

**HIGH COURT OF JAMMU AND KASHMIR & LADAKH
AT JAMMU**

CRM(M) No. 1123/2022

Reserved on: 03.03.2025

Pronounced on: 30.04.2025

Suchet Singh and Ors.

...Petitioners

Through :- Mr. J. P. Gandhi, Advocate

v.

UT of J&K and Ors.

...Respondents

Through :- Mr. P. D. Singh, Dy. AG

CORAM: HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE

JUDGMENT

1. Petitioners have invoked inherent jurisdiction of this Court, under Section 482 of the Code of Criminal Procedure, 1989 [Cr.P.C., for short] for quashment of an order dated 08.08.2019 passed by learned 1st Additional Munsiff, Forest Magistrate, Jammu [“the trial court”] in terms of Section 156(3) Cr.P.C., on a complaint preferred by respondent No.3 and consequent FIR No. 39 dated 08.02.2020 lodged at Police Station, Gandhi Nagar, Jammu.

2. An overview of the background facts is that respondent No. 3 preferred a complaint in the Court of learned CJM, Jammu stating *inter alia* that after the demise of her husband on 09.02.2017, she was residing alone on the first floor of her house No. 195-AD, Gandhi Nagar, Jammu, raised by her deceased husband. It was alleged *inter alia* by the complainant that after the demise of her husband, her father-in-law- petitioner No. 1, in order to force her to vacate the portion of the house under her possession, brought the

other petitioners/accused persons from Trikuta Nagar and all of them started torturing her. As a result, the parties, who happened to be close relatives were embroiled in multiple litigations.

3. It was alleged that on 25.06.2019, while she was out of town, the petitioners broke open the door of her house, broke the costly items lying there and stole spare parts of her vehicle, from the balcony. She approached Police Station, Gandhi Nagar, Jammu, but no action was taken by the concerned.

4. It was further alleged by respondent no. 3-the complainant that on 14.07.2019 at around 8:30 p.m., when she returned home, after paying a visit to one her relatives, petitioners No. 5 and 6 started abusing her and when she objected, they became violent and started pushing and slapping her. At this, rest of the petitioners No. 1 to 4 also came to the spot. Petitioners No. 3 and 4 also started pushing and slapping her. Petitioner No. 1 caught hold her from her hair and dragged her. Petitioner No. 2 caught hold her from her arms and dress and pushed her out. Complainant went on to allege that petitioners struck her with a wooden stick on her head. She fell unconscious and was rescued by her driver, namely, Ajay. The petitioners, before leaving the place of occurrence, threatened to kill her. The complainant goes on to state that same day on 14.07.2019, she went to Police Station Gandhi Nagar, Jammu and narrated the whole episode. But no action was taken. She again went to the Police Station on the next day, i.e. 15.07.2019 to enquire about her complaint but she was told to come after a couple of days. However, Police got her MLC conducted. It is alleged by the complainant that she repeatedly went to the Police Station to enquire about the status of her complaint, but no FIR was registered till 19.07.2019. As a result, she approached,

Superintendent of Police (South) by way of an application dated 20.07.2019, who vide his reference No. 11705/RdrSPSJ dated 20.07.2019 directed SHO, Police Station, Gandhi Nagar to take appropriate action under law against the petitioners, which was supplied to the concerned SHO on the same day, but, according to the complainant, despite the lapse of ten days no action was taken against them. The aforesaid circumstances compelled the complainant to approach the Court, in terms of Section 156(3) Cr.P.C. and the trial court vide impugned order dated 08.08.2019, directed Police Station, Gandhi Nagar to take necessary action under law and on receipt of the aforesaid order, the impugned FIR came to be registered against the petitioners for offences under Sections 354, 341, 323 and 506 IPC.

5. Petitioners have questioned the impugned FIR primarily on the ground that it has been lodged by respondent No. 3 as a counterblast to the two FIRs registered against her by petitioner No. 1 and that civil disputes pending between the parties have been given a cloak of criminal offences. According to the petitioners, the allegations made in the impugned FIR, taken at their face value, do not disclose the commission of any offence against them.

6. Heard learned counsels for the parties and perused the record.

7. Mr. J. P. Gandhi, learned counsel appearing for the petitioners has relied upon **Mitesh Kumar J. Sha v. State of Karnataka and ors; AIR 2021 SC 5298** to reiterate the grounds urged in the memo of petition. On the other hand, learned Dy. AG appearing for the UT has vehemently argued that the allegations made by the complainant-respondent No. 3 in the impugned FIR *prima facie* disclose the commission of cognizable offences against the petitioners which are required to be investigated.

8. Section 482 Cr.P.C. recognizes and preserves the powers, which are inherent in the High Court, to prevent an abuse of the process of any court or to secure the ends of justice. It is a reminder to the High Court that it is a court of justice not merely in law but possess inherent powers to remove injustice. It is trite that while inherent power of the High Court envisaged under Section 482 Cr.P.C. has a wide ambit and plenitude, but it has to be exercised; (i) to give effect to an order under the Code; (ii) to secure the ends of justice; and (iii) to prevent the abuse of process of the court. In the circumstances, High Court is obliged to evaluate whether ends of justice would justify the exercise of the powers which inhere in it, before it embarks to form an opinion whether a criminal proceeding or a complaint or an FIR could be quashed or not.

9. In the present case, the allegations against the petitioners are that on 25.06.2019, they broke open the house of the private respondent, trespassed into it, broke the costly items lying there and stole away the spare parts of a vehicle from the balcony of her house. She approached the concerned Police Station, but of no avail. It is further alleged by the complainant that on 14.07.2019, at around 8:30 p.m., maid of petitioner No. 1 and her husband abused her and on her objecting, they became violent and started pushing and slapping her. On this, rest of the petitioners also joined. Petitioner No. 3 and 4 started pushing and slapping her. It is categoric allegation of the complainant that petitioner No. 1 caught hold her from her hair and dragged her. Petitioner No. 2 caught hold her from her arm and dress and pushed her out. Complaint also alleged that petitioners struck her with a wooden stick on her head, as a result, she fell unconscious. She was saved by her driver. She approached the concerned Police Station, and when no action was taken, she

approached SP (South) but no FIR was lodged despite express order of the concerned SP. As a result, she was constrained to approach the trial court, on whose intervention the impugned FIR came to be lodged.

10. It is pertinent to mention that it is also allegation of the complainant that after the demise of her husband, petitioners had been pressurizing her to vacate the portion of the house under her possession and stated to be constructed by her husband during his life time. This gave rise to multiple civil and criminal litigations between the complainant and her close relatives, the petitioners including the petitioner No. 1, who happens to be her father in law.

11. There is no quarrel to the settled position of law that criminal law cannot be used as an instrument of oppression in the hands of unscrupulous litigants to settle private vendetta. Nobody can be allowed to make an attempt to stretch the contours of civil disputes to impart it a criminal texture. However, it is equally trite that a complaint disclosing a civil transaction may also have a criminal texture. Given the conspectus of a case, a civil wrong may also have a criminal colour. It is the duty of this Court to ascertain whether a dispute substantially of civil nature is given a criminal texture or not and the real test is whether the allegations contained in the complaint/FIR, as the case may be, disclose the commission of a cognizable offence or not.

12. The petitioners have assailed the impugned FIR on the predominant premise that it is a Counterblast to the two FIRs registered by petitioner no. 1 against the complainant-respondent no. 3 as also the civil disputes inter-se the parties.

13. Let us understand as to what is a “**Counterblast Case**”.

14. In legal parlance, a Counterblast Case refers to a situation where criminal cases are lodged by the parties against each other which generally, trace their origin to the same occurrence. In essence, it is a situation of reciprocal accusations, meaning thereby is that one party files a case against another, which is followed by a counter case by the accused against the complainant. Such a situation arises when parties retaliate against each other with allegations and counter allegations or counter criminal proceedings to wreck vengeance or to feed fat the grudge. The party retaliate a criminal case against him to respond to a perceived wrong or injury to settle personal score rather than a genuine pursuit of justice. In the circumstances, the courts must examine the timing and context of the cases in order to determine if they were indeed filed as a Counterblast or there is any legitimate ground to proceed.

15. An FIR cannot be dismissed merely because it follows the filing of a civil or criminal proceeding. Each case has to be evaluated on its specific facts, the intent behind the FIR sought to be quashed and the surrounding circumstances. However, if an FIR is filed shortly after a civil or a criminal proceedings, it must be scrutinized for ulterior motives. We need to understand that the determination as to whether an FIR is a Counterblast or not, often involves a disputed question of fact which cannot be resolved by the High Court in exercise of its inherent jurisdiction, under Section 482 Cr.PC and such determination should be left to the wisdom of the trial court.

16. The reliance placed by learned counsel for the petitioner on **Mitesh Kumar J. Sha** (supra) is misplaced as the said case was decided on different facts and circumstances. The allegations against the appellant in the said cases was that they had sold the flats contrary to the terms of memorandum

of understanding and there were no grounds to interfere with the matter and sequence of events of the said case did not fulfill the necessary ingredients of the alleged offence. Pertinently, respondent No. 2, in the aforesaid case had already decided to pursue his claim by way of a civil suit and therefore, it was held by Hon'ble Supreme Court that a criminal complaint on the same issue cannot proceed and was quashed.

17. In the present case, two FIRs, stated to have been lodged by petitioner No. 1 against respondent No. 3, do not stem out from the same occurrence, though one of the FIRs i.e. FIR No. 38/2020 has been lodged by petitioner No.1 against respondent No. 3 on the same day i.e. 08.02.2020. However, timing and context of the said FIRs and the impugned FIR are on different premise.

18. Respondent No.3 in the impugned FIR has alleged that on 14.07.2019, at around 8:30 p.m., when she returned home, after paying a visit to one of her relatives, she was pushed, slapped and beaten by petitioners/accused persons. She fell unconscious and was saved by her driver. Petitioner No. 1-complainant in FIR No. 38/2020 has alleged that on 14.07.2019 at about 11:44 p.m., he was telephonically threatened by respondent No. 3 to be eliminated. He further alleged that on his objecting to one of the accused i.e. accused No. 4, namely, Ajay staying in the house in the odd hours of the night, respondent No.3/accused became furious, called rest of the accused in the compound of the house and started beating him, his family members and his maid with fists and blows. It was also alleged that respondent No. 3 and co-accused chased his maid, Pinki and threw chilli powder in her eyes. It is evident from the conspectus of two FIRs i.e. FIR in question and the one lodged by petitioner No. 1 against respondent No. 3 and

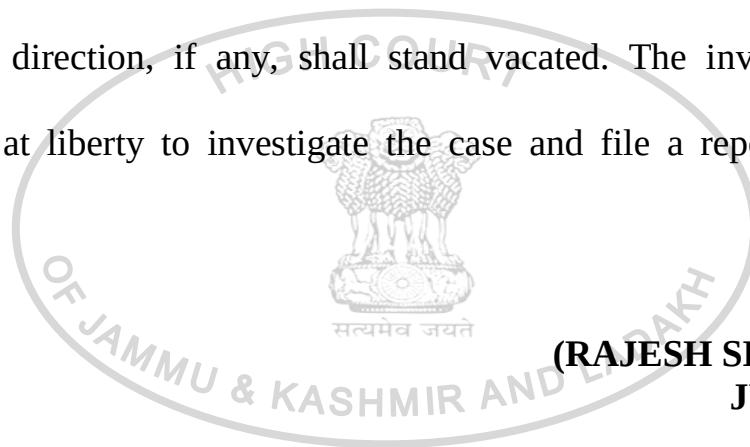
others that one incident followed another and are different in context and timing. It appears that after the first incident, which, according to respondent no. 3, took place at around 8:30 p.m., respondent No. 3 with the aid of co-accused is alleged to have committed the occurrence in the mid night. According to the petitioners, a final report with respect to the said occurrence also stands filed in the competent Court. However, allegations of the impugned FIR are required to be investigated. Petitioners have also annexed copies of two civil Suits filed by respondent No. 3 for permanent prohibitory injunction against the petitioners and a copy of a petition preferred by respondent No. 3 under J&K Protection of Women from Domestic Violence Act, 2010, those have nothing to do with the allegations contained in the impugned FIR.

19. It is evident from the conspectus of the present case that unfortunately the parties i.e. petitioners No. 1 to 4 and respondent No. 3, who happen to be close relatives are entangled and embroiled in multiple civil and criminal litigations. Petitioner No. 1 has admitted to have filed two FIRs against her daughter-in-law-respondent No. 3 herein and she has also filed civil and criminal cases against him. However, allegations in the impugned FIR not only disclose the commission of cognizable offences against the petitioners but they are serious in nature, as it is alleged by the complainant-respondent No. 3 that she was not only pushed and slapped by the maid of petitioner No.1 and her husband, but petitioner No. 1 caught hold her from her hair and dragged her and petitioner No. 2 caught hold her from her arms and dress and pushed her out. Complainant also alleged that petitioners struck her with a wooden stick on her head, as a result, she fell unconscious and was saved by her driver. These allegations *prima facie* disclose the

commission of cognizable offences against all the petitioners. While examining an FIR or a complaint which is sought to be quashed under Section 482 Cr.P.C. High Court cannot embark upon an enquiry as to the genuineness or otherwise of the allegations contained therein. In other words, this Court in exercise of its criminal jurisdiction, under Section 482 Cr.P.C. cannot go into the merits of the allegations contained in the FIR or the complaint and criminal proceedings cannot be terminated at the initial stage by the High Court under Section 482 Cr.P.C.

20. Having regard to what has been observed and discussed above, the present petition, being devoid of merit, is dismissed along with connected CM(s).

21. Interim direction, if any, shall stand vacated. The investigating Officer shall be at liberty to investigate the case and file a report in the competent court.



(RAJESH SEKHRI)
JUDGE

Jammu
30.04.2025
Paramjeet

Whether the judgment is speaking?	Yes
Whether the judgment is reportable?	Yes