

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

**CRM(M) No. 458/2023
CrIM No. 857/2023**

Manzoor Ahmed

.....Appellant(s)/Petitioner(s)

Through: Mr. K. L. Pandita, Advocate

Vs

UT of J&K and anr.

..... Respondent(s)

Through: Mr. Bhanu Jasrotia, GA

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

ORDER (ORAL)

18.12.2023

1. The petitioner has impugned the FIR No. 16/2023 dated 21.02.2023 registered under Section 353, 447 and 504 IPC on the ground that the petitioner and his brother are the absolute and exclusive owners of the property comprising Survey No. 798 min measuring 25 Kanals 05 Marlas situated at Village Thanna Tehsil Thanamandi, District Rajouri to the extent of their shares i.e. 12 ½ Kanals and 12 ½ each. The petitioner also claims to have filed a writ petition bearing WP(C) No. 2697/2022 and when the notice issued by the Court was served upon the Chairman/President, Municipal Committee, Thanamandi and respondent No. 2, in order to pressurize the petitioner to surrender the land in their favour and withdraw the case filed against them, respondent No. 2 filed the false and vexatious complaint with the respondent No. 1, pursuant to which, FIR impugned was registered by respondent No. 1.

2. Reply stands filed by the respondents, stating therein that the application was received from respondent No. 2, stating therein that Naib Tehsildar, Thanamandi on 14.02.2023 visited Survey No. 798/1 at Village Thana to demarcate the land allotted to the Municipal Committee for construction of the solid waste management plant. One Manzoor Ahmed interfered in the work of revenue officials and obstructed them from performing their duties. It was further stated in the application that the said person was trying to encroach the state land and also threatened the officials of revenue department and also did not allow them to work. During the course of investigation, it was found that there was a big chunk of state land comprising Survey No. 798 min situated at Ward No. 13 Thanamandi and out of which, 10 Kanals of land was allotted to Municipal Committee for establishment of Waste Processing Facilities Centres by the Deputy Commissioner, Rajouri vide order dated 21.10.2021. He further directed the Tehsildar, Thanamandi to make entry of the said land in favour of indenting department and to handover the possession to them. In compliance to the said order, the Naib Tehsildar along with the revenue and municipal officials went to demarcate the land in question, however, the accused Manzoor Ahmed, who was claiming ownership of the land threatened the revenue authorities and municipal officials and used criminal force to deter them in discharging their lawful duties and did not allow them to demarcate the land in question. During investigation, offence under Section 447 IPC was not proved, however, the offences under Section 353, 504 and 506 IPC have been established. This Court has also perused the Case Diary.

3. Learned counsel for the petitioner submits that the petitioner is owner of the land and as such, false and frivolous FIR has been registered by respondent No. 1. He further submitted that he wants to file the response to the status report.
4. Having gone through the record and the Case Diary, this Court is of the considered view that no further response is required from the petitioner as in view of the investigation already conducted by the respondents, offence under Section 447 IPC has not been proved. It is not the case where no offence is made out against the petitioner and the petitioner can raise his defence during the course of trial, if the charge sheet is produced against him.
5. In view of the above, the petition is disposed of with liberty to the petitioner to raise his defence before the learned trial court in the event charge sheet is filed against him.
6. Disposed of.

(RAJNESH OSWAL)
JUDGE

Jammu
18.12.2023
Neha-II