Jasmeet Singh and another*” as well as the order dated 27.10.2018, whereby the learned Chief Judicial Magistrate, Rajouri (for short “the trial court”) has issued the process against the petitioners for commission of offences punishable under Sections 504, 506 and 420 RPC.

2. Quashing of the proceedings is sought on the ground that the learned trial court erred in issuing process without first directing an investigation or inquiry. The petitioners contend that the complaint is based on frivolous and unsubstantiated allegations that do not warrant the initiation of criminal proceedings.
3. Learned counsel for the petitioners has submitted that the petitioners are public servants within the meaning of Section 21 of RPC, and as such, they cannot be prosecuted without prior sanction from the competent authority under Section 197 Cr. PC. He further submits that the learned Magistrate ought to have directed an investigation instead of taking cognizance and issuing process against the petitioners. It is also submitted that the learned trial court has issued the process in utter disregard to the judgment of the Hon’ble Supreme Court of India in case titled, ‘**Pepsi Foods Ltd. vs. Special Judicial Magistrate** reported in (1994) 5 SCC 749.
4. *Per contra*, learned counsel for the respondent/complainant has submitted that Section 197 of Cr. PC. is not applicable in the instant case, as such, the petition is misconceived and further that it is the prerogative of the

Magistrate to either direct registration of FIR or to take cognizance and issue process against the accused on the basis of complaint submitted by the complainant. He has placed reliance upon the judgment passed by the Coordinate Bench of this Court in case titled, '**State Bank of India Anantnag vs. G. M. Jamsheed Dar**' JKJ Online 73149.

5. Heard learned counsel for the parties and perused the record.
6. The record indicates that the respondent filed a complaint asserting that petitioner No. 1, acting on the instructions of petitioner No. 2, took ₹2.50 lakhs from him on the promise of providing employment. The respondent claims that his subsequent requests for the job were met with threats. He further alleges that on 25.10.2018, after being called to the J&K Bank Branch by petitioner No. 1, he was subjected to abusive language by both petitioners.
7. Upon the filing of the complaint, the learned trial court recorded the statements of the respondent and his witness, Ajaz-ul-Haq. On the basis of said preliminary evidence, the learned trial court proceeded to issue process against the petitioners for the alleged commission of offences punishable under Sections 420, 504, and 506 of the RPC.
8. The primary contention raised by the petitioners is that the criminal proceedings are not maintainable in the absence of prior sanction as mandated under Section 197 of the Cr.P.C. It is contended that the petitioners, being public servants, are entitled to the protection afforded under the said provision and, therefore, the learned Trial Court could not have taken cognizance of the alleged offences without obtaining the

requisite sanction from the competent authority. The failure to obtain such sanction, it is argued, vitiates the issuance of process against the petitioners.

9. While the petitioners may fall within the definition of “public servants” as contemplated under Section 21 of the RPC, Section 197 of the CrPC specifically extends protection only to those who are not removable from office except by or with the sanction of the Government. Consequently, this Court is of the considered view that the petitioners, as bank employees, cannot invoke Section 197 as a shield against prosecution for the aforementioned offences. This contention raised in this regard is, therefore, rejected.

10. A Coordinate Bench of this Court in case titled as **State Bank of India Anantnag vs. G. M. Jamsheed** has observed as under:

“8. From the foregoing enunciation of law on the subject, it is clear that an official of the bank may qualify to be a public servant and for prosecuting such an official in connection with offences under the provisions of Prevention of Corruption Act, a previous sanction has to be obtained but so far as prosecution of officials of the bank in connection with offences under IPC/RPC are concerned, no previous sanction is required.

11. Furthermore, the petitioners contend that the trial court ought to have exercised its discretion to order an investigation under Section 156(3) or an inquiry under Section 202 of the CrPC. It is argued that, considering the nature of the allegations made in the complaint, the issuance of process without ordering such investigation or inquiry amounts to a procedural impropriety.

12. The learned Magistrate chose to take cognizance under Section 190 CrPC rather than directing an investigation under Section 156(3) Cr.PC. While the choice of procedure is within the court's discretion, the substance of the complaint is fatally vague. Respondent relies solely on a bald allegation that a payment of ₹2.5 lakhs was made 'two months ago,' yet he fails to specify the exact date, time, or venue. Furthermore, the assertion that petitioner No. 1 received the amount at the instance of petitioner No. 2 is entirely unsubstantiated, as the respondent has failed to disclose any basis or source of knowledge for this assertion. Such bald and unsupported assertions do not disclose any prima facie material, particularly against petitioner No. 2. In view of these material omissions, the issuance of process against the petitioners, who are bank officials, appears to be unwarranted and premature.
13. In **Pepsi Foods Ltd. vs. Special Judicial Magistrate** reported in (1994) 5 SCC 749, Hon'ble the Supreme Court of India has held as under:
- “28. Summoning of an accused in a criminal case is a serious matter. Criminal law cannot be set into motion as a matter of course. It is not that the complainant has to bring only two witnesses to support his allegations in the complaint to have the criminal law set into motion. The order of the Magistrate summoning the accused must reflect that he has applied his mind to the facts of the case and the law applicable thereto. He has to examine the nature of allegations made in the complaint and the evidence both oral and documentary in support thereof and would that be sufficient for the complainant to succeed in bringing charge home to the accused. It is not that the Magistrate is a silent spectator at the time of recording of preliminary evidence before summoning of the accused. The Magistrate has to carefully scrutinise the evidence brought on record and may even himself put questions to the complainant and his witnesses to elicit answers to find out the truthfulness of the allegations or otherwise and then examine if any offence is prima facie committed by all or any of the accused.”**
- (emphasis added)

14. The record indicates that the learned trial court issued process against the petitioners in a perfunctory manner. In cases involving public officials and vague accusations, a Magistrate must exercise caution and circumspection. In the present case, the learned Trial Court failed to address and clarify the material ambiguities in the narrative put forth by the complainant and proceeded to issue process without undertaking the necessary scrutiny to test the veracity of the allegations. The issuance of process appears to have been made in a routine manner rather than as a result of a reasoned judicial determination based on the material placed on record. Consequently, this Court is of the considered view that the impugned order suffers from a fundamental lack of application of mind.
15. In light of these observations, the order dated 27.10.2018 is set aside as it cannot be sustained in the eyes of law. This Court, however, clarifies that the proceedings in the complaint titled '*Shafiq Ahmed v. Jasmeet Singh and Another*' are not being quashed at this stage, allowing for a proper re-evaluation of the matter by remitting the matter to the learned trial court for passing fresh orders in accordance with law, keeping in view the principles laid down by the Hon'ble Supreme Court of India in case titled '**Pepsi Foods Ltd. vs. Special Judicial Magistrate**' (1994) 5 SCC 749.
16. **Disposed of** along with the connected application, if any.

(RAJNESH OSWAL)
JUDGE

Jammu
10.04.2026
Sahil Padha

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