



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

CRM(M) No.314/2023

Reserved on: 11.12.2025

Pronounced on: 19.12.2025

Uploaded on: 19.12.2025

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

GHULAM RASOOL BABA

...PETITIONERS/APPELLANT(S)

Through: - Mr. Arshid Andrabi, Advocate.

Vs.

PRINCIPAL SECRETARY TO GOVT. & ANR.

...RESPONDENT(S)

Through: - Mr. Mohsin Qadiri, Sr. AAG, with
Ms. Maha Majeed, Assisting Counsel.

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

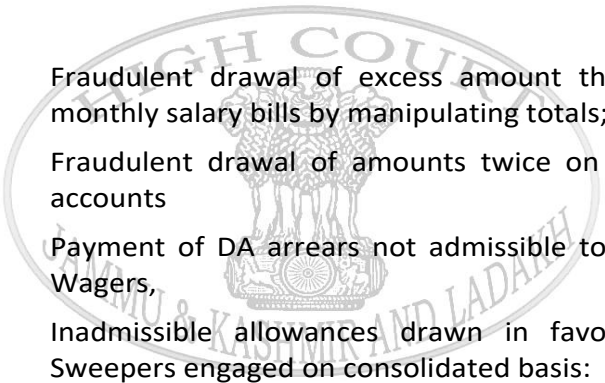
JUDGMENT

1) The petitioner, through the medium of present petition filed under Articles 226 and 227 of the Constitution of India read with Sections 282 of the Code of Criminal Procedure, has challenged the criminal proceedings arising out of FIR No.40 of 2000 registered with Police Station Vigilance Organisation, Kashmir (VOK), which are stated to be pending before the Court of learned Special Judge, Anti-Corruption, Srinagar (hereinafter referred to as "the trial court").

2) It appears that an FIR bearing No.40/2000 for offences under Section 5(1)(c)(d) read with Section 5(2) of the J&K Prevention of Corruption Act and Sections 120-B, 467, 468



and 409 RPC came to be registered with P/S VOK. It was alleged in the FIR that during the posting as Block Medical Officers, Beerwa, Dr. Sheikh Samad, Dr. Muneer Ahmad, Dr. Fayaz Ahmad Banday, Dr. Mohammad Ismail and Dr. Reyaz Ahmad in connivance with Ghulam Rasool Joo, the Cashier, Ghulam Mohammad Mattoo, Clerk of BMO Office, Beerwa, Abdul Ahad Ahangar and Mushtaq Ahmad shah, the then Treasury Officers, Abdul Gani Sofi and Abdul Ahad Tantray of the said Treasury, are stated to have misappropriated an amount of Rs.37.49. The details thereof were given as under:-

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- a) Fraudulent drawal of excess amount through monthly salary bills by manipulating totals;
 - b) Fraudulent drawal of amounts twice on same accounts
 - c) Payment of DA arrears not admissible to Daily Wagers,
 - d) Inadmissible allowances drawn in favour of Sweepers engaged on consolidated basis;
 - e) Fraudulent drawal of salary of leave substitute for staff working in the said office;
 - f) Special increments retrospectively for promoting small family norms;
 - g) Fraudulent drawal of LTC in favour of officials and
 - h) Irregular drawal of huge amounts for payment to All India Institute of Medical Sciences New Delhi.

3) Upon investigation, the aforesaid allegations were found substantiated and, accordingly, the FIR was registered and investigation of the case was set into motion. After investigation of the case, the charge sheet came to be filed



against Dr. Sheikh Abdul Samad, Dr. Fayaz Ahmad, Dr. Nazir Ahmad Jan, Dr. Mohammad Ismail Ganie, Ghulam Rasool Joo, Ghulam Mohammad Matoo and Ghulam Rasool Baba (the petitioner herein). It was found that offences under Section 5(1)(c)(d), 5(2) of the J&K PC Act read with Sections 120-B, 467, 468 and 409 RPC are, prima facie, established against the aforementioned accused persons.

4) Since the present petition has been filed by petitioner/accused Ghulam Rasool Baba, so we are concerned only with the allegations which were found established against him during investigation of the case.

5) As per the charge sheet, the petitioner had facilitated illegal/fraudulent drawals of Leave Travel concession amounting to ₹.6,99,880/- from State Treasury, Beerwa, by abuse of his official position in his capacity as Accounts Officer of Director, Health Services, Kashmir, by manipulation of records in favour of officials of BMO Office, Beerwa, including accused public servants Ghulam Rasool Joo, Cashier, and Ghulam Mohammad Matoo, Senior Assistant. It was also found that the petitioner had accorded sanction without competence in favour of Dr. Nazir Ahmad Jan and Dr. Abdul Qayoom Khan, to facilitate adjustment of claims amounting to ₹30,800/- and ₹30,750/- respectively,



in gross violation of the rules. It was found that the afore-named two doctors had neither applied nor availed any earned leave during the period they were shown to have availed LTC.

6) It is further alleged that an amount of Rs.2,40,490/ was drawn and disbursed among the beneficiaries fraudulently which was directed to be recovered from these beneficiaries. It was also found that the petitioner granted sanction without any authority in favour of Dr. Abdul Qayoom Khan for adjustment of Rs.30,750/ and the said amount has been drawn by Dr. Mohammad Ismail vide bill No.31-Med dated 04.02.1999 when no earned leave was got sanctioned or availed by Dr. Abdul Qayoom Khan.

7) It appears that the learned trial court has, vide order dated 31.07.2017, framed charges against the accused persons under Section 5(1)(c), (d), 5(2) of PC Act read with Sections 120-B, 467, 468, 409 RPC. It has been recorded in the said order that, prima facie, the petitioner herein has facilitated illegal/fraudulent drawals of LTC amounting to Rs.6,99,880/ in his capacity as Accounts Officer of Director Health Services, Kashmir, by manipulation of records and also without any competence.

8) The petitioner has challenged the proceedings pending before the learned trial court on several grounds. According



to the petitioner, he had no role in the drawal of advance amounts, preparation and passing of adjustment bills as all these procedures were to be completed at the block level by the concerned DDO. It has been contended that the name of the petitioner has been unnecessarily included in the array of the accused by making vague allegations. It has been contended that the challan against the petitioner has been produced without obtaining sanction of the competent authority and that the trial court has proceeded in the matter without following due process of law.

9) According to the petitioner, no sanction orders were issued by him at any stage and that he had only signed the sanction letters on behalf of the Director after seeking his approval. It has also been contended that trial of the case has remained suspended until 15.04.2022 as a reference was made by the trial court to the High Court which was decided only on the aforesaid date. Thus, the petitioner has been made to suffer the trial for the last so many years. The petitioner has further contended that his application for discharge was not decided by the trial court at the time of framing of charges but the same was decided later on in terms of order dated 02.03.2022 passed by the learned trial court.



10) I have heard learned counsel for the parties and perused the material on record including the record of the trial court.

11) The main plank of argument of learned counsel for the petitioner is that the petitioner was posted as Accounts Officer in the office of Director, Health Services, Kashmir, whereas the fraudulent LTC claims were drawn by the beneficiaries at Block level. It has been contended that the petitioner had no role in drawal of these alleged fraudulent LTC claims that he has been unnecessarily implicated in the case.

12) If we have a look at the chargesheet, the allegations against the petitioner are twofold, (i) that he had facilitated illegal and fraudulent drawal of LTC amounting to Rs.6,99,880/ from State Treasury, Beerwa, by manipulation of records in favour of officials of BMO Office, Beerwa, and (ii) that without competence, he had accorded sanction in favour of Dr. Nazir Ahmad Jan and Dr. Abdul Qayoom Khan to facilitate adjustment of LTC claims in violation of the rules.

13) The aforesaid allegations made in the charge sheet are clearly supported by the material collected by the Investigation Agency during investigation of the case. If we



have a look at the statement of Dr. Muzaffar Ahmad, the then Director, Health Services, Kashmir, recorded during investigation of the case, it is revealed that he has categorically stated that as per record, the accounts officer, the petitioner herein, had, in the year 1998, accorded sanction for availing LTC in favour of 18 employees without his approval, regarding which the petitioner had no competence. He has further stated that amongst these 18 employees, in respect of two doctors, even he (the Director) was not competent to grant the sanction and the same could have been granted only by the Government, yet the petitioner granted such sanction without any competence. The Director has further stated that the petitioner has made insertions in respect of approvals relating to six more employees of Beerwa Block, thereby granting sanction for LTC in their favour. He has gone on to state that the petitioner, by misusing his official position, had even granted approval for LTC in favour of one more employee, namely, Mushtaq Ahmad Sheikh, who was working on consolidated wages and was not entitled to LTC.

14) In the face of aforesaid statement of the then Director, Health Services, there can be no doubt in holding that the Investigating Agency has collected sufficient material to, prima facie, show that the petitioner is involved in the



alleged offences. It is for this reason that the learned trial court has, after making an elaborate discussion of the material on record and the allegations made against the petitioner in the chargesheet, framed charges against him in terms of order dated 31.07.2017.

15) It is true that the petitioner had filed an application seeking his discharge and there is no mention of the said application in order dated 31.07.2017 but once counsel for the petitioner was heard by the learned trial court before framing of charges and his contentions were dealt with and rejected by the said court, the application of the petitioner seeking his discharge is deemed to have been dismissed vide order dated 31.07.2017. There was, thus, no need for the trial court to pass a fresh order on 02.03.2022 declining the application of the petitioner.

16) Another contention that has been raised by the petitioner is that without sanction for prosecution, the learned trial court could not have proceeded against him. It is not in dispute that the charge-sheet against the petitioner was filed after he had superannuated from service. The Supreme Court has, in the case of **Station House Officer, CBI/ACB v. B. A. Srinivasan & Another** (2020) 2 SCC 153, held that protection under Section 19 of the PC Act, which



is an *pari-materia* with Section 6 of the J&K PC Act, is available to a public servant only till he is in employment and no sanction thereunder is necessary after the public servant has demitted office or has retired from service. Therefore, the contention of the petitioner that he could not have been prosecuted without sanction from the competent authority is without any substance.

17) The next contention that has been raised by learned counsel for the petitioner is regarding delay in progress of trial, which, according to him, has resulted in violation of right to speedy trial of the petitioner. In this regard, a perusal of the trial court record would reveal that one of the accused persons, namely, Ghulam Rasool Joo, was stated to be suffering from Vascular Dementia and, as such, was not fit to stand the trial. The learned trial court, it seems, made a reference to this court vide order dated 04.04.2022 which was declined by this Court vide order dated 15.04.2022 and the trial court was directed to proceed in the matter in accordance with the provisions contained in Section 341 of J&K Cr. P. C or in accordance with the provisions contained Chapter XXXIV of the J&K Cr. P. C. It seems that thereafter the trial of the case has proceeded further but due to non-appearance of some of the accused persons, the trial of the case has not progressed substantially. It also appears that



two of the accused, namely, Dr. Sheikh Ab. Samad and Ghulam Rasool Joo, have died during pendency of the challan.

18) A perusal of the minutes of the proceedings of the trial court reveals that the delay in the progress of the trial is not attributable to the court or to the prosecution. The delay has occurred for the reasons beyond the control of the learned trial court and beyond the control of the prosecution. Thus, it cannot be stated that the right to speedy trial of the petitioner has been impeded by any of the actions of the trial court or the prosecution.

19) For the foregoing reasons, the petition is found to be devoid of merit and is dismissed accordingly.

20) The record of the trial court along with a copy of this judgment be sent back.

(Sanjay Dhar)
Judge

SRINAGAR

19.12.2025

“Bhat Altaf-Szeg”

Whether the **Judgement** is speaking:

YES

Whether the **Judgement** is reportable:

YES/NO