

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH

AT SRINAGAR

CRM(M) No. 287/2026

CrlM No. 671/2026

Union Territory through Police Station ...Appellant/Petitioner(s)
Bandipora

Through: Mr. Jahingeer Ahmad Dar, GA

Vs.

Mohammad Subhan Sheikh ...Respondent(s)

Through:

CORAM:

HON'BLE MR JUSTICE SANJAY PARIHAR, JUDGE

ORDER
08.05.2026

- 1.** Learned counsel for the petitioner submits that the petitioner is aggrieved of the order dated 22.10.2025, whereby the trial court dismissed the application filed by the prosecution under Section 540 CrPC. It is submitted that at the stage of recording of statement under Section 342 CrPC, the prosecution, on 04.06.2024, had moved an application seeking permission of the Court to examine the remaining witnesses.
- 2.** It is further submitted that the trial court declined the said prayer, whereas permission was sought only to examine PW-7 and PW-8, where PW-7 was the Executive Magistrate 1st Class and PW-8 was the FSL Expert, both being material witnesses. Learned counsel for the petitioner submits that no prejudice would be caused to the accused in case one opportunity is granted to examine the aforesaid two witnesses.
- 3.** Having regard to the nature of the prayer made and also taking into consideration that no prejudice would be caused to the respondent, no useful purpose would be served by issuing notice in the present petition to the respondent. The case against the respondent arises out of FIR No. 59/2012 under Sections 435 and 454 RPC and, having regard to the age

of the FIR, it was incumbent upon the prosecution to have examined all the witnesses at the appropriate stage.

4. However, since the two witnesses sought to be examined are material witnesses and upon whose testimony the prosecution heavily relies, no prejudice would be caused to the respondent in case the order of the trial court is modified by permitting the petitioner-UT of J&K, to examine the said two witnesses by affording one opportunity.

5. In the aforesaid background, the impugned order is modified by directing the trial court to provide one opportunity to the prosecution to examine PW-7 and PW-8 on any date fixed by the trial court, and on that day the petitioner shall ensure the presence of both the witnesses so as to enable the trial court to examine them in accordance with law. In case the said opportunity is not availed, the trial court shall proceed ahead with the trial in accordance with law.

6. **Disposed of.**

(SANJAY PARIHAR)
JUDGE

SRINAGAR
08.05.2026
Shabroz