

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

Reserved on: 28.07.2022
Pronounced on: 04 .08.2022

CRMC No.167/2018
c/w
CRMC No.168/2018
CRMC No.169/2018

ANIS AHMAD CHOUDHARY ... PETITIONER(S)

Through: - Mr. Salih Pirzada, Advocate.

Vs.

STATE OF J&K & ORS. ...RESPONDENT(S)

Through: - Ms. Asifa Padroo, AAG.

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

JUDGMENT

1) By this common judgment, above titled three petitions filed under Section 561-A of the J&K Cr. P. C, which is in pari materia with Section 482 of the Central Cr. P. C, are proposed to be disposed of.

2) Vide CRMC No.167/2018, the petitioner has challenged FIR No.09/2018. Vide CRMC No.168/2018, the petitioner has challenged FIR No.10/2018 and vide CRMC No.169/2018, the petitioner has challenged FIR No.07/2018. All these FIRs have been registered for offences under Section 5(2) of J&K Prevention of Corruption Act (hereinafter referred to as the J&K PC Act) and

Section 120-B RPC at Police Station Vigilance Organization, Kashmir (now ACB).

3) As per all the three impugned FIRs, in a joint surprise check conducted by Vigilance Organization, Kashmir, it was found that Municipal Committee, Ganderbal, is engaged in malpractices, inasmuch as it is allowing construction of huge structures on roads against hefty payments. It was revealed during joint surprise check, that huge multi-storeyed buildings/column structures have illegally been erected adjacent to the new hospital road, Check Duderhama Ganderbal opposite newly constructed hospital building. In FIR No.09/2018, it is alleged that a double storeyed building located on right side of Duderhama Ganderbal opposite new hospital building has come up which belongs to one Mst. Mehbooba. It was found that the Executive Officer, Ganderbal, has issued the building permission in favour of the aforesaid owner for construction of double storeyed residential house but the drawings have been approved for double storey shop line with plinth area of 1228.05 sqfts. It was also found that against the permission for constructing residential house, the owner has constructed RCC column erected on RCC foundation with RCC slab laid upto 2nd storey, which is still under construction. The plinth area of the said column structure was measured as 5765.21 sqfts instead of approved 1228.05 sqfts., thereby resulting in violation to the extent of 4537.16 sqfts. It was further found that

the setbacks have neither been maintained properly as per the approved drawing nor any NOC has been obtained from Town Planning Organization. It was also found that the building permission has been issued by the petitioner herein by abusing his official position in league and under a well-knit conspiracy with the beneficiary owner and the then Field Khilafwarzi Assistants, namely, Mushtaq Ahmad Dar and Siraj-ud-din Mir. It is also alleged that the building permission has been issued in violation of BOCA norms and rules thereby allowing the beneficiary to construct a commercial complex type structure in violation of the approved setbacks of building permission.

4) As per FIR No.07/2018, a huge four storeyed shopping complex located on right side of Duderhama-Check Fatehpur Road opposite new hospital building belonging to one Dr. Manzoor Ahmad Tantray has been allowed to come up which has been erected illegally. It was revealed that initially the said beneficiary had applied to Municipal Committee, Ganderbal, for construction of four storeyed commercial complex on his land falling under Survey No.852 but the Town Planning Organization refused to give NOC on the ground that the site of the proposed construction falls in residential use in Zone R-2 of the Draft Master Plan of Ganderbal, 2032. It is alleged that the beneficiary, under the garb of construction of residential building, applied afresh to the Municipal Committee, Ganderbal, for construction of

three storeyed residential building and the Executive Officer, Ganderbal, issued the building permission in favour of the said beneficiary for construction of three storeyed residential house. Subsequently, second building permission has been issued in favour of the beneficiary for the construction of double storeyed shopping complex on the same piece of land on the basis of NOCs given by Tehsildar and Town Planning Organization, both of which were found to be fake and fictitious. It was also found that the petitioner issued one more building permission in favour of the aforesaid beneficiary regarding the same building allowing the construction of second and third floor and allowing the conversion of residential building into commercial building in an illegal manner thereby abusing his authority.

5) As per FIR No.10/2018, one double storey building in column structure located on right side of Duderhama-Check Fatehpur Road opposite new hospital building belonging to Bashir Ahmad Tantray and Manzoor Ahmad Tantray has come up. It was revealed that the owners had initially applied to Municipal Committee, Ganderbal, for construction of a commercial complex on a piece of land falling under Survey No.857-min but the Town Planner, Ganderbal/Srinagar rejected the proposal on the ground that the site of proposed construction falls in residential zone (R-2) as per Master Plan of Ganderbal, 2032. It was also found that the Executive Officer, Municipal Committee, Ganderbal, without

changing any NOC, reprocessed the building permission case and issued building permission in favour of the beneficiaries for construction of a double storey residential house. It was found that the said building, which is under construction, has come up in frame structure with RCC pillars with slab upto second floor and reinforcement has been erected for third floor as well. It was observed that there is violation of building permission and the present structure has been raised as a commercial structure. It was revealed that the aforementioned building permission has been issued by the petitioner by abusing his official position in league and under a well-knit conspiracy with beneficiary owners and Field Khilafwarzi Assistants, namely, Mushtaq Ahmad Dar and Siraj-ud-din Mir in violation of BOC norms and rules.

6) The petitioner, who happened to be the Executive Officer of Municipal Committee, Ganderbal, at the relevant time, has challenged the impugned FIRs on several grounds but the main grounds that have been urged by learned counsel for the petitioner during the course of arguments are as under:

- (1) *That the respondent investigating agency has not adhered to the mandatory provisions of Section 3 of the J&K PC Act, inasmuch as the investigation in all the three impugned FIRs has been handed over to and conducted by a non-designate police officer who was not authorized to conducted investigation of these case;*

(II) *That the allegations made in the impugned FIRs and the material collected by the investigating agency during investigation of the case do not make out an offence under Section 5(2) of the J&K PC Act against the petitioner, inasmuch as there is no allegation that the petitioner has either obtained any pecuniary benefit for himself or that he has bestowed any such benefit upon a third person. It is contended that if at all there has been any lapse on the part of the petitioner in granting of building permissions in favour of the beneficiaries, the same is a mere irregularity and would not amount to a criminal offence.*

7) The respondents have filed their responses in all the three petitions and have also filed status report(s) with regard to the investigation of the case. In their response(s), the respondents have reiterated the allegations made in the impugned FIRs and have submitted that after investigation of the cases, the allegations made against the petitioner stand established. It has been submitted that the investigation in all the three cases is complete and the challans are proposed to be filed against the petitioner.

8) Heard learned counsel for the parties and perused the material on record including the Case Diaries.

9) The first and foremost ground that has been vehemently urged by learned counsel for the petitioner is that in the instant case, the investigating agency has not adhered to the mandatory

provisions of Section 3 of the J&K PC Act. Learned counsel has submitted that the Supreme Court has, in the case of **R. S. Nayak v. A. R. Antulay**, (1984) 2 SCC 183, in clear terms, laid down that the provisions contained in Section 5-A of the PC Act of 1947, which is in *pari materia* with the provisions contained in Section 3 of the J&K PC Act, are mandatory in nature aimed at safeguarding the public servants from being harassed during the investigation of a case by lower rung police officers/officials. According to the learned counsel, in the instant case, the investigation has been conducted by Inspector of Vigilance Organization who is a non-designate officer and, as such, the whole investigation of the cases is vitiated.

10) In order to determine the merits of the contention raised by learned counsel for the petitioner, it would be apt to refer to the provisions contained in Section 3 of the J&K PC Act. It reads as under:

3. Offences to be cognizable and non-bailable.— Notwithstanding anything to the contrary in the Code of Criminal Procedure all offences punishable under this Act shall be cognizable and non-bailable:

Provided that no Police Officer below the rank of the Deputy Superintendent of Police shall investigate any such offence without the order of a Magistrate of the First Class or make any arrest therefor without a warrant:

Provided further that if an officer of the Vigilance Organization of and above the rank of a Sub-Inspector of Police is specially authorized in writing by an officer of the Vigilance Organization not below the rank of an Assistant Superintendent of Police to investigate such offence, such officer may investigate the offence so specified in the order of

authorization. But such officer shall not be competent to arrest any person during such investigation unless a Police Officer not below the rank of a Deputy Superintendent of Police authorizes such arrest under section 56 of the Code of Criminal Procedure, Samvat 1989.

11) From a perusal of the first proviso to the aforesaid provision, it is clear that the officers of the rank of Deputy Superintendent of Police and above have been designated to investigate the offences under the J&K PC Act and in case the police officer is below the rank of Deputy Superintendent of Police, the investigation can be conducted only with the order of a Magistrate of the 1st Class. The second proviso to the aforesaid provision provides that if an officer of the Vigilance Organization of and above the rank of a Sub Inspector of Police is specially authorized in writing by an officer of Vigilance Organization not below the rank of an Assistant Superintendent of Police to investigate such offence, then such officer may investigate the offence so specified in the order of authorization. It further provides that such officer shall not be competent to arrest any person during such investigation unless a police officer not below the rank of a Deputy Superintendent of Police authorizes such arrest.

12) It has been contended by learned counsel for the petitioner that the entrustment order passed under Section 3 of the J&K PC Act authorizing a non-designate police officer to investigate an offence under Section 5 of the said Act has to be well-reasoned

and it should exhibit application of mind on the part of the issuing authority. In this regard, the learned counsel has relied upon the observations of the Supreme Court in para (128) of the judgment in ***State of Haryana and others v. Bhajan Lal and others, 1992 Supp (1) SCC 335***, wherein it has been laid down that the Superintendent of Police or any police officer of above rank, while granting permission to a non-designate police officer in exercise of his powers under second proviso to Section 5A(1) of the PC Act, 1947, should satisfy himself that there are sufficient and good reasons to entrust investigation to a lower rank police officer and record his reasons for doing so. According to the learned counsel, in the instant case, the Superintendent of Police, Vigilance Organization has not recorded any reasons for entrusting the investigation of this case to a non-designate police officer and, as such, the provisions contained in Section 3 of the J&K PC Act, being mandatory in nature in view of the law laid down by the Supreme Court in ***A. R. Antulay's*** case (supra) as reiterated in ***Bhajan Lal's*** case (supra), the whole investigation is vitiated.

13) A perusal of the Case Dairies shows that in the instant case, three separate entrustment orders in the three FIRs, which are subject matter of these petitions, have been issued by Superintendent of Police, Vigilance Organization, Kashmir, whereby in FIR No.07/2018, investigation has been entrusted to

Inspector Shri Reyaz Ahmad, investigation in FIR No.09/2018 has been entrusted to Inspector Sheikh Manzoor Qadir and investigation in FIR No.10/2018 has been entrusted to Inspector Farooq Ahmad Khanday. All the three entrustment orders bear similar language and, as such, in order to determine the merits of the contention of learned counsel for the petitioner, it would be apt to quote herein-below one of these orders:

*Office of the Senior Superintended of Police Vigilance
Organization Kashmir Srinagar*

ENTRUSTMENT ORDER

Investigation of case FIR No.09/2018 under section 5(2) P. C Act. Svt. 2006 and section 120-B RPC of Police Station Vigilance Organization, Kashmir, Srinagar, is hereby entrusted to Sh. Inspector Sheikh Manzoor Qadir No.4525/NGO BKBG Branch of P/S VOK. He is authorized under section 3 P.C Act Svt. 2006 r/w section 56 Cr.PC to arrest the accused person (s) whenever and wherever necessary. He will conduct the investigation of the case under the supervision of Superintendent of Police BKBG VOK Srinagar.

*Sd/
(Ab. Qayoom)-JKPS
Superintendent of Police,
Vigilance Organization,
Kashmir Srinagar.*

14) A perusal of the afore-quoted entrustment order clearly shows application of mind on the part of the Superintendent of Police, Vigilance Organization, Kashmir. He has clearly indicated in the entrustment order the nature of the offence which has to be investigated, the nature of the power which he is exercising as also the fact that the investigation has to be conducted under the supervision of the Superintendent of Police concerned. The entrustment order is not an omnibus order nor does it exhibit lack

of application of mind on the part of the issuing authority. In **Bhajan Lal's** case (supra), the Supreme Court was faced with a situation where Superintendent of Police had simply directed the SHO to investigate the case by endorsing the words "investigate" without mentioning as to which case is to be investigated and under which authority he is exercising such power. The same cannot be said about the orders issued by the Superintendent of Police, Vigilance Organization, Kashmir, in the instant case(s).

15) An order of entrustment of the nature which is subject matter of the instant case(s) was considered by the Supreme Court in the case of **State of J&K vs. Dr. Saleem Ur Rehman, 2021 SCC Online SC 1014**, in the context of the provisions contained in Section 3 of the J&K PC Act. The Supreme Court after considering its observations made in para (128) of the judgment in **Bhajan Lal's** case, upheld the validity of the entrustment order issued by the Superintendent of Police in the said case. While doing so, the Supreme Court relied upon the following observations in the case of **State of M.P and others vs. Ram Singh, (2000) 5 SCC 88**:

xxx xxx xxx xxx xxx xxx
xxx xxx xxx xxx xxx xxx

In Bhajan Lal case this Court had found on facts that the SP had passed the order mechanically and in a very casual manner regardless of the settled principles of law. The provisions of Section 17 of the Act had not been complied with. As earlier noticed the SP while authorising the SHO to investigate had made only an endorsement to the effect "Please register the case and investigate". The SP was shown to be not aware either of the allegations

or the nature of the offences and the pressure of the workload requiring investigation by an Inspector. There is no denial of the fact that in cases against the respondents in these appeals, even in the absence of the authority of the SP the investigating officer was in law authorised to investigate the offence falling under Section 13 of the Act with the exception of one as is described under sub-section (1)(e) of the Act. After registration of the FIR the Superintendent of Police in the instant appeals is shown to be aware and conscious of the allegations made against the respondents, the FIR registered against them and pending investigations. The order passed by the SP in the case of Ram Singh on 12-12-1994 with respect to a crime registered in 1992 was to the effect:

“In exercise of powers conferred by the provisions on me, under Section 17 of the Prevention of Corruption Act, 1988, I, P.K. Runwal, Superintendent of Police, Special Police Establishment, Division I, Lokayukta Karyalaya, Gwalior Division, Gwalior (M.P.), authorised Shri D.S. Rana, Inspector (SPE), Lak-Gwl (M.P.) to investigate Crime No. 103 of 1992 under Sections 13(1)(e), 23(2) of the Prevention of Corruption Act, 1988 against Shri Ram Singh, DO, Excise, Batul (M.P.).”

Similar orders have been passed in the other two cases as well. The reasons for entrustment of investigation to the Inspector can be discerned from the order itself. The appellant State is, therefore, justified in submitting that the facts of Bhajan Lal case [1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] were distinguishable as in the instant case the Superintendent of Police appears to have applied his mind and passed the order authorising the investigation by an Inspector under the peculiar circumstances of the case. The reasons for entrustment of investigation were obvious. The High Court should not have liberally construed the provisions of the Act in favour of the accused resulting in closure of the trial of the serious charges made against the respondents in relation to commission of offences punishable under an Act legislated to curb the illegal and corrupt practices of the public officers. It is brought to our notice that under similar circumstances the High Court had quashed the investigation and consequent proceedings in a case registered against Shri Ram Babu Gupta against which Criminal Appeal No. 1754 of 1986 was filed in this Court which was allowed on 27-9-1986 by setting aside the order of the High Court with a direction to the trial court to proceed with the case in

accordance with law and in the light of the observations made therein.

15. We are not satisfied with the finding of the High Court that merely because the order of the Superintendent of Police was in typed pro forma, that showed the non-application of mind or could be held to have been passed in a mechanical and casual manner. As noticed earlier the order clearly indicates the name of the accused, the number of the FIR, the nature of the offence and power of the Superintendent of Police permitting him to authorise a junior officer to investigate. The time between the registration of the FIR and authorisation in terms of the second proviso to Section 17 shows further the application of mind and the circumstances which weighed with the Superintendent of Police to direct authorisation to order the investigation.

16) Having noticed the aforesaid observations in **Ram Singh's** case, the Supreme Court went on to observe as under:

50. Even otherwise, it is required to be noted that on a plain reading of the second proviso to Section 3, only two requirements are required to be satisfied, namely, (i) authorisation in writing by an officer of the Vigilance Organisation not below the rank of Assistant Superintendent of Police to an officer of not below the rank of Sub-Inspector of Police to investigate such offences; and (ii) such officer authorised may investigate the offences so specified in the order of authorisation. Therefore, as such, there is no requirement of giving either special reasons or there is no requirement to mention reasons. What is required to be considered is whether there is an application of mind with respect to offences and the relevant provisions with respect to authorisation. Considering the authorisation reproduced hereinabove, it cannot be said that such authorisation authorising Inspector Nisar Hussain to investigate the FIR for the offences under Sections 5(1)(d) r/w 5(2) of the J&K PC Act, 2006 and 120B of the RPC can be said to be vitiated and/or can be said to be void which warrants quashing of the entire criminal proceedings including the FIR. Therefore, as such, the High Court has committed a grave error in quashing the entire criminal proceedings holding that authorisation in favour of Inspector Nisar Hussain was bad in law, relying upon the observations made by this Court in the case of Bhajan Lal (supra), which has been subsequently explained by this court in the case of Ram Singh (supra). We are of the opinion that in the facts and circumstances of the case and considering the authorisation read with the second

proviso to Section 3, authorisation cannot be said to be illegal and/or invalid.

17) From the afore-quoted ratio laid down by the Supreme Court, it is clear that merely because elaborate reasons have not been given in the entrustment orders passed by the Superintendent of Police, Vigilance Organization in the subject cases, it cannot be stated that the provisions of second proviso to Section 3 of the J&K PC Act have not been complied with. The orders of entrustment, as already noted, clearly indicate application of mind on the part of the issuing authority, inasmuch it has been alive as to the nature of the cases to be investigated and the nature of authority under which the orders are being issued.

18) It has been contended by learned counsel for the petitioner that in **Saleem Ur Rehman's** case (supra), the Supreme Court has proceeded on the assumption that the provisions contained in Section 5-A of the PC Act, 1947, and Section 3 of the J&K PC Act are materially different whereas the fact of the matter is that the same are in *pari materia* with each other.

19) In order to test the merits of the aforesaid contention of the petitioner, it would be apt to notice the provisions contained Section 5-A of the PC Act, 1947:

5A. Investigation into cases under this Act.— (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, no police officer below the rank :—

(a) in the case of the Delhi Special Police Establishment, of an Inspector of Police;

- (b) *in the presidency-towns of Calcutta and Madras, of as Assistant Commissioner of Police;*
- (c) *in the presidency-town of Bombay, of a Superintendent of Police; and (d) elsewhere, of a Deputy Superintendent of Police, shall investigate any offence punishable under Section 161, Section 165, or Section 165A. of the Indian Penal Code or under Section 5 of this Act, without the order of a Presidency Magistrate or a Magistrate of the first class, as the case may be, or make any arrest therefor without a warrant :*

Provided that if a police officer not below the rank of an Inspector of Police is authorised by the State Government in this behalf by general or special order, he may also investigate any such offence without the order of a Presidency Magistrate or a Magistrate of the first class, as the case may be, or make arrest therefor without a warrant :

Provided further that an offence referred to in clause (e) of sub -section (1) of Section 5 shall not be investigated without the order of a police officer not below the rank of a Superintendent of Police. (2) If, from information received or otherwise, a police officer has reason to suspect the commission of an offence which he is empowered to investigate under sub-section (1) and considers that for the purpose of investigation or inquiry into such offence it is necessary to inspect any bankers' books, then, notwithstanding anything contained in any law for the time being in force, he may inspect any bankers, books in so far as they relate to the accounts of the person suspected to have committed that offence or of any other person suspected to be holding money on behalf of such person, and take or cause to be taken certified copies of the relevant entries there from, and the bank concerned shall be -bound to assist the police officer in the exercise of his powers under this sub-section :

Provided that no power under this sub -section in relation to the accounts of any person shall be exercised by a police below the rank of a Superintendent of Police, unless he is specially authorised in this behalf by a police officer of or above the rank of a Superintendent of Police.

Explanation.- In this sub-section, the expressions "bank" and "bankers" "books" shall have the meanings assigned to them in the Bankers' Books Evidence Act, 1891.

20) A comparison of the afore-quoted provision with the provisions contained in Section 3 of the J&K PC Act, which have been quoted hereinbefore, clearly shows that there is a marked difference between the two provisions. While the second proviso to Section 5-A(1) provides that an offence referred to in clause (e) of sub-section (1) of Section 5 cannot be investigated without the order of a police officer not below the rank of Superintendent of Police whereas second proviso to Section 3 of the J&K PC Act provides that an officer of the rank of Assistant Superintendent of Police and above can authorize in writing an officer of the Vigilance Organization of an above the rank of a Sub-Inspector to investigate the offence under the provisions of the said Act. Therefore, there is a marked distinction between the two provisions and this distinction has rightly been noticed by the Supreme Court in **Dr. Saleem Ur Rehman's** case in arriving at the conclusion that there is no requirement of giving either special reasons or mentioning reasons in the entrustment order. Therefore, there is no merit in the submission of the learned counsel for the petitioners.

21) Even otherwise, a perusal of the Case Diary reveals that vide entrustment order No.SSP-ACB-BKBG/Ent-order/2019/1597-1600 dated 16.08.2019, the investigation in all the three

subject cases have been entrusted to the officers of the rank of Deputy Superintendent of Police, who, admittedly, are the designated officers authorized to investigate these cases. Thus, the contention of the petitioner does not survive anymore.

22) Next it has been contended by learned counsel for the petitioners that the allegations made in the impugned FIR and the material collected by the investigating agency do not disclose commission of an offence under Section 5(2) of the J&K PC Act against the petitioner.

23) Section 5(2) of the J&K PC Act makes the offence of criminal misconduct punishable with imprisonment and the offence of criminal misconduct has been defined under Section 5(1) of the said Act. Clause (d) of Section 5(1) of the J&K PC Act provides that it would amount to criminal misconduct if a public servant, by corrupt or illegal means or by otherwise abusing his position as public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage

24) In impugned FIR No.7/2018, it has been alleged that the beneficiary, Dr. Manzoor Ahmad Tantray, had applied for construction of a four storeyed commercial complex. The NOC in respect of the same was declined by the Town Planning Organization as the site of construction was falling in the residential area. The petitioner issued second building permission in favour of the aforementioned beneficiary for construction of

double storey complex on the same piece of land on the basis of fake and fictitious NOCs from Tehsildar and Town Planning Organization. It is further alleged that the petitioner issued one more building permission in favour of the beneficiary by allowing illegal construction of second and third floor thereby converting a residential building into commercial building regarding which the Town Planning Organization had already conveyed its reservations. These allegations stand substantiated from the material collected by the investigating agency during the investigation of the case. Thus, the fact that the petitioner has been found to have processed and sanctioned the case of the beneficiary for construction of commercial complex on the basis of fake and fictitious documents clearly indicates that the petitioner was in league with the said beneficiary for bestowing undue benefit upon him.

25) So far as FIR No.09/2018 is concerned, it has been alleged that though the petitioner granted permission to the beneficiary Mst. Mehbooba for construction of double storey residential house yet the drawings annexed to the application for permission provided for construction of double storey shopping line. Accordingly, on the basis of the permission granted by the petitioner, the beneficiary under the garb of constructing residential house has erected a commercial complex resulting in violation of 4537.16 sqfts. These allegations stand established

from the material collected by the investigating agency during the investigation of the case. The fact that the petitioner granted sanction for erection of the building though terming it as residential building, has done so on the basis of the drawings which were relating to a commercial complex, clearly exhibits abuse of official position by the petitioner in order to bestow undue benefit upon the beneficiaries.

26) In FIR No.10/2018, it has been alleged that the beneficiaries, namely, Bashir Ahmad Tantray and Manzoor Ahmad Tantray, initially applied for construction of commercial complex on a site meant for residential area as per the Master Plan. When it was objected to by the Town Planner, the petitioner re-processed the building permission case and granted permission for double storeyed residential house but on spot a commercial complex was constructed by the beneficiaries. The investigation revealed that when the Town Planner declined to grant NOC, the petitioner impressed upon the Town Planner to re-consider the decision but did not succeed. Thereafter the petitioner asked the beneficiaries to give an undertaking whereafter nomenclature of the building was changed from commercial to residential without changing the drawings. Thus, under the garb of residential permission, the petitioner, in connivance with other officials of the Municipal Committee, allowed the beneficiaries to erect a commercial complex. This cannot be a case of violation of the

norms but it is a clear cut case of connivance of the petitioner with the beneficiaries in order to confer undue benefit upon them.

27) From the foregoing analysis of the allegations made in the impugned FIRs, which are substantiated by the material collected by the investigating agency during the investigation of the case, it is clear that there is sufficient material on record to prima facie opine that the offences under Section 5(2) of the J&K PC Act read with Section 120-B RPC are made out against the petitioner in all the three impugned FIRs. The argument of the learned counsel for the petitioner that no offence is disclosed against the petitioner is, therefore, without any merit.

28) For the foregoing reasons, I do not find any merit in these petitions. The same are, accordingly, dismissed.

29) The Case Diaries be returned to the learned counsel for the respondents.

(SANJAY DHAR)
JUDGE

Srinagar,
04.08.2022
"Bhat Altaf, PS"

<i>Whether the order is speaking:</i>	<i>Yes/No</i>
<i>Whether the order is reportable:</i>	<i>Yes/No</i>