

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

CRM(M) No. 878/2021

Reserved on: 02.09.2025

Pronounced on: 10.09.2025

**Ch. Chirag Din, Age 77 years**  
**S/O Late Hasham Din Choudhary**  
**R/O House No. 59, Gujjar**  
**Colony, Bye Pass, Jammu**

..... Petitioner(s)

Through:- Mr. D.S. Saini, Advocate.

V/s

**Zeenat Chouhan**  
**W/O Ghulam Rasool**  
**R/O New Pamposh Colony,**  
**Channi Himmat, Jammu**

.....Respondent(s)

Through:- Ex Parte.

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

1. The petitioner, through the medium of the present petition filed under Section 482 Cr.P.C., seeks quashment of order dated 16.02.2021, passed by the learned Judicial Magistrate (Sub-Judge), Jammu, whereby the learned Magistrate rejecting the final closure report No. 44/2008 dated 31.12.2008 and the report dated 19.02.2020 submitted by the Superintendent of Police (South), In-charge Special Investigating Team (SIT), in FIR No. 65/2006 registered at Police Station Channi Himmat, Jammu, took cognizance of the offences punishable under Sections 294 and 354 RPC, against the petitioner.
2. Aggrieved by the said order, the petitioner has approached this Court through the present petition, assailing the impugned order mainly on the following grounds:

- a) The impugned order dated 16.02.2021 is liable to be quashed as it suffers from legal infirmity and is unwarranted under law. The trial court rejected the final closure report and took cognizance of the offences without applying judicial mind.
- b) The FIR in question was registered long after the alleged incident, more than five years later, and the cognizance taken by the trial court after approximately 20 years is otherwise time-barred under Sections 468-B and 468-C Cr.P.C. The trial court failed to consider the limitation prescribed under law for taking cognizance of offences under Sections 294 and 354 RPC.
- c) Section 468-G Cr.P.C. permits extension of limitation only if the court, after proper examination, is satisfied that delay is justified in the interest of justice. The learned trial court did not record any satisfaction under Section 468-G before taking cognizance.
- d) The final closure report No. 44/2008 dated 31.12.2008 and the detailed report submitted by the Superintendent of Police (South), In-charge SIT, dated 19.02.2020, unequivocally establish that the allegations against the petitioner are unsubstantiated. Witnesses examined during the investigation did not support the allegations of respondents, and no *prima facie* case was made out against the petitioner.
- e) The trial court took cognizance of the offences in a routine manner without considering the legal aspects of limitation, final closure reports, and independent inquiries conducted by competent authorities, including the DGP J&K and CID. This constitutes an abuse of the process of law.
- f) No offence is made out from the statement of the respondent, which is not on oath, therefore, in the absence of any supporting evidence, the impugned order is liable to be quashed in the interest of justice.

3. The brief facts giving rise to the present petition are that the petitioner was posted as Commandant, JKAP 4<sup>th</sup> Battalion, Channi Himmat, Jammu, in the year 2001, that respondent and her husband, namely Ghulam

Rasool, were serving as Constables in the said Battalion prior to the posting of the petitioner and were under his command. The respondent was deputed and relieved to Central Pool Security for duty at the disposal of the Superintendent of Police (Security), Gandhi Nagar, Jammu, vide order dated 12.11.2001, however, she was not inclined to perform such active and general duty and instead desired to continue her posting in the line of Security, 4<sup>th</sup> BN, Channi Himmat, Jammu.

4. The respondent thereafter lodged a complaint against the petitioner before the Chairman, National Human Rights Commission (NHRC), New Delhi, on 14.06.2002, alleging sexual harassment. The NHRC forwarded the complaint to the Home Department, J&K, for necessary action. Pursuant to directions of the Home Department, the Police registered FIR No. 65/2006 under Sections 294/354 RPC at Police Station Channi Himmat, Jammu, without conducting any preliminary inquiry.

5. The investigation was initially entrusted to SP Headquarters, Jammu. The Investigating Officer directed the respondent to produce witnesses in support of her allegations, but she could only produce ASI Doulat Khan and Constable Asha Rani, both of whom did not support her case.

6. After detailed investigation, the Investigating Officer submitted Closure Report No. 50/2007 dated 31.12.2007 before SSP Jammu, recommending its submission to the competent court. The SSP concurred with the report, however, the Inspector General of Police, Jammu, vide order dated 31.03.2008, directed further investigation of the case and entrusted reinvestigation to Sh. M.Y. Kichloo, SP, SO to DIG Jammu-Kathua Range. After conducting detailed reinvestigation, the said officer submitted Final

Closure Report No. 44/2008 dated 31.12.2008 before the learned Chief Judicial Magistrate, Jammu, who assigned it to the Court of learned Judicial Magistrate (Sub-Judge), Jammu.

7. The learned Magistrate did not accept the closure report and vide order dated 15.05.2009 directed the IGP Crime & Railways, Jammu, to constitute a team headed by SSP (Crime Branch) Jammu, along with an officer of the rank of Dy. SP, for further investigation, with a direction to submit the status reports of investigation, on a fortnightly basis.

8. Aggrieved against the said order, the prosecution preferred a Revision Petition before the Court of learned Sessions Judge, Jammu, who assigned the same to the Court of learned 2<sup>nd</sup> Additional Sessions Judge, Jammu. The Revisional Court, vide order dated 01.09.2009, allowed the revision petition and set aside the order dated 15.05.2009, passed by the learned Magistrate and directed that the SSP Jammu shall supervise the investigation, to be further conducted by a Special Investigating Team (SIT).

9. In compliance to the same, the investigation was conducted by the Incharge SIT, SP South, Jammu. During the investigation, the statements of ASI Doulat Khan and Constable Asha Rani were once again recorded, but they did not support the allegations of the respondent/complainant, accordingly, closure report dated 19.02.2020 was again submitted before the learned Judicial Magistrate (Sub-Judge), Jammu, affirming that the allegations in FIR No. 65/2006 were not proved, concurring with the earlier Final Closure Report No. 44/2008 dated 31.12.2008.

10. It is submitted that the then DGP J&K, Sh. A.K. Suri, had also directed an independent inquiry through CID. The report received from

SSP, CID Special Branch, Jammu, clearly recorded that the respondent was unwilling to perform general duty and desired to remain posted in the office, and having failed in this, she levelled false allegations of sexual harassment against the petitioner merely to pressurize him and it was found the allegations were unsubstantiated.

11. It has been alleged that in view of the aforesaid investigation reports and inquiries, the allegations levelled by the respondent were found false and unsubstantiated but despite this, the learned Magistrate, vide impugned order dated 16.02.2021, rejected the final closure report without assigning any reasons, and took cognizance of the offences under Sections 294/354 RPC against the petitioner.

12. Notice was issued to and served upon the respondent, however, she did not respond to the notice and was proceeded against *ex parte* by this Court vide order dated 25.09.2024, as indicated in the interim order dated 20.05.2025.

13. This is how the present petition is being heard in *ex parte*.

14. Learned counsel for the petitioner has vehemently argued that the National Human Rights Commission (NHRC) had no jurisdiction to conduct an enquiry, and as such, the impugned FIR registered at the instance of the Commission was a nullity. Learned counsel, however, has failed to substantiate what enquiry had actually been conducted by the NHRC. It appears that, at the most, the Commission may have asked the authorities to look into the matter and register an FIR, if required. Since an FIR can be registered on any information, the contention that the same could not have been registered at the instance of the NHRC is without any merit. This contention of the learned counsel for the petitioner is, therefore, misconceived and is rejected.

15. Learned counsel for the petitioner has further assailed the impugned order, whereby cognizance was taken against the petitioner for the commission of offences punishable under Sections 294 and 354 RPC, after rejecting the closure report submitted by the investigating agency. It is contended that no such cognizance could have been taken with regard to the aforesaid offences beyond a maximum period of three years in terms of Section 468 Cr.P.C., which prescribes limitation for taking cognizance based on the punishment provided for the offences from the date of their commission.

16. The contention of the learned counsel for the petitioner with regard to the applicability of Section 468 Cr.P.C. is not tenable. The offences in question were constituted under the RPC in the State of J&K prior to 31<sup>st</sup> October 2019, when the J&K Code of Criminal Procedure was applicable. Chapter XLV-A of the J&K Cr.P.C. prescribed limitation for taking cognizance of certain offences: six months for offences punishable with fine, one year for offences punishable with imprisonment not exceeding one year, and three years for offences punishable with imprisonment exceeding one year but not exceeding three years, subject to certain exclusions. However, on close scrutiny of the offences punishable under Sections 294 and 354 RPC, it is clear that Section 294 RPC provided punishment of imprisonment of either description for three months or fine or both, while Section 354 RPC provided punishment of imprisonment of either description for a term not less than one year, which may extend to five years, and fine. Since the offence under Section 354 RPC was punishable with imprisonment up to five years, the limitation prescribed under Section 538-B of the J&K Cr.P.C. was not at all applicable to the petitioner's case. Therefore, the

contention of limitation raised by the learned counsel for the petitioner being misconceived, is rejected.

17. On a close scrutiny of the impugned order, it is found that upon filing of the closure report by the investigating agency, the trial Court summoned the complainant (respondent herein) to ascertain her satisfaction with regard to the investigation. The respondent/complainant on her examination, reiterated that she was subjected to sexual harassment by the petitioner while he was working as Commandant of the 4<sup>th</sup> Armed BN in which she was serving as a Constable. However, she did not make any specific allegation as to the date and time when she was subjected to such harassment. Neither in the original complaint nor in her statement recorded in protest against the closure report she has stated anything to suggest that the petitioner made any gesture constituting an offence under Section 294 RPC, or that he had outraged her modesty so as to constitute an offence under Section 354 RPC. The complainant only alleged that the Commandant had told her in one of the conversations that she would father his child. However, no details have been given as to when such a statement was made.

18. The complainant also failed to provide any supporting evidence, as she did not name any witness who may have witnessed that she was ever called to the office of the petitioner and subjected to sexual harassment.

19. On the other hand, the investigating agency, not once but twice, investigated the matter, even by an SIT and found that the offences alleged by the complainant were not proved. The matter, on the basis of her complaint, was investigated by senior police officers of SP rank under the supervision of the SSP Jammu. The investigating agency recorded the statements of ASI

Doulat Khan and Constable Asha Rani, both of whom did not state anything incriminating and did not support the allegations made by the complainant against the petitioner.

20. It appears that the learned Magistrate was swayed by the assumption that the petitioner, being the controlling officer as Commandant of the Battalion where the complainant was serving as a Constable, would have subjected her to sexual harassment, and on that basis rejected the investigation carried out by senior police officers, without assigning any plausible reasons.

21. While recording the statement of the complainant, the learned Magistrate did not ask her what supporting evidence she had in proof of her complaint so as to suggest that the petitioner had committed any offence. Even from her statement it appears, she only said that the petitioner, as Commandant, had adversely recorded the Character Roll of her and her husband and had deducted their salaries, particularly the HRA. The petitioner, in his petition, has specifically pleaded that the complainant was offended because the HRA, which she was drawing as part of her pay despite having official accommodation, was deducted by him, and that he was falsely implicated by her in this case due to that animosity.

22. Since the police investigated the case twice, that too by senior officers under the direct supervision of the SSP Jammu, the rejection of the final closure report and taking cognizance of the alleged offences, by the learned Magistrate solely on the basis of the complainant's statement, which itself lacked material particulars, without addressing the important legal aspects of the case, and without pointing out when and where the

alleged offences were committed or what supporting evidence existed, was wholly arbitrary. This Court finds that the case is a clear instance of abuse of process. The impugned order passed by the learned Magistrate, having been recorded without assigning cogent reasons, is not sustainable and is liable to be quashed.

23. Viewed thus, this petition is allowed and as a result, the impugned order dated 16.02.2021, passed by the learned Judicial Magistrate (Sub-Judge), Jammu, with regard to the final closure report No. 44/2008 dated 31.12.2008, arising out of FIR No. 65/2006 registered at Police Station Channi Himmat, Jammu, is quashed. The closure Final Report is ordered to be accepted.

24. This petition is, accordingly, disposed of along with connected application(s).



(M A Chowdhary)  
Judge

**Jammu:**

10.09.2025

Michal Sharma/PS

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|--------------------------------|---|-----|
| Whether approved for speaking  | : | Yes |
| Whether approved for reporting | : | Yes |