

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

Reserved on: 20.12.2023

Pronounced on : 28.12.2023

CRM(M) No. 218/2023

1. Alaf Din age 65 years S/o Hassan Din. Petitioners/Appellants
2. Javaid Hussain age 45 years, S/o Alaf Din
3. Zafar Iqbal, age 43 years S/o Alaf Din
4. Jangbaz, age 60 years S/o Haji Mangtu.
5. Mohd Shafeeq, age 30 years, S/o Jang Baz.
6. Mohd Riaz age 23 years, S/o Jang Baz.

-All residents of village Planagar,
Tehsil Thanamandi, District
Rajouri.

Through: Mr. Mr. Abrar Ahmad Khan, Advocate

Vs

1. The UT of Jammu and Kashmir through Senior Superintendent of Police, Rajouri. Respondent(s)
2. The Station House Officer, Police Station, Rajouri.
3. Mohd Bashir S/o Mir Mohd R/o village Plangar, Tehsil Thanamandi, District Rajouri.

Through: Mr. Bhanu Jasrotia, GA.

CORAM: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

JUDGMENT

- 1) The petitioners have filed the instant petition under Section 482 Cr. P.C. for quashing the FIR No. 0164/2022 dated 16.12.2022 registered with

Police Station, Thanamandi for commission of offences under Sections 452, 323 147, 382 and 506 IPC at the instance of respondent No. 3, on the ground that petitioner No. 1 was brutally attacked by the respondent No. 3 and in this respect FIR No. 0163/2022 dated 16.12.2022 for commission of offences under Sections 307, 341, 323 and 147 IPC was registered.

2) It is stated that FIR No. 203/2019 under Sections 452, 323, 336, 382, & 504 IPC was registered against the respondent No. 3, his wife and son and charge-sheet stands produced against them. On 16.01.2020, another FIR No. 012/2020 under Sections 435, 425 IPC was registered against the respondent No. 3 and his family members. Thereafter, one more FIR bearing No. 0145/2020 was registered on 22.07.2020 against the respondent No. 3 for commission of offences under Section 452, 336, 323, 504 & 506 IPC. It is stated that despite registration of so many FIRs against the respondent No. 3, he did not change his attitude and on 01.08.2022, he put some pesticides on the fruit bearing trees, due to which the fruit trees and grass had got badly damaged. The act of the respondent No. 3 was brought to the notice of Tehsildar, Thanamandi by way of a complaint under Section 107 Cr. PC and the proceedings in the said complaint are continuing before the Tehsildar, Thanamandi. Further on 02.11.2022, the petitioners were threatened by the respondent No. 3 and a complaint was lodged in this respect before the SDPO, Thanamandi but no action was taken by the Police. It is further stated that on 16.12.2022, the respondent No. 3 brutally attacked the petitioner No. 1, as a result of which, he got hospitalized in Govt. Medical College, Rajouri and remained admitted till 28.12.2022. In respect of this incident, FIR No.

0163 dated 16.12.2022 was registered against the respondent No. 3 and his family members under Sections 307, 341, 323, 147 IPC.

3) The petitioners have impugned the FIR No. 0164/2022 dated 16.12.2022 registered with Police Station, Thanamandi at the instance of respondent No. 3 on ground that the impugned FIR was lodged as a counterblast to the various FIRs registered against the respondent No. 3 and his family members, including the FIR No. 0163/2022, wherein the petitioner remained hospitalized for 12 days, therefore, the impugned FIR is required to be quashed.

4) The officials respondents have filed their response stating therein that on 16.12.2022, one person, namely, Mohd Bashir submitted a written complaint at Police Station, Thanamandi against Alaf Din, Jangbaj, Javaid Hussain, Zaffar Iqbal, Mohd Shafiq and Mohd Rayaz that on 16.12.2022, Mohd Bashir and his wife were in their house and meanwhile, all the accused persons trespassed into his house and started beating him and his wife with lathies, kicks and blows. In the incident, he and his wife got injuries. On receipt of this written complaint FIR bearing No. 164/2022 for commission of offences under sections 452, 382, 347, 323, 506 IPC was registered in the Police Station and investigation was entrusted to HC Javed Ahmad. It is further stated that during the course of the investigation, it was found that the complainant and accused were neighbours and had old enmity due to a piece of land. The Investigating Officer obtained medical report from the Medical Officer, GMC Rajouri and from the perusal of the medical report, the offences under Sections 324 and 325 IPC were added. During the course of the

investigation, offences under Sections 452, 323, 324, 325 & 506 IPC were established against Alaf Din, Javaid Hussain and Zaffar Iqbal only and offences under Sections 382/147 IPC were not established. Further, offences against petitioner No. 4, 5 & 6 were not proved.

5) Learned counsel for the petitioner vehemently argued that FIR has been lodged as a counterblast to the FIR bearing 0163/2022 registered against the respondent No. 3 and his family members and as such, the same is required to be quashed.

6) Per contra, Mr. Bhanu Jasrotia, learned GA submitted that the investigation has been very fairly conducted and the petitioner 4, 5 & 6 have been exonerated during the investigation and after obtaining the medical opinion, offences against the petitioner No. 1, 2 & 3 have been established.

7) Heard learned counsel for the parties and perused the record including the case diary.

8) Sole contention raised by the petitioner is that the impugned FIR has been registered as a counterblast to the FIR No. 0163/2022 registered against the respondent No. 3 and his family members. A perusal of the record reveals that respondent No. 3 was examined by the Doctor in the Government Medical College, Rajouri and it was found that he had suffered three injuries, out of which, injury No. 2 was found to be grievous in nature caused by blunt object and the injury Nos. 1 & 3 were simple in nature but caused by sharp object and blunt object respectively.

9) In view of the fact that the respondent No. 3 has suffered serious injuries, as such, it cannot be said that impugned FIR has been registered as a counterblast to the FIR No. 0163/2022 registered against the respondent No. 3 and his family members. The medical record substantiates the injuries suffered by the respondent No.3.

10) Viewed thus, there is no merit in this petition so far as petitioner Nos. 1 to 3 are concerned. As such, the petition, qua the petitioner Nos. 1 to 3 is dismissed. So far as the petitioner Nos. 4 to 6 are concerned, they have already been exonerated by the Investigating officer and as such, petition to the extent of the respondent Nos. 4 to 6 has been rendered infructuous.

11) Disposed of.

12) Case diary be returned to Mr. Bhanu Jasrotia, G.A.

(RAJNESH OSWAL)
JUDGE

Jammu
28.12.2023
Karam Chand/Secy

Whether the order is speaking:
Whether the order is reportable:

Yes/No
Yes/No