

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

CRM(M) No. 4/2023

Mukhtar Ahmad Mir

...Appellant/Petitioner(s)

Through: Mr. N. A. Tabasum, Advocate

Vs.

UT of J&K and Ors.

...Respondent(s)

Through: Mr. Syed Musaib, Dy. AG

CORAM:

HON'BLE MR JUSTICE VINOD CHATTERJI KOUL, JUDGE

ORDER

30.12.2024

1. Father (private respondent no.3 herein) has got registered FIR No.30 of 2020, in Police Station Budgam, against his son (petitioner herein) for the offences punishable under Section 332 & 506 IPC. It is this FIR, of which, ostensibly, petitioner is aggrieved of and seeks quashing thereof, *inter alia*, on the grounds that private respondent aiming at to prevent petitioner from supporting his unmarried sisters and pursuing their maintenance case before the authorities and the Court, has lodged the impugned FIR, against him; that allegations leveled in FIR or in the complaint, even if taken at their face value and accepted in their entirety, do not *prima facie* constitute any offence or make out any case against petitioner; that private respondent, now a retired employee of Power Development Department, on the relevant date, was working in field and not in the office as alleged by him in complaint/FIR.
2. This Court vide order dated 12.01.2023 directed respondents to proceed with the investigation of the case, however filing of charge sheet would await orders of this Court.
3. Respondents in their status report aver that during course of investigation, injury memo of the complainant was drafted and medical opinion thereof was obtained. Investigating Officer visited the spot, prepared site map and recorded the statements of witnesses under Section 161 Cr.P.C. Keeping in view facts and the circumstances and the evidence collected, offences under Section 332, 506 IPC were established against the accused person, however, petitioner is evading arrest and has absconded. The investigation of the case is complete but

charge sheet has not been presented before the court of law because of the orders passed by this Court.

4. Heard learned counsel for the parties and perused the material on the file.
5. The contents of the complaint lodged by complainant-respondent no.3, who happens to be the father of petitioner, is that while performing his duties in Power Development Department, Budgam, petitioner came to his office and beat him; due to which he sustained injuries. The complaint so made discloses commission of cognizable offence. Accordingly, FIR in question has been registered and investigation ensued. During course of investigation, offences under Section 332, 506 IPC were established against the petitioner.
6. Learned counsel for the petitioner while arguing the matter has urged that registration of FIR in question is outcome of family dispute as the father of petitioner has three unmarried daughters, and the petitioner is pursuing the case of his sisters, in which respondent No.3 has been directed to pay maintenance to them, therefore, in retaliation thereof, respondent No.3 lodged a complaint against the petitioner, on which FIR in question has been registered against petitioner.
7. The question as to whether FIR in question has been registered because of counterblast to the directions for maintenance of three daughters would be a defence to the petitioner during the course of trial. At this stage, complaint discloses the commissions of cognizable offence, and during the course of investigation offence punishable under Section 332 and 506 IPC was established. That being the case, it cannot be said that registration of FIR in question would amount to abuse of process of law. There is no question of interference with investigation so conducted in FIR in question.
8. Since the investigation is complete, respondents are at liberty to present the challan. However, petitioner has a right to produce evidence before the trial court, who while conducting the trial shall consider the same.
9. **Disposed of** as above.

(VINOD CHATTERJI KOUL)
JUDGE

SRINAGAR

30.12.2024

Manzoor