



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

CRM(M) No. 448/2019
CrIM No. 1088/2019

Reserved on: 11.03.2026
Pronounced on : 02.04.2026
Uploaded on : 02.04.2026
Whether the operative part or full
judgment is pronounced: Full

Subash Chander Sharma

....Petitioners

Through:- Mr. P.N. Raina, Sr. Advocate with
Mr. J.A. Hamal, Advocate.

V/s

SHO P/S Anti Corruption
Bureau Jammu & Ors.

.....Respondents

Through:- Mr. Raman Sharma, AAG with
Ms. Saliqa Sheikh, Advocate.

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

01. The petitioner, through the medium of the present petition, has challenged orders dated 19.01.2019, 01.06.2019 and 08.06.2019 passed by the learned Special Judge (Anti-Corruption) Jammu (hereinafter to be referred to as "**trial court**"). Vide order dated 19.01.2019, the learned trial court has directed the investigating agency to deal with the question as to the involvement or otherwise of the petitioner adequately in the light of the observations made in the said order. Vide



order dated 01.06.2019, the learned trial court has directed framing of charges for offences under sections 5(1) (d), 5(2) of J&K PC Act and under Sections 467, 468, 471 and 120-B RPC against the petitioner and vide order dated 08.06.2019 memo of charges for afore-noted offences has been framed against the petitioner.

02. Briefly stated the facts giving rise to filing of the present petition are that an FIR bearing No. 18 of 2015 for offences under sections 5(1) (d), 5(2) of J&K PC Act and Sections 467, 468, 471 and 120-B RPC came to be registered by the Police Station, Vigilance Organization, Jammu on the basis of a preliminary verification during which it was found that co-accused Riaz Ahmed, the then Patwari Halqa Hakkal, Satwari Jammu has conspired with other accused including the petitioner herein to create khasra No. 127/1 in respect of land measuring 25 kanals situated at village Surya Chak adjoining to existing khasra No. 127 in the original record of nakal khasra paimaish to confer undue benefit upon co-accused Vijay Kumar. It was found that co-accused Riaz Ahmed has, in connivance with the petitioner, who was posted as Naib Tehsildar, Record Room, Jammu at the relevant time, changed the khasra girdawari of State land measuring 25 kanals bearing khasra No. 127/1 situated at village Chak Surya in the records of the record room. The said co-accused further made entry in the khasra girdawari in favour of beneficiary co-accused Vijay Kumar in respect of State land



measuring 25 kanals in khasra no. 1 of village Chak Surya. It was also found that co-accused Riaz Ahmed, the then Patwari of Halqa Hakkal conspired with co-accused Vijay Kumar and others and manipulated revenue record of khasra Nos. 1 and 35 of State land in village Daulat Chak measuring 11 kanals each, as also in respect of land comprised in khasra Nos. 411, 414 and 417 (new) situated at village Ganeshu Chak measuring 10 kanals and 50 kanals respectively for conferring undue benefit upon co-accused Vijay Kumar.

03. So far as role of the petitioner is concerned, it was established that he had remained posted as Naib Tehsildar, General Record Room from September, 2009 to August, 2012 and he, in connivance with co-accused Patwari Riaz Ahmed and beneficiary co-accused Vijay Kumar, hatched a criminal conspiracy and facilitated illegal entry in respect of khasra No. 127 by inserting khasra No. 127/1 in original Masavi for land measuring 25 kanals situated at village Surya Chak in favour of co-accused Vijay Kumar. The same stands established from report of the FSL, according to which, the entry has been made at later stage with ink of a different shade. It was established that the petitioner was Naib Tehsildar and custodian of the revenue record of General Record Room at the time when the revenue record was manipulated, which was tampered with by the co-accused Patwari Riaz Ahmed. Thus, the allegation against the petitioner is that he, in his capacity of Incharge General Record Room at the time when the revenue record was



tampered by co-accused Patwari Riaz Ahmed so as to confer undue benefit upon beneficiary co-accused Vijay Kumar, has connived with the other accused.

04. On the basis of the aforesaid allegations, the chargesheet was produced before the learned trial court. After taking cognizance of the offences, the matter was put up for hearing arguments on the question of charge/discharge of the accused. At that stage, impugned order dated 19.01.2019 came to be passed by the learned trial court. Vide the said order, the learned trial court while considering the role of the petitioner observed that the investigating agency has not verified as to whether the petitioner was actually holding the charge of the records personally or whether it was some other official subordinate to him, who was holding the charge. It was further observed by the learned trial court that no investigation has been conducted to verify these aspects of the matter. In these circumstances, the learned trial court while deferring the consideration relating to framing of charges, directed the investigating agency to rectify the lapse on its part and do the needful in the light of the observations made in the said order.

05. Pursuant to the aforesaid order passed by the learned trial court, the investigating agency recorded the statements of two more witnesses, namely, Sh. Manoj Kumar Bhat, the then Junior Assistant in General Record Room and Sh. Subash Chander, the then orderly in the office of Director



Land Records. Both these witnesses while making their statements under Section 161 of the CrPC pointed towards the involvement of the petitioner in the alleged tampering of the records by co-accused Patwari Riaz Ahmed. Upon submission of its report by the investigating agency, the matter was again considered by the learned trial court on the question of framing of charges against the accused persons.

06. Vide impugned order dated 01.06.2019, the learned trial court found that there are grounds for presuming that the petitioner is also involved in the alleged tampering of the records by co-accused Patwari Riaz Ahmed and that he has conspired with the co-accused to confer undue benefit upon beneficiary co-accused Vijay Kumar. Thus, charges for offences under sections 5(1) (d), 5(2) of J&K PC Act and Sections 467, 468, 471 and 120-B RPC have been framed against the petitioner.

07. Through the medium of the present petition, the petitioner has called in question all the aforesaid orders on the grounds that there is absolutely no evidence whatsoever against the petitioner with regard to his involvement in the conspiracy. It has been contended that there is no material on record that the tampering of the record has taken place during the period when the petitioner was posted as Incharge of the Record Room. It has been contended that the record was in the custody of the then Junior Assistant. According to the petitioner, there is no evidence on record to show as to when



the record has been tampered. It has been submitted that the petitioner was posted in the General Record Room only from the year 2009 to 2012 and unless it is shown that the tampering has taken place during this period, it cannot be stated that he is involved in the conspiracy.

08. It has further been contended that the impugned order dated 19.01.2019 is not sustainable in law because the learned trial court has made certain observations in the said order which tend to show that the court somehow wanted to implicate the petitioner in the case. It has been further contended that without there being an order for further investigation of the case, it was not open to the investigating agency to record statements of the witnesses under section 161 of the CrPC. It has been also contended that the report filed by the investigating agency pursuant to impugned order dated 19.01.2019 is not in the form of a supplementary challan, as such, the same cannot be considered while framing charges against the petitioner. It has further been contended that at the stage of framing of charges after taking cognizance of the offences, the learned trial court did not have jurisdiction to direct rectification of any inadequacies in the investigation.

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

10. The first issue that needs to be addressed in this case is as to whether the learned trial court while passing impugned order dated 19.01.2019 has shown any bias or pre-



meditation against the petitioner. Learned Senior counsel appearing on behalf of the petitioner has vehemently argued that the learned trial court somehow or the other intended to implicate the petitioner. According to the learned Senior counsel, the use of expressions “to bring something on record enabling the court to infer the existence of conspiracy” in the impugned order dated 19.01.2019 coupled with the direction to the investigating agency to do the needful, goes on to show that the learned trial court had made up its mind to rope in the petitioner as an accused and to subject him to trial.

11. In order to test the merits of the aforesaid submission made by learned Senior counsel for the petitioner, it would be necessary to read the relevant portion of order dated 19.01.2019 passed by the learned trial court as a whole, without undertaking hair splitting of the expressions used in the said order. In this context, it would be apt to notice the relevant excerpts of order dated 19.01.2019, which are reproduced as under:

“After hearing the parties for a while and examination of the seized records and also the material in support of the charges, it has been observed that accused in-charge of the records in the General Record-room, Jammu i.e. accused-2 Subhash Chander has been arraigned for the single reason that he was holding the charge of the records office at the relevant time without further attributing any overt or covert act actually done by him in furtherance to the conspiracy. It is also not verified as to whether he was actually holding the charge of the records personally or was it some other official(s) subordinate to him as no investigations have



been done to verify these aspects of the matter. Admittedly, conspiracies are hatched in privacy behind closed doors and direct evidence is hardly there; still, the investigating agency can't escape from its responsibility to bring something on record enabling the court to infer the existence of such a situation objectively since a criminal conspiracy itself is a substantive offence punishable under law. Nevertheless, it is clearly shown that records deposited in the general record room i.e. Aks Massavi have been tempered about two decades back, have been tempered in order to justify the back dated entries in the Girdhwari register which wouldn't have been possible without the active assistance of someone inside.

In the given circumstances, it would not be possible for this court to formulate any opinion prima facie as to involvement of accused-2 and hence, charge or discharge him since the question as to his involvement or otherwise has not been dealt with adequately during the investigation. The demand of justice and fair play is to rectify the lapse on the part of Investigating Officer whether conscious or otherwise at the earliest and the matter is still at the very initial stage. The question as to the framing charge or otherwise is, therefore, deferred and investigating officer is directed to do the needful in the light of the observations made hereinabove.”

12. When we take into account and consider the aforesaid observations of the learned trial court in a holistic manner, it would come to the fore that the learned trial court has pointed out certain inadequacies in the investigation. According to the learned trial court, although there is evidence on record to show that the petitioner was incharge of records in the General Record Room, yet he could not be arraigned as an accused for the said reason alone unless it is shown that he



had done any overt or covert act. This clearly shows that the learned trial court has made a dispassionate analysis of the material on record. Had it been a case of bias or pre-meditation against the petitioner, the learned trial court instead of pointing out this inadequacy to the investigating agency, would have proceeded to frame charges against the petitioner only on the basis that he was incharge of the Record Room at the relevant time. The learned trial court has been at pains to explain that even though the petitioner may have been holding the charge of the records, yet it has to be ascertained whether he was holding the charge personally or it was some other official subordinate to him, who may have been holding the immediate custody of the record. It is in this connection that the learned trial court felt a need to order further investigation. While reminding the investigating agency of its responsibility to bring material on record from which existence of a criminal conspiracy is inferred, the learned trial court has only tried to point out the aspect on which the investigation appeared to be deficient.

13. Order dated 19.01.2019 has to be read in the context that the learned trial court only intended to get the aspect relating to involvement or otherwise of the petitioner in the alleged conspiracy properly investigated, leaving it open to the investigating agency to even investigate the role of any subordinate official, who may have been actually holding the custody of the record that was tampered. Thus, by no stretch



of reasoning, it can be stated that the learned trial court while passing the impugned order dated 19.01.2019 exhibited any bias or pre-determined mind. The argument of the learned Senior counsel appearing for the petitioner is, therefore, wholly misconceived.

14. That takes us to the question as to what is the nature of the order passed by the learned trial court on 19.01.2019. Although in the said order, the learned trial court has not used the appropriate expression of “further investigation”, yet the fact of the matter remains that the learned trial court while passing the aforesaid order meant to ask the investigating agency to undertake investigation limited to the aspect of ascertaining the identity of the person(s), who were actually holding the custody of the record that was tampered so as to enable the court to proceed against the person(s), who had actually aided and assisted the co-accused Patwari in getting hold of the said record at the time when he tampered with the same. So it can safely be stated that the direction of the learned trial court was relating to further investigation of the case.

15. The next question that comes up consideration is whether a direction for further investigation can be extended by a Magistrate or a Special Judge after taking cognizance of the offences at the stage of framing of charges. This issue has been dealt with by the Supreme Court in the case of **Ram Lal Narang Vs. State (Delhi Administration) (1979) 2 SCC 322.**



While referring to the ratio laid down by the Supreme Court in its previous judgment titled **H.N. Rishbud Vs. State of Delhi, AIR 1955 (SC) 196**, it was held as under:

“17. In H. N. Rishbud v. The State of Delhi, this Court contemplated the possibility of further investigation even after a Court had taken cognizance of the case. While noticing that a police report resulting from an investigation was provided in Section 190 Criminal Procedure Code as the material on which cognizance was taken, it was pointed out that it could not be maintained that a valid and legal police report was the foundation of the jurisdiction of the Court to take cognizance. It was held that where cognizance of the case had, in fact, been taken and the case had proceeded to termination, the invalidity of the precedent investigation did not vitiate the result unless miscarriage of justice had been caused thereby. It was said that a defect or illegality in investigation, however serious, had no direct bearing on the competence of the procedure relating to cognizance or trial. However, it was observed:

“It does not follow that the invalidity of the investigation is to be completely ignored by a Court during trial. When the breach of such a mandatory provision is brought to the knowledge of the Court at a sufficiently early stage, the Court, while not declining cognizance, will have to take the necessary steps to get the illegality cured and the defect rectified, by ordering such re-investigation as the circumstances of an individual case may call for”. This decision is a clear authority for the view that further investigation is not altogether ruled out merely because cognizance of the case has been taken by the Court; defective investigation coming to light during the course of a trial may be cured by



a further investigation, if circumstances permit it.”

16. From the foregoing analysis of the law on the subject, it is clear that further investigation is not altogether ruled out merely because cognizance has been taken by the court. The Supreme Court in the aforesaid judgment has, in clear terms, held that when there is defective investigation, which comes to light during the course of trial, it may be cured by further investigation if circumstances so warrant.

17. The ratio laid down by the Supreme Court in **Ram Lal Narang’s** case (supra) was explained by the Supreme Court in a later judgment titled **Hasanbhai Valibhai Qureshi Vs. State of Gujrat, (2004) 5 SCC 347** in the following manner:

“In Ram Lal Narang v State (Delhi Admn.), it was observed by this Court that further investigation is not altogether ruled out merely because cognizance has been taken by the Court. When defective investigation comes to light during course of trial, it may be cured by further investigation if circumstances so permitted. It would ordinarily be desirable and all the more so in this case, that police should inform the Court and seek formal permission to make further investigation when fresh facts come to light instead of being silent over the matter keeping in view only the need for an early trial since an effective trial for real or actual offences found during course of proper investigation is as much relevant, desirable and necessary as an expeditious disposal of the mater by the Courts. In view of the aforesaid position in law if there is necessity for further investigation the same can certainly be done as prescribed by law. The mere fact that there may be further delay in concluding the trial should not stand on the way of further investigation if that would help the Court in



arriving at the truth and do real and substantial as well as effective justice. We make it clear that we have not expressed any final opinion on the merits of the case.”

18. In **VinuBhai HariBhai Malaviya & ors Vs. State of Gujrat & Anr, (2019) 17 SCC 1**, the Supreme Court after undertaking analysis of its previous judgments on the issue has explained the range of powers of the police and the Magistrate as regards investigation and further investigation in paras 18, 25 and 42 in the following manner:

18. It is clear that a fair trial must kick off only after an investigation is itself fair and just. The ultimate aim of all investigation and inquiry, whether by the police or by the Magistrate, is to ensure that those who have actually committed a crime are correctly booked, and those who have not are not arraigned to stand trial. That this is the minimal procedural requirement that is the fundamental requirement of [Article 21](#) of the Constitution of India cannot be doubted. It is the hovering omnipresence of [Article 21](#) over the [CrPC](#) that must needs inform the interpretation of all the provisions of the [CrPC](#), so as to ensure that [Article 21](#) is followed both in letter and in spirit.

25. It is thus clear that the Magistrate’s power under [Section 156\(3\)](#) of the CrPC is very wide, for it is this judicial authority that must be satisfied that a proper investigation by the police takes place. To ensure that a “proper investigation” takes place in the sense of a fair and just investigation by the police - which such Magistrate is to supervise - [Article 21](#) of the Constitution of India mandates that all powers necessary, which may also be incidental or implied, are available to the Magistrate to ensure a proper investigation which, without doubt, would include the ordering of further investigation after a report is received by him under [Section 173\(2\)](#); and which



power would continue to enure in such Magistrate at all stages of the criminal proceedings until the trial itself commences. Indeed, even textually, the “investigation” referred to in [Section 156\(1\)](#) of the CrPC would, as per the definition of “investigation” under [Section 2\(h\)](#), include all proceedings for collection of evidence conducted by a police officer; which would undoubtedly include proceedings by way of further investigation under [Section 173\(8\)](#) of the CrPC.

42. There is no good reason given by the Court in these decisions as to why a Magistrate’s powers to order further investigation would suddenly cease upon process being issued, and an accused appearing before the Magistrate, while concomitantly, the power of the police to further investigate the offence continues right till the stage the trial commences. Such a view would not accord with the earlier judgments of this Court, in particular, [Sakiri](#) (supra), [Samaj Parivartan Samudaya](#) (supra), [Vinay Tyagi](#) (supra), and [Hardeep Singh](#) (supra); [Hardeep Singh](#) (supra) having clearly held that a criminal trial does not begin after cognizance is taken, but only after charges are framed. What is not given any importance at all in the recent judgments of this Court is [Article 21](#) of the Constitution and the fact that the Article demands no less than a fair and just investigation. To say that a fair and just investigation would lead to the conclusion that the police retain the power, subject, of course, to the Magistrate’s nod under [Section 173\(8\)](#) to further investigate an offence till charges are framed, but that the supervisory jurisdiction of the Magistrate suddenly ceases mid- way through the pre-trial proceedings, would amount to a travesty of justice, as certain cases may cry out for further investigation so that an innocent person is not wrongly arraigned as an accused or that a prima facie guilty person is not so left out. There is no warrant for such a narrow and restrictive view of the powers of the Magistrate, particularly when such powers are traceable to [Section 156\(3\)](#) read with [Section 156\(1\)](#), [Section 2\(h\)](#), and [Section 173\(8\)](#) of the CrPC, as has been noticed hereinabove, and would be available at all stages of the progress of a criminal case before



the trial actually commences. It would also be in the interest of justice that this power be exercised suo motu by the Magistrate himself, depending on the facts of each case. Whether further investigation should or should not be ordered is within the discretion of the learned Magistrate who will exercise such discretion on the facts of each case and in accordance with law. If, for example, fresh facts come to light which would lead to inculcating or exculpating certain persons, arriving at the truth and doing substantial justice in a criminal case are more important than avoiding further delay being caused in concluding the criminal proceeding, as was held in [Hasanbhai Valibhai Qureshi](#) (supra). Therefore, to the extent that the judgments in [Amrutbhai Shambubhai Patel](#) (supra), [Athul Rao](#) (supra) and [Bikash Ranjan Rout](#) (supra) have held to the contrary, they stand overruled. Needless to add, [Randhir Singh Rana v. State \(Delhi Administration\)](#) (1997) 1 SCC 361 and [Reeta Nag v. State of West Bengal and Ors.](#) (2009) 9 SCC 129 also stand overruled.”

19. From the foregoing analysis of legal position as regards the power of the Magistrate/Special Court to direct further investigation in a case where the court is satisfied that the investigation conducted is defective in nature or certain aspects of the matter have not been properly investigated, it is clear that a direction in this regard can be extended even at the post cognizance stage by taking resort to the provisions contained in Section 173 (8) read with Section 156(3) of the CrPC.

20. Applying the aforesaid ratio to the facts of the present case, it can safely be stated that the learned trial court, upon observing that there were certain defects or



inadequacies in the investigation conducted by the investigating agency particularly as regards the role of the custodian of the record, which was tampered, was well within its powers to direct further investigation of the case on this aspect of the matter even at the stage of framing of charges. The jurisdiction exercised by the learned trial court in this regard cannot be interfered with by this court either in its revisional jurisdiction or while exercising its inherent powers. The impugned order dated 19.01.2019 is, therefore, perfectly in accordance with law and the same does not call for any interference.

21. Once order dated 19.01.2019 is held to be an order directing further investigation of the case, the evidence collected by the investigating agency in the form of statements of two witnesses, namely, Manoj Kumar Bhat and Subash Chander cannot be discarded. However, the respondent-investigating agency has, instead of filing the supplementary chargesheet in proper form, proceeded to file it in the form of a report. The course adopted by the investigating agency is not in accordance with the law. The Supreme Court has, in the case of **Dablu Kujur Vs. State of Jharkhand, (2024) 6 SCC 758**, issued clear cut direction that in the case of further investigation, the police officer Incharge has to forward to the Magistrate a further report or reports in the form prescribed by stating all the details that are to be furnished at the time of filing the initial report under Section 173(2) of CrPC. Thus, the



respondent-investigating agency has flouted the mandate of law in the present case.

22. Nonetheless merely because the material collected by the investigating agency, pursuant to the directions of this court for further investigation of the case, has not been sent to the court in prescribed format, the same cannot be thrown out. The defect in furnishing the report relating to further investigation is curable in nature and the investigating agency can be given an opportunity to rectify the defect by producing the report of further investigation in the prescribed format.

23. That takes us to the legality and validity of order dated 01.06.2019 passed by the learned trial court whereby charges have been framed against the petitioner. Before undertaking such an exercise, it has to be seen as to what type of further investigation has been conducted by the investigating agency pursuant to directions passed by the learned trial court on 19.01.2019. If we have a look at the supplementary report dated 20.02.2019 submitted by the investigating agency before the learned trial court, it is revealed that they have recorded the statement of Sh. Manoj Kumar Bhat, who was working as a Junior Assistant and was the immediate custodian of the record, which is stated to have been tampered by co-accused Riaz Ahmed, Patwari. The other statement recorded during further investigation is that of Sh. Subash Chander, who was working as an Orderly in the



office of the Director Land Records at the relevant point of time.

24. The defence projected by the petitioner in answer to the questionnaire given to him by the investigating officer during the course of investigation was that the settlement record including the record relating to village Surya Chak, which has been tampered, was under the lock and key of Sh. Manoj Kumar Bhat, the then Junior Assistant. It was also stated by the petitioner in answer to the questionnaire that the tampering seems to have been done by the Patwari before depositing the record in the record room and before his joining as Incharge Naib Tehsildar. According to the petitioner, the record was deposited in the record room on 17.10.1997.

25. It was duty of the Investigating Officer to ascertain the veracity of the aforesaid defence projected by the petitioner in answer to the questionnaire. The purpose of undertaking investigation is not somehow to implicate a person but its purpose is to unearth the truth. In that direction, it is duty of the investigating agency to ascertain the veracity of the defence projected by a suspect. Otherwise, there was no purpose for the investigating agency to seek answers from the petitioner/accused to the questions formulated by the investigating officer. In the facts and circumstances of the case, it was all the more necessary for the investigating officer to ascertain the veracity of the defence put up by the petitioner because the record that had been tampered was in the



immediate custody of Sh. Manoj Kumar Bhat, who has been cited as a prosecution witness. The assertion of Sh. Manoj Kumar Bhat that record was tampered with the connivance of the petitioner may or may not be correct but having regard to the fact that he was immediate custodian of the record, before placing reliance upon his statement, it was incumbent upon the investigating agency to ascertain the approximate period when the insertions/corrections in the revenue record had taken place. If the insertions/tampering in the revenue record had taken place during the period when the petitioner was not incharge of the record room, the assertions of Manoj Kumar Bhat, as made by him in his statement recorded under section 161 CrPC, could not have been relied upon and the defence put up by the petitioner would get vindicated.

26. Having regard to the nature of technology that is presently available with the FSL laboratories, it is quite possible to determine the approximate age of the insertion/tampering that has taken place in the revenue record in the present case. On that basis, the investigating agency could have taken a cue for undertaking further investigation of the case. Instead of doing so, the investigating agency has taken a short cut and recorded statements of two witnesses, one of whom might be interested in saving his own skin to lay blame on others.

27. It is interesting to note here that in its order dated 01.06.2019, the learned trial court has, while framing charges



against the petitioner noted that there were as many as five Naib Tehsildars, namely, Vijay Gupta, A.N. Badyal, M.A. Khan and Ram Dass besides the petitioner during the period when accused Riaz Ahmed remained posted as Patwari of the concerned Halqa. It has also been noted by the learned trial court that one of the Naib Tehsildars, namely, M.A. Khan is a distant cousin of accused Riaz Ahmed. In spite of noticing these facts, the learned trial court has remained satisfied with the nature of further investigation that was undertaken by the investigating agency and proceeded to frame charges against the petitioner.

28. The learned trial court instead of asking the investigating agency to conduct a proper investigation of the case in the light of the observations made by it in its impugned order dated 19.01.2019 has proceeded to frame charges against the petitioner in terms of impugned order dated 01.06.2019. The course adopted by the learned trial court is not proper particularly when in its order dated 19.01.2019, the court had made it clear that adequate material to presume conspiracy has not been brought on record by the investigating agency.

29. In the aforesaid circumstances, it can safely be stated that the investigating agency has, without undertaking a proper investigation regarding the approximate period when the tampering in the record has taken place as also with regard to the defence projected by the petitioner in answer to



the questionnaire served upon him, proceeded to submit a half baked report that too without adhering to the mandate of law laid down by the Supreme Court in **Dablu Kujur's** case (supra).

30. In view of what has been discussed hereinbefore, the impugned order dated 01.06.2019 to the extent of framing of charges against the petitioner on the basis of a half baked investigation report of the respondent-investigating agency is not sustainable in law. The respondent-investigating agency is duty bound to unearth the truth by conducting the investigation on all aspects of the matter in the light of the observations made by the learned trial court in its order dated 19.01.2019. This Court is conscious of the fact that directing further investigation of the case at this stage would result in delay in trial but the primary concern for a Court while dealing with a criminal case is to unearth the truth even if it amounts to delay in trial. The aim of investigation and inquiry whether by police or by Magistrate is to ensure that only those persons, who have actually committed the crime are made to face the trial and those, who are not involved in the commission of the crime, are not unnecessarily dragged to face the trial. Therefore, it is duty of this Court to ensure that further investigation in the light of the order dated 19.01.2019 passed by the learned trial court is conducted in an objective manner to ensure adherence to due process of law as mandated under Article 21 of the Constitution of India.



31. For what has been discussed hereinbefore, the petition is **disposed of** by extending the following directions:

- (i) Impugned order dated 19.01.2019 passed by the learned trial court is upheld;
- (ii) Impugned order dated 01.06.2019 and the memo of charges dated 08.06.2019 to the extent of the petitioner are quashed;
- (iii) The respondent-investigating agency is directed to undertake further investigation of the case in the light of the observations made by the learned trial court in its order dated 19.01.2019 read with the observations made by this Court hereinebefore;
- (iv) The further investigation of the case shall be conducted by the respondents expeditiously and final report shall be filed by it before the learned trial court in the prescribed form as mandated under Section 173 (2) of the Cr.P.C whereafter the question of framing of charges against the petitioner shall be considered by the trial court afresh on the basis of the entire material that may be brought on record by the investigating agency before the said court.

(SANJAY DHAR)
JUDGE

JAMMU
02.04.2026
Naresh/Secy.

Whether the judgment is speaking: **Yes**

Whether the judgment is reportable: **Yes**