



Non-Reportable

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

Special Leave Petition (Crl.) No.12026 of 2024

**UNION TERRITORY OF
JAMMU AND KASHMIR**

...PETITIONER

VERSUS

**BRIJ BHUSHAN
RESPONDENT**

...

J U D G M E N T

K. VINOD CHANDRAN, J.

1. An F.I.R. was registered under Section 5(2) of the Jammu and Kashmir Prevention of Corruption Act, 2006¹ read with Section 120-B of the Indian Penal Code, 1860² in the year 2021 with respect to a transaction in land that occurred in the year 1989.

1 'the Act'
2 'the I.P.C.'

The respondent herein who was the Managing Director of the beneficiary; the J & K Cooperative Housing Corporation Ltd. ('JKCHC', for brevity), which acquired the subject land after payment of consideration, was arrayed as one of the accused alleging offences under the above provisions along with the Tehsildar and the power of attorney holder of the lands, alleging criminal conspiracy.

2. The respondent herein successfully filed a petition under Section 482 of the Code of Criminal Procedure³. The impugned order which quashed the F.I.R. No. 10 of 2021 is the subject of challenge in the S.L.P. We have heard learned Counsel Sh. Pashupathi Nath Razdan appearing for the State and learned Counsel Sh. Nanu Khera appearing for the first respondent.

³ 'the Cr.P.C.'

3. Suffice it to notice that JKCHC proposed to acquire 30 kanals and 5 marlas of land in pursuance of its aims and objects of developing residential colonies for its members; being the apex society of the then Union Territory. The JKCHC applied for certification of the existing right of land to the Collector Land Acquisition and after negotiation with the landlords, the subject land was acquired for Rs. 31,500/- per kanal as per a lease deed on 10.04.1989 registered with the Sub-Registrar's Office, Samba. The land was developed into various blocks by the JKCHC and allotted to its members on a 'first come first served' basis.

4. In the year 2021, the F.I.R. was registered alleging that the power of attorney holder landlords of the subject land had colluded with the Tehsildar and together with the respondent herein who was

the Managing Director of the JKCHC obtained '*fard Intikhab*' dated 06.04.1989 which had led to the transfer of the lands in the name of the JKCHC. The said transaction was alleged to be made in violation of Section 28(1)(d) and Section 28-A of the Jammu and Kashmir Agrarian Reforms Act, 1976. It is alleged in the F.I.R. that this act of the accused had conferred huge undue benefits to the JKCHC and its members.

5. The learned Single Judge has detailed the facts which speaks of the mutation of the land having been made in the name of seven landlords, which the State had transferred to them; after it vested in the State, when the original ownership rights were extinguished under the Agrarian Reforms Act. The said persons on whom the land was vested by the State appointed a power of attorney, who obtained

the '*fard Intikhab*' from the Tehsildar leading to the transfer of the subject lands to the JKCHC.

6. The learned Single Judge also extracted Sections 28 and 28-A of the Agrarian Reforms Act to find that any transfer of rights of the land obtained under that Act, by way of sale, gift, exchange, mortgage, will or by any other means whatsoever, is prohibited. In the event of such a transfer, the rights conferred on the landlord under the Agrarian Reforms Act vest back in the State. The learned Single Judge has found that there can be no criminal proceeding initiated on the basis of a transfer, which is prohibited under the Act. The consequence is only of reversion of such rights on the land to the State Government, which could also lead to dispossession on reversion ordered by a Revenue Officer. The learned Single Judge also

noticed Section 29 of the Act which saves any officer or authority in respect of anything which is done in good faith under the Agrarian Reforms Act.

7. We will not go into whether criminal proceedings would lie under the provisions of the Prevention of Corruption Act and the I.P.C. as against the officers, since they are not before us. We also do not agree with the learned Single Judge that no criminal proceedings will lie, for reason only of the statute having not provided it; since the allegation of corruption and criminal breach of trust, if substantiated, could lead to conviction under the Prevention of Corruption Act and the IPC. The question of indemnity under Section 29; which operates only if the acts complained of are done in good faith, would have to be independently agitated

by the officer of the State who has been arrayed as accused.

8. Insofar as the party respondent is concerned, he was the Managing Director of the Cooperative Society which obtained the lands after verification of the rights on the land from the Collector of the District. The acquisition was also for a purpose of developing the land; which development, it is admitted has already been completed and allottees of such lands having raised a residential colony in the location. Obviously, no action under Section 28-A has been taken by the State to repossess the lands. In any event, we do not see any allegation against the respondent herein under the provisions on which the F.I.R. has been registered but for a bland allegation of connivance with the officers of the State. There is also no personal benefit even

alleged to have accrued to the party respondent herein. We find no reason to interfere with the well-reasoned order of the learned Single Judge of the High Court.

9. The Special Leave Petition stands dismissed.

10. Pending application(s), if any, shall stand disposed of.

....., J.
[SUDHANSHU DHULIA]

....., J.
[K. VINOD CHANDRAN]

**NEW DELHI;
APRIL 07, 2025.**

ITEM NO.1503

COURT NO.12

SECTION II-C

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.)
No(s). 12026/2024

[Arising out of impugned final judgment and order dated 29-05-2023 in CRM (M) No. 410/2021 passed by the High Court of Jammu & Kashmir and Ladakh at Jammu]

UNION TERRITORY OF JAMMU AND KASHMIR Petitioner(s)

VERSUS

BRIJ BHUSHAN

Respondent(s)

Date : 07-04-2025 This petition was called on for pronouncement of Judgment today.

For Petitioner(s) : Mr. Pashupathi Nath Razdan, AOR

Ms. Maitreyee Jagat Joshi, Adv.

Mr. Astik Gupta, Adv.

Ms. Akanksha Tomar, Adv.

For Respondent(s) : Mr. Nonu Khera, Adv.

Mr. Sanjay Chakraborty, Adv.

Mr. Mohan Lal Sharma, AOR

Hon'ble Mr. Justice K. Vinod Chandran
pronounced the non-reportable Judgment of the

**Bench comprising Hon'ble Mr. Justice Sudhanshu
Dhulia and His Lordship.**

The Special Leave Petition is dismissed.

**Pending interlocutory application(s), if any,
is/are disposed of.**

**(JAYANT KUMAR ARORA)
ASTT. REGISTRAR-cum-PS**

**(RENU BALA GAMBHIR)
ASSISTANT REGISTRAR**

**(Signed non-reportable Judgment is placed on the
file)**