

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

CRM(M) No. 745/2024

Pronounced on : 03.07.2026

Uploaded on : 04.07.2026

1. Vishnu Kant Sharma,  
S/O Sh. Pardeep Kumar,  
R/O Dungus Mohalla, Poonch-185101.
2. Sakhi Singh,  
S/O Sh. Harbaksh Singh,  
R/O Mohalla Dungus, Poonch-185101.
3. Kanik Sharma,  
S/O Sh. Rajinder Kumar,  
R/O Ward No. 5, Near Eidgah, Poonch-  
185101.

....Petitioners

Through:- Mr. S.S. Ahmed, Advocate with  
Ms. Supriya Chauhan, Advocate.

**V/S**

1. The Union Territory of J&K  
Through Station House Officer,  
Police Station, Poonch-185101.
2. Rimpal Kumar Sharma,  
S/O Sh. Om Parkash,  
R/O Village Khanetar, Tehsil Haveli,  
District Poonch-185101

.....Respondents

Through:- Mr. Eishaan Dadhichi, GA.

**CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE**

**ORDER**  
**03.07.2026**

**01.** Petitioners have invoked the inherent jurisdiction of this Court vested under Section 528 BNSS, 2023, to seek quashment/setting aside of order dated 07.09.2024 (hereinafter to be referred to as "**impugned order**") passed by the court of learned Special Mobile Magistrate (Sub Judge), Poonch (hereinafter to be called as "**learned Magistrate**") in

Final Closure Report No. 01/2024 arising out of FIR No. 133/2023 under Sections 452, 323, 427, 506, 34 IPC registered at Police Station, Poonch whereby the protest petition filed by one Rimpal Kumar Sharma-respondent No. 2, as complainant, was accepted and the Final Closure Report was returned to the SHO, Police Station, Poonch for further investigation with a direction to either investigate the case himself or assign the investigation to any other I.O not below the rank of Sub Inspector.

**02.** The impugned order has been assailed on the grounds that the same has resulted into miscarriage of justice as no cogent reasons have been assigned by the court below to decline the Final Closure Report submitted by respondent No. 1 after indepth investigation of the case; that the learned Magistrate believed the unsubstantiated allegations of the complainant that I.O with malafide intention changed the statements of the witnesses due to the clout of Sr. Superintendent of Police-Ashok Sharma, a close kin of the parties; that the learned Magistrate, without commenting upon the merits of the investigation or without pointing out any lacunae in the investigation or any infirmity in the investigation, erroneously and illegally accepted the protest petition and directed further investigation in the matter, thereby resulting in grave prejudice to the petitioners; that the learned Magistrate, without any justification, gave credence to a bald assertion not supported by any evidence and,

accordingly, declined to accept the Final Closure Report on an unsubstantiated allegations that the I.O with the malafide intention changed the statements of the witnesses and that further investigation was ordered erroneously and contrary to the legal and factual aspects involved in the case.

**03.** Pursuant to notice, the respondent No. 1 did not file any response to the petition, whereas, the respondent No. 2-complainant, on whose protest petition the impugned order was passed, refused to accept notice, as such, the matter is taken up for final consideration.

**04.** Learned counsel for the petitioners, while reiterating the grounds enumerated in the petition, argued that the learned Magistrate has passed the impugned order without assigning any reasons and it appears that he has accepted the bald assertions made by the complainant in his protest petition leveling allegations on a senior police officer, who happened to be the maternal uncle of the petitioner No. 1 and also a close relative of the complainant; that the petitioner No. 1 is a postgraduate and had recently cleared his PhD entrance for University of Patiala, whereas, petitioner No. 2 is a businessman at Poonch and petitioner No. 3 is also a postgraduate and all of them have no past criminal record and that they have been falsely implicated in a criminal case, with a view to spoil their careers, so that the respondent No. 2-complainant could settle the land dispute as per his choice.

**05.** He further argued that the petitioners had been falsely implicated by the respondent No. 2-complainant in the complaint lodged for registration of the case over a small altercation between them, with regard to the boundary of their already partitioned shares of the land; that the police had investigated the matter in a fair manner and concluded the investigation on the basis of the statements recorded by the police during investigation. However, the learned Magistrate passed the impugned order detrimental to the interests of the petitioners, which amounts to abuse of process of law. It was prayed that the petition be allowed and the impugned order be quashed.

**06.** Mr. Eishaan Dadhichi, learned Govt. Advocate, while appearing for the official respondent, submits that the police, after investigation of the case, had concluded the investigation into a closure report and laid the final report before the court below for acceptance. The court below, however, without assigning any reasons, has not accepted the Final Closure Report and ordered for further investigation of the case without pointing out as to how the investigation was not conducted properly.

**07.** Heard and considered.

**08.** The respondent No. 2-complainant had lodged a complaint before the court of learned Chief Judicial Magistrate, Poonch on 09.08.2023 against the petitioners herein alleging that he and his mother had been assaulted by the petitioners

herein on 17.07.2023, after causing trespass into his house, who were saved by some persons and that they had also caused damage to his motorcycle No. JK12 8451; that the complainant was also threatened to be killed.

**09.** On the basis of the aforestated complaint lodged by respondent No. 2, the learned Chief Judicial Magistrate, Poonch, vide order dated 09.08.2023, directed Incharge Police Station, Poonch to register FIR and report compliance within a week's time. In compliance to the directions passed by the learned Chief Judicial Magistrate Poonch, case was registered for the commission of offences punishable under sections 452, 323, 427, 506 and 34 IPC, vide FIR No. 133/2023 at Police Station, Poonch.

**10.** After investigation of the case, the concerned police concluded the investigation into a closure report, asserting that no offence was made out on the basis of the statements of the witnesses and the investigation of the police. Along with the closure report, the police had also annexed the statements of the witnesses recorded including that of the complainant Rimpal Kumar, his sisters Kiran Kumari and Sonika Kumari and mother Rita Devi.

**11.** It appears that pursuant to filing of the Final Closure Report, the learned Magistrate summoned the complainant, who had filed a protest petition alleging that statements of his mother and other two witnesses had been changed by the I.O with malafide intention, due to the reason

that SSP-Ashok Sharma, a close relative of them, was batchmate of the SSP, Poonch, as such, the case was wrongly closed.

**12.** The learned Magistrate, vide impugned order, did not accept the closure report, which was ordered to be returned to the concerned police station for further investigation with the direction to SHO, Police Station, Poonch either to investigate the case himself or assign the investigation to any other IO, not below the rank of Sub Inspector.

**13.** On perusal of the impugned order, it appears that the learned Magistrate observing the background of the case and the proceedings before the learned Magistrate passed the order impugned in a cryptic manner, without assigning any reason, directing further investigation of the case. The learned Magistrate seems to have not taken any pains to look into the evidence collected or to assign any reasons as to how the closure report was not legal, so as to not accept the same. In such cases, in the considered opinion of this Court, the learned Magistrate is under an obligation to discuss the evidence collected and to assign the reasons as to whether on the basis of the evidence collected, some offence is made out and also that the prosecution had not collected some evidence, which would have been relevant or that the investigation had not been conducted in a fair and legal manner, so much so, that the learned Magistrate had not made any observation with

regard to the allegations of the complainant-respondent No. 2 that the statements of the witnesses had been changed by the I.O. In such a situation, at least it was incumbent upon the learned Magistrate to call for those witnesses and confront them with the statements recorded so as to draw a satisfaction that their statements had been tampered with by the I.O and not recorded properly whatever, they have deposed.

**14.** It appears that the learned Magistrate, without assigning any reasons much less of justified reasons had allowed the protest petition moved by the complainant-respondent No. 2 and such an order without reasons is unsustainable. It is recorded with great regret that the impugned order has been passed without any reason, whatsoever which renders the same liable to be set aside.

**15.** It would be advantageous to refer to the judgment of Supreme Court of India in the case titled as “**Assistant Commissioner Vs. M/s Shukla and Brothers**”, (2010) 4 SCC 785 wherein the Supreme Court has held that recording of reasons is an essential feature of dispensation of justice; that a litigant who approaches the Court with any grievance in accordance with law is entitled to know the reasons for grant or rejection of his prayer. The Supreme Court further held that a judgment without reasons causes prejudice to the person against whom it is pronounced, as the litigant is unable to know the ground which weighed with the Court in rejecting his claim, which causes impediments in his taking adequate and

appropriate grounds before the higher Court in the event of challenge to that judgment. The court also observed that reasons are soul of orders.

**16.** Viewed thus, the instant petition is **allowed** and the impugned order, being unsustainable, is set aside and the matter is remanded back to the learned Magistrate to pass fresh order in accordance with law, of course, after affording an opportunity of being heard to the parties. A copy of this order be sent down to the court below for information and compliance.

**17.** Disposed of as above.

**JAMMU**  
**03.07.2026**  
Naresh/Secy.



**(M A CHOWDHARY)**  
**JUDGE**

Whether the order is speaking: **Yes**  
Whether the order is reportable: **Yes**